



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 12.1a

Meeting Date: October 5, 2023

Subject: Approval/Ratification of Grants, Entitlements, and Other Income Agreements
Approval/Ratification of Other Agreements
Approval of Bid Awards
Approval of Declared Surplus Materials and Equipment
Change Notices
Notices of Completion

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: _____)
- Conference/Action
- Action
- Public Hearing

Division: Business Services

Recommendation: Recommend approval of items submitted.

Background/Rationale:

Financial Considerations: See attached.

LCAP Goal(s): College, Career and Life Ready Graduates; Safe, Emotionally Healthy, Engaged Students; Family and Community Empowerment; Operational Excellence

Documents Attached:

1. Grants, Entitlements, and Other Income Agreements
2. Expenditure and Other Agreements
3. Approval of Declared Surplus Materials and Equipment
4. Recommended Bid Awards – Purchasing
5. Recommended Bid Awards - Facilities
6. Notices of Completion – Facilities Projects

Estimated Time of Presentation: N/A

Submitted by: Jesse Castillo, Assistant Superintendent of Business Services

Tina Alvarez Bevens, Contract Analyst

Approved by: Lisa Allen, Interim Superintendent

GRANTS, ENTITLEMENTS AND OTHER INCOME AGREEMENTS – REVENUE

<u>Contractor</u>	<u>New Grant</u>	<u>Amount</u>
<u>EDUCATOR AND LEADERSHIP DEPARTMENT</u>		
University of Phoenix A24-00014	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, received grant in 2016/17	\$0 No Match
Period: 7/1/23 – 6/30/26. Description Internship MOU. Approved program for the Multiple and Single Subject Credentials. Each intern candidate will work under the direct and continuing supervision of a University of Phoenix Intern Supervisor and Employer Mentor who provides general support at the classroom level of the Intern's Employer.		
<u>CAREER AND COLLEGE DEPARTMENT</u>		
California Department of Education A24-00027	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$81,000 No Match
Period: 7/1/23-6/30/25. Description Law and Social Justice Academy (0022) at Luther Burbank High School. One-time grant award of \$81,000.		
<u>CAREER AND COLLEGE DEPARTMENT</u>		
California Department of Education A24-00028	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$72,000 No Match
Period: 7/1/23-6/30/25. Description Building Trades Academy (0585) at Luther Burbank High School. One-time grant award of \$72,000.		
<u>CAREER AND COLLEGE DEPARTMENT</u>		
California Department of Education A24-00029	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$45,000 No Match
Period: 7/1/23-6/30/25. Description Criminal Justice and Community Services Academy (0095) at John F. Kennedy High School. One-time grant award of \$45,000.		
<u>CAREER AND COLLEGE DEPARTMENT</u>		
California Department of Education A24-00030	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$81,000 No Match
Period: 7/1/23-6/30/25. Description Law and Social Justice Academy (0084) at Hiram Johnson High School. One-time grant award of \$81,000.		
<u>CAREER AND COLLEGE DEPARTMENT</u>		
California Department of Education A24-00031	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$81,000 No Match
Period: 7/1/23-6/30/25. Description Health and Medical Sciences Academy (0168) at Hiram Johnson High School. One-time grant award of \$81,000.		
<u>CAREER AND COLLEGE DEPARTMENT</u>		
California Department of Education A24-00032	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$81,000 No Match
Period: 7/1/23-6/30/25. Description Corporate Business Academy (0086) at Hiram Johnson High School. One-time grant award of \$81,000.		

<u>CAREER AND COLLEGE DEPARTMENT</u>		
California Department of Education A24-00033	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$81,000 No Match
Period: 7/1/23-6/30/25. Description Law and Public Services Academy (0571) at C.K. McClatchy High School. One-time grant award of \$81,000.		

<u>HOMELESS SERVICES DEPARTMENT</u>		
California Department of Education A24-00036	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$77,069 No Match
Period: 7/1/23-6/30/24. Description Education for Homeless Children and Youth. One-time grant award of \$77,069.		

EXPENDITURE AND OTHER AGREEMENTS

Restricted Funds

<u>Contractor</u>	<u>Description</u>	<u>Amount</u>
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FACILITIES DEPARTMENT

Nacht & Lewis SA24-00321	10/5/23 – 12/31/25: Architectural and engineering services for the Fern Bacon Middle School Modernization and New School project. Project consists of a infrastructure stabilization, roof replacement, interior and exterior painting, site security fencing, flooring replacement, accessibility upgrades, HVAC replacement.	\$2,105,614 Measure H Funds
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New Contract:
 Yes
 No

Nacht & Lewis was selected for this project from the District's pool of architects qualified through a Request for Qualification process on June 22, 2023.

Kitchell CEM SA24-00319	5/4/23 – 12/31/24: Project and construction management services for the C.K. McClatchy High School New School HVAC project. Project consists of HVAC replacement at the campus.	\$185,680 Measure Q Funds
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New Contract:
 Yes
 No

Kitchell CEM was selected for this project from the District's pool of construction managers qualified through an RFQ process in December 2021.

Kitchell CEM SA24-00320	5/4/23 – 12/31/24: Project and construction management services for the C.K. McClatchy High School New Softball/Baseball Field Improvements project. Project consists of new softball and baseball fields.	\$248,600 Measure H Funds
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New Contract:
 Yes
 No

Kitchell CEM was selected for this project from the District's pool of construction managers qualified through an RFQ process in December 2021.

Olympic Land Construction R24-01779	Ratify irrigation repairs required at Parkway Elementary, James Marshall Elementary, Edward Kemble Elementary, Golden Empire Elementary, Pacific Elementary, Sutterville Elementary, Genevieve Didion, John Still k-8, California Middle. Albert Einstein Middle, New Tech High School, Sacramento High School.	\$132,191 Ongoing Maintenance Funds
New Contract:		
<input checked="" type="checkbox"/> Yes		
<input type="checkbox"/> No		

ACADEMIC OFFICE DEPARTMENT

Texthelp R24-01672	9/2023 – 9/2024: Approve renewal software subscription for math, reading and writing digital support tools for use by all students and staff. Includes access to all supported platforms including Windows, Mac, Google Chrome, Edge, iPad and Android. Helping students to improve comprehension skills and build engagement in learning.	\$143,993 ESSER III Funds
New Contract:		
<input type="checkbox"/> Yes		
<input checked="" type="checkbox"/> No		

Nearpod R24-01284	9/1/23 – 8/31/24: Renewal subscription to Nearpod Premium Plus, Flocabulary Plus, and Nearpod's 21 st Century Readiness Program. Providing lessons, videos, activity and creation delivery platform with formative assessment and media features. Standards aligning k-12 lessons across all core subjects, enabling teachers to assign lessons and activities and view results of assessments. 21 st Century readiness program connects skill topics in Social & Emotional Learning, College & Career Readiness to help students thrive in the classroom.	\$265,752 ESSER III Funds
New Contract:		
<input type="checkbox"/> Yes		
<input checked="" type="checkbox"/> No		

SPECIAL EDUCATION DEPARTMENT

United College Action Network (U-CAN) SA24-00314	Implement the college admission preparation program designed to support high school students on a successful path to career and college attainment and graduation by assisting students individually and in small groups. Program will provide direct college and career support services to all interested and/or referred students at the following sites during the 2023-2024 school year: C.K. McClatchy, Hiram Johnson, John F. Kennedy, Luther Burbank, Rosemont and West Campus.	\$160,000 ESSER III Funds
New Contract:		
<input checked="" type="checkbox"/> Yes		
<input type="checkbox"/> No		

SPECIAL EDUCATION DEPARTMENT

Teachtown R24-01688	Approve K-12 pilot materials and professional development for special education that will offer students with moderate to severe disabilities equitable and inclusive access to the general education curriculum and the individualized interventions that support their success. A blend of computer-delivered and teacher-led applied behavior analysis (ABA) instruction to increase student's vocabulary, listening skills, social-emotional development, independence, academics and cognitive skills.	\$109,968 ESSER III Funds
New Contract:		
<input checked="" type="checkbox"/> Yes		
<input type="checkbox"/> No		

News 2 You (N2Y) Unique Learning Systems R24-00827	8/4/23 – 8/3/24: Renewal subscription to allow students with moderate-severe needs differentiated content to learn within our self-contained classrooms (SCC) while adhering to standards. Unique Learning Systems (ULS) gives students access to the curriculum in a way that enables	\$147,329 Special Education Funds
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New Contract: them to demonstrate their knowledge according to their ability level. This was identified as a need while looking across the district for equal access points for curriculum and technology for students receiving special education services. Built in assessment tools and resource will provide insight into each learner as they grow. Extensive data gathered related to that growth will inform instruction and support our teachers in documenting mastery toward IEP goals and standards.

- Yes
- No

Bluum \$159,863
R24-01099 ESSER III Funds

Approve projectors and portable projector screens.to provide educational technology for special education students and staff that aids in regular and substantive educational interactions between students and their special education service providers and special education department staff and families.
Action Item B21.

- New Contract:
- Yes
 - No

CONSOLIDATED PROGRAMS DEPARTMENT

Vision 2000 \$194,000
SA24-00232 Every Student Succeeds Act (ESSA), Title I Funds

Develop, administer, maintain and sustain the tutoring/intervention program under ESSA/ESEA to eligible private school students during the 2023-24 school year. The primary purpose of the Vision 2000 Programming is to enhance academic skills and provide services to eligible students in private non-profit schools that are equitable to those provided district-wide.

- New Contract:
- Yes
 - No

Contractor will work collaboratively with the District to develop, support, coordinate, and implement the Vision 2000 Student Support Program. This collaboration is designed to assist academically low performing, eligible students who live in District Title I funded school attendance areas with literacy and numeracy development services designed to support increased academic achievement and provide opportunities for parents to actively participate in their children’s education

HEALTH SERVICES DEPARTMENT

Maxim Healthcare \$300,000
SA24-00225 ESSER III Funds

7/1/23 – 6/30/24: Amendment No. 1 for Additional Nursing and staffing services for COVID-19 testing and contact tracing for all SCUSD staff and students. Action Item A1.

- New Contract:
- Yes
 - No

Action Supportive \$550,000
Care ESSER III Funds
SA24-00223

7/1/23 – 6/30/24: Amendment No. 1 for Additional Nursing and staffing services for COVID-19 testing and contact tracing for all SCUSD staff and students. Action Item A1.

- New Contract:
- Yes
 - No

Action Supportive
Care
SA24-00221

7/1/23 – 6/30/24: Additional Nursing and staffing. Provide direct healthcare services as prescribed by a licensed authorized healthcare provider to District students with 504 accommodation(s) who require such services at student’s school of attendance.

\$350,000
Medi-Cal Billing
Option Funds

New Contract:

- Yes
- No

Unrestricted Funds

STRATEGY & CONTINUOUS IMPROVEMENT

College Entrance
Examination Board
SA24-00338

7/1/23 – 6/30/24: College Board will furnish SCUSD with exams, products, licenses, services and/or materials. This will include PSAT 8/9: materials for students; materials for SCUSD schools, reports for SCUSD; delivering SAT Practice Tools and Support.

\$208,690
LCFF Funds

New Contract:

- Yes
- No

APPROVAL OF DECLARED SURPLUS MATERIALS AND EQUIPMENT

SITE/DEPT	DESCRIPTION
Caroline Wenzel ES Cesar Chavez Intermediate New Technology HS	<p>BACKGROUND: The Education Code regulates the procedures by which a school district can dispose of personal property. Education Code section 17546 provides that the governing board may, by unanimous vote, dispose of items valued at \$2,500 or less by private sale without advertising, by selling the items at public auction, or if the board finds that the property is of insufficient value to defray the costs of arranging a sale, the property may be donated to a charitable organization deemed appropriate by the board, or it may be disposed of in the local public dump. The District has held previous auctions, but they have generally cost more than they have netted for the District.</p> <p>STATUS: The District has determined these items are not repairable nor usable.</p>
ITEMS	
Chromebooks (157 each) Macbooks (249 each) Computers (35 each) Smartboards (12 each) Projectors (1 each) Printers (5 each) Radio (1 each)	
TOTAL VALUE	RECOMMENDATION: It is recommended that the Board of Education approve the salvage of the listed items per Education Code section 17546
\$0.00	
DISPOSAL METHOD	
E-Waste	

RECOMMENDED BID AWARDS – PURCHASING

Bid No: 24-1019 Wheelchair Accessible Vans

Bids Received: 11:00 am, September 18, 2023

Recommendation: Award to Model 1 Commercial Vehicles

Amount/Funding: \$485,207.75 / ESSER III Funds

BIDDER	BIDDER LOCATION	AMOUNT
Model 1 Commercial Vehicles	Chino, CA	\$485,207.75

Rationale: Bid 24-1019 was publicly posted on August 18th and on August 25th in the Daily Recorder. By the closing date, September 18, 2023, one (1) bid was received. The bid specifications were drafted in accordance to meet ADA standards for the safe transport of wheelchair passengers. The District recommends the award of wheelchair accessible vans for the Transportation Services department.

California Federal Regulation § 2414.408-70 states when only one bid is received in response to an invitation for bids, such bid may be considered and accepted if the Contracting Officer makes a written determination that: (a) The specifications were clear and not unduly restrictive; (b) adequate competition was solicited and it could have been reasonably assumed that more than one bid would have been submitted; (c) the price is reasonable; and (d) the bid is otherwise in accordance with the invitation for bids.

RECOMMENDED BID AWARDS – FACILITIES

Bid No: 0510-433, CKM CCTV Cameras

Bids received: 1:00 pm, July 27, 2023

Recommendation: Retract Award to Johnson Controls, Approved August 17, 2023
Award to 3D Technology (Second Lowest Bidder)

Funding Source: Measure Q Funds

BIDDER	BIDDER LOCATION	AMOUNT
Johnson Controls	Sacramento, CA	\$153,978
3D Technology	Rancho Cordova, CA	\$214,726
Precision Communications	West Sacramento, CA	\$215,425
HCI Systems	Sacramento, CA	\$215,600
Bockmon & Woody	Stockton, CA	\$320,182

Rationale: Johnson Controls failed to timely request relief Pursuant to California Public Contract Code 5100 et seq. and refused to execute contract within ten (10) days following Notice of Award, issued on August 10, 2023. On September 5, 2023, Johnson Controls issued electronic correspondence to the District requesting withdrawal of its bid on the project. As provided in Public Contract Code section 5106, the public entity may award the contract to the second lowest bidder.

NOTICES OF COMPLETION – FACILITIES PROJECTS

Contract work is complete and Notices of Completion may be executed.

Contractor	Project	Completion Date
Swinerton Builders	Albert Einstein/ Fern Bacon/ John Still ES Gym HVAC Replacement	8/31/23
Landmark Construction	John F. Kennedy C-Wing HVAC Replacement	8/31/23
John F. Otto dba Otto Construction	Miwok Gym HVAC Replacement	8/31/23
CORE Construction	Umoja HVAC Replacement	8/31/23



INTERNSHIP MEMORANDUM OF UNDERSTANDING UNIVERSITY OF PHOENIX – California

The University of Phoenix Internship Program is a California Commission on Teacher Credentialing (CCTC) approved program for the **Multiple and Single Subject Credentials**. The Internship Credential has the same legal status as the California Commission on Teacher Credentialing (CCTC) Preliminary Credential, except that it is only valid in one school district or consortium. For this reason, interns must have a contract before a credential can be issued. Each intern candidate will work under the direct and continuing supervision of a University of Phoenix Intern Supervisor and Employer Mentor who provides general support at the classroom level of the Intern's Employer.

The University of Phoenix and employing district will provide each participating intern with a copy of this Internship Memorandum of Understanding (MOU) for acknowledgement regarding their placement pursuant to this MOU.

Preconditions Established by State Law for Internship Programs

For initial and continuing accreditation by the Committee on Accreditation, participating districts and universities adhere to the following requirements of state law.

- (1) **Bachelor's Degree Requirement.** Candidates admitted to internship programs hold a baccalaureate degree or higher from a regionally accredited institution of higher education in accordance with Education Code Section 44453.
- (2) **Subject Matter Requirement.** Each Multiple Subject intern admitted into the program passed the Commission-approved subject matter examination(s) for the subject area(s) in which the Intern is authorized to teach, and each Single Subject intern admitted into the program passed the Commission-approved subject matter examination(s) for the subject areas in which the intern is authorized to teach. Education Code Sections 44325(c) (3).
- (3) **Pre-Service Requirement.** Each Multiple and Single Subject Internship program includes a minimum of 120 clock hours (or the semester or quarter unit equivalent) pre-service component which includes foundational preparation in general pedagogy including classroom management and planning, reading/language arts, subject specific pedagogy, human development, and teaching English learners.
- (4) **Professional Development Plan.** The employing district has developed and implemented a Professional Development Plan for interns in consultation with University of Phoenix's Commission-approved program of teacher preparation. The plan includes all of the following:
 - a. Provisions for an annual evaluation of the intern.
 - b. A description of the courses to be completed by the intern, if any, and a plan for the completion of pre-service or other clinical training, if any, including student teaching.

- c. Additional instruction during the first semester of service, for interns teaching in kindergarten or grades 1 to 6 inclusive, in child development and teaching methods, and special education programs for pupils with mild and moderate disabilities.

(5) Supervision of Interns

- a. The participating institution, University of Phoenix, in partnership with the employing district provides 144 hours of support and supervision annually and 45 hours of support and supervision specific to teaching English learners pursuant to California Code of Regulations §80033.
- b. No intern's salary may be reduced by more than 1/8 of its total to pay for supervision, and the salary of the intern shall not be less than the minimum base salary paid to a regularly certificated person. If the intern's salary is reduced, no more than eight interns may be advised by one district support person in accordance with Education Code Section 44462. University of Phoenix describes the procedures used in assigning supervisors and, where applicable, the system used to pay for supervision.

(6) Assignment and Authorization. To receive approval, the participating institution, University of Phoenix, authorizes the candidates in an internship program to assume the functions that are authorized by the regular standard credential in accordance with Education Code Section 44454. The institution, University of Phoenix, stipulates that the intern's services meet the instructional or service needs of the participating district(s) in accordance with Education Code Section 44458.

(7) Participating Districts. Participating districts are public school districts or county offices of education. Submissions for approval must identify the specific districts involved and the specific credential involved in accordance with Education Code Sections 44321 and 44452.

(8) Early Completion Option. Each multiple and single subject intern program must make available to candidates who qualify for the option the opportunity to choose an early program completion option, culminating in a five-year preliminary teaching credential. This option must be made available to interns who meet the following requirements:

- a. Pass a written assessment adopted by the commission that assesses knowledge of teaching foundations as well as the following:
 - Human development as it relates to teaching and learning aligned with the state content and performance standards for K-12 students
 - Techniques to address learning differences, including working with students with special needs
 - Techniques to address working with English learners to provide access to the curriculum
 - Reading instruction in accordance with state standards
 - Assessment of student progress based on the state content and performance standards
 - Classroom management techniques
 - Methods of teaching the subject fields
- b. Pass the teaching performance assessment. This assessment may be taken only one time by an intern participating in the early completion option.
- c. Pass the [Reading Instruction Competence Assessment \(RICA\)](#) (Multiple Subject Credential only).
- d. Meet the requirements for teacher fitness.

An intern who chooses the early completion option but is not successful in passing the assessment may complete his or her full internship program. (Reference: Education Code Section 44468).

- (9) **Length and Validity of the Intern Certificate.** Each intern certificate will be valid for a period of two years. However, a certificate may be valid for three years if the intern is participating in a program leading to the attainment of a specialist credential to teach students, or for four years if the intern is participating in a district intern program leading to the attainment of both a multiple subject or a single subject teaching credential and a specialist credential to teach students with mild/moderate disabilities in accordance with Education Code Section 44325 (b).
- (10) **Non-Displacement of Certificated Employees.** The institution, University of Phoenix, and participating district certify that interns do not displace qualified, certificated employees in participating districts.
- (11) **Justification of Internship Program.** When an institution submits a program for initial or continuing accreditation, the institution must explain why the internship is being implemented. Programs that are developed to meet employment shortages must include a statement from the participating district(s) about the availability of qualified certificated persons holding the credential. The exclusive representative of certificated employees in the credential area (when applicable) is encouraged to submit a written statement to the Committee on Accreditation agreeing or disagreeing with the justification that is submitted.

The University Intern Expectations

Participating interns must be made aware of and agree to adhere to the following.

- (1) All interns must obtain an approved teaching contract.
- (2) Each intern must hold a CA Intern Credential.
- (3) Interns must assume full teaching and legal responsibility for their assigned classroom pursuant to their teaching contract from the first day of the teaching assignment as a paid employee of the School District for at least one academic semester.
- (4) Interns will receive standard salary and benefits based on the assigned School District's current policies. The intern may be assigned to extracurricular activities, department and/or faculty meetings proportionate to the teaching load of a regular contractual teacher and agrees to attend department and faculty meetings and parent-teacher conferences as assigned by the school administration.
- (5) Interns are expected to attend all school and district in-service training sessions whenever possible.
- (6) Interns agree to attend assigned District and School orientations that occur prior to the start of the school.
- (7) Interns are responsible for maintaining up-to-date records of course plans, lesson plans, and unit plans to meet the needs of all students. The intern is expected to:
 - a. make preparations to accomplish their teaching responsibilities outside the classroom, which includes and is not limited to development of lesson plans for all students
 - b. abide by the policies of the school and district
 - c. meet administrative due dates
 - d. communicate with parents by letter, phone, and/or conference when necessary
 - e. maintain prompt and regular attendance
 - f. maintain a grade book according to the requirements of the school

- g. conference with the University Supervisor and Mentor to discuss progress and receive feedback about their teaching performance
 - h. maintain classroom control and management of all students
 - i. provide proper supervision of the students
 - j. complete the University of Phoenix Progression Requirements for its Master of Arts/Teacher Education Program through continuous enrollment
 - k. meet all requirements of the CA TK-12 state standards
- (9) Acknowledge that they have received a copy of this MOU and agree to the terms set forth herein.

The Intern’s University Supervisor Expectations

- (1) Provide a University of Phoenix Intern Supervisor with the following qualifications:
 - a. Five (5) years or more K-12 experience
 - b. EL Authorization
 - c. CLEAR or Life teaching credential
- (2) Complete annual university training in supervision, assessment, academic standards and framework.
- (3) Conduct University Internship Orientation with the intern and mentor prior to assuming responsibilities.
- (4) Model professional practices in teaching and learning, including Valuing Diversity, Equity, and Inclusion; Collaborating with Educational Communities; Integrating Technology; Engaging in Reflective Practice; Leading through Innovative Practices; Practicing Professional Ethics; and Advocate for Learning.
- (5) Provide supervision and in-classroom coaching specific to the needs of English learners.
- (6) Communicate with the assigned mentor to offer support to the intern, including sharing of documentation and monitoring of the Intern.
- (7) Provide five (5) hours per month advice and assistance, including in-class observations, evaluations, and coaching as outlined in the Support and Supervision document.
- (8) Establish communication procedures with mentor and intern.
- (9) Annual review of the intern.

The Intern’s Employer Expectations

- (1) Assign a district/school mentor to the intern to provide support throughout the Internship.
- (2) The mentor will serve as an on-site guide, who observes the intern, and provides substantive feedback as outlined in Intern Support and Supervision document.
- (3) The mentor qualifications are Master’s degree preferred, a minimum of five (5) years teaching experience and hold a CLEAR or LIFE credential in the appropriate subject, and hold an EL Authorization.
- (4) Provide written verification of intern’s position, including a letter of intent to hire and a copy of the official teaching contract.

- (5) Provide sufficient classroom resources, including the use of technology.
- (6) Communicate with University of Phoenix and the faculty supervisor to offer support to the intern.
- (7) Provide seventy-two (72) hours of support per intern per semester with a minimum of two (2) hours of support every five (5) instructional days, including coaching and in-class assistance working with English Language Learners, including lesson planning, assessment of language needs and progress, and resource support options.
- (8) Provide opportunities and resources for professional development, including an intern professional development plan as outlined in Precondition #4 above.
- (9) Annual review of the intern in conjunction with the University Intern Supervisor.

We, the Sacramento City Unified School District, Charter School, or County Office of Education agree to all of the conditions of this Internship Memorandum of Understanding as specified above, to be effective on July 1, 2023, and continue until June 30, 2026, unless otherwise terminated in writing by either party with a 60 day prior notice.

University of Phoenix Representatives

District, Consortium, or County Office of Education Representative

Signature of College of Education Dean (or Designee)

Signature

 Print name with Title

 Jesse Castillo, Assistant Superintendent
 Print name with Title

Signature of Credential Analyst

 Sacramento City USD
 Organization

 Print name with Title

 CDS Code

 4035 S. Riverpoint Parkway, Phoenix, AZ 85040
 Address

 5735 47th Avenue, Sacramento CA 95824
 Address

 Phone

 (916) 643-7400
 Phone

 Date

 Date

UOPX Intern Candidate

Signature of Intern

Intern printed name

Date

Intern Address

Intern Phone

Grant Award Notification

GRANTEE NAME AND ADDRESS Mr. Jorge Aguilar, Superintendent Sacramento City Unified School District PO Box 246870 Sacramento, CA 95824-6870				CDE GRANT NUMBER					
				FY	PCA	Vendor Number	Suffix		
2023				23181		67439		07	
Attention Mr. Jorge Aguilar, Superintendent				STANDARDIZED ACCOUNT CODE STRUCTURE				COUNTY	
Program Office Accounting Office, Categorical Programs				Resource Code		Revenue Object Code		34	
Telephone 916-643-9000				7220		8590		INDEX	
Name of Grant Program California Partnership Academies (CPA) Program								0615	
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total	Amend. No.	Award Starting Date	Award Ending Date			
	\$81,000		\$81,000		7/01/2023	6/30/2025			
CFDA Number	Federal Grant Number	Federal Grant Name				Federal Agency			
<p>I am pleased to inform you that you have been funded for the Law and Social Justice Academy (0022) at Luther Burbank High School.</p> <p>This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, this award will be amended accordingly.</p> <p>Please return the original, signed Grant Award Notification (AO-400) to:</p> <p style="text-align: center;">Michelle Upton, Associate Governmental Program Analyst Career and College Transition Division California Department of Education 1430 N Street, Suite 4202 Sacramento, CA 95814-5901</p>									
California Department of Education Contact Maria Burright					Job Title Education Administrator				
E-mail Address CPAcademies@cde.ca.gov					Telephone 916-319-0891				
Signature of the State Superintendent of Public Instruction or Designee 					Date August 24, 2023				
CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS									
<i>On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both, and I agree to comply with all requirements as a condition of funding.</i>									
Printed Name of Authorized Agent Jesse Castillo					Title Asst Superintendent of Business Serv				
E-mail Address jesse-m-castillo@scusd.edu					Telephone (916) 643-9055				
Signature 					Date SEP 11 2023				

RECEIVED
SEP 11 2023

Grant Award Notification

GRANTEE NAME AND ADDRESS Mr. Jorge Aguilar, Superintendent Sacramento City Unified School District PO Box 246870 Sacramento, CA 95824-6870				CDE GRANT NUMBER					
				FY	PCA	Vendor Number	Suffix		
				2023	23181	67439	06		
Attention Mr. Jorge Aguilar, Superintendent				STANDARDIZED ACCOUNT CODE STRUCTURE			COUNTY		
Program Office Accounting Office, Categorical Programs				Resource Code	Revenue Object Code	34			
Telephone 916-643-9000				7220	8590	INDEX			
Name of Grant Program California Partnership Academies (CPA) Program						0615			
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total	Amend. No.	Award Starting Date	Award Ending Date			
	\$72,000		\$72,000		7/01/2023	6/30/2025			
CFDA Number	Federal Grant Number	Federal Grant Name			Federal Agency				
I am pleased to inform you that you have been funded for the Building Trades Academy (0585) at Luther Burbank High School.									
This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, this award will be amended accordingly.									
Please return the original, signed Grant Award Notification (AO-400) to:									
Michelle Upton, Associate Governmental Program Analyst Career and College Transition Division California Department of Education 1430 N Street, Suite 4202 Sacramento, CA 95814-5901									
California Department of Education Contact Maria Burreight				Job Title Education Administrator					
E-mail Address CPAcademies@cde.ca.gov					Telephone 916-319-0891				
Signature of the State Superintendent of Public Instruction or Designee 					Date August 24, 2023				
CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS									
<i>On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both, and I agree to comply with all requirements as a condition of funding.</i>									
Printed Name of Authorized Agent Jesse Castillo				Title Asst Superintendent of Business Services					
E-mail Address jesse-m-castillo@scusd.edu					Telephone (916) 643-9055				
Signature 					Date SEP 11 2023				

RECEIVED
 SEP 11 2023

Grant Award Notification

GRANTEE NAME AND ADDRESS Mr. Jorge Aguilar, Superintendent Sacramento City Unified School District PO Box 246870 Sacramento, CA 95824-6870				CDE GRANT NUMBER			
				FY	PCA	Vendor Number	Suffix
				2023	23181	67439	05
Attention Mr. Jorge Aguilar, Superintendent				STANDARDIZED ACCOUNT CODE STRUCTURE		COUNTY	
Program Office Accounting Office, Categorical Programs				Resource Code	Revenue Object Code	34	
Telephone 916-643-9000				7220	8590	INDEX	
Name of Grant Program California Partnership Academies (CPA) Program						0615	
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total	Amend. No.	Award Starting Date	Award Ending Date	
	\$45,000		\$45,000		7/01/2023	6/30/2025	
CFDA Number	Federal Grant Number	Federal Grant Name			Federal Agency		
I am pleased to inform you that you have been funded for the Criminal Justice and Community Services Academy (0095) at John F. Kennedy High School.							
This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, this award will be amended accordingly.							
Please return the original, signed Grant Award Notification (AO-400) to:							
Michelle Upton, Associate Governmental Program Analyst Career and College Transition Division California Department of Education 1430 N Street, Suite 4202 Sacramento, CA 95814-5901							
California Department of Education Contact Maria Burreight				Job Title Education Administrator			
E-mail Address CPAcademies@cde.ca.gov				Telephone 916-319-0891			
Signature of the State Superintendent of Public Instruction or Designee 				Date August 24, 2023			
CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS							
On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both, and I agree to comply with all requirements as a condition of funding.							
Printed Name of Authorized Agent Jesse Castillo				Title Asst Superintendent of Business Serv			
E-mail Address jesse-m-castillo@scusd.edu				Telephone (916) 643-9055			
Signature 				Date SEP 1 2023			

Grant Award Notification

GRANTEE NAME AND ADDRESS Mr. Jorge Aguilar, Superintendent Sacramento City Unified School District PO Box 246870 Sacramento, CA 95824-6870				CDE GRANT NUMBER					
				FY	PCA	Vendor Number	Suffix		
				2023	23181	67439	04		
Attention Mr. Jorge Aguilar, Superintendent				STANDARDIZED ACCOUNT CODE STRUCTURE				COUNTY	
Program Office Accounting Office, Categorical Programs				Resource Code	Revenue Object Code		34		
Telephone 916-643-9000				7220	8590		INDEX		
Name of Grant Program California Partnership Academies (CPA) Program							0615		
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total		Amend. No.	Award Starting Date	Award Ending Date		
	\$81,000		\$81,000			7/01/2023	6/30/2025		
CFDA Number	Federal Grant Number	Federal Grant Name				Federal Agency			
I am pleased to inform you that you have been funded for the Law/Criminal Justice Academy (0084) at Hiram W. Johnson High School.									
This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, this award will be amended accordingly.									
Please return the original, signed Grant Award Notification (AO-400) to:									
Michelle Upton, Associate Governmental Program Analyst Career and College Transition Division California Department of Education 1430 N Street, Suite 4202 Sacramento, CA 95814-5901									
California Department of Education Contact Maria Burreight					Job Title Education Administrator				
E-mail Address CPAcademies@cde.ca.gov						Telephone 916-319-0891			
Signature of the State Superintendent of Public Instruction or Designee 						Date August 24, 2023			
CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS									
<i>On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both, and I agree to comply with all requirements as a condition of funding.</i>									
Printed Name of Authorized Agent Jesse Castillo					Title Asst Superintendent of Business Services				
E-mail Address jesse-m-castillo@scusd.edu						Telephone (916) 643-9055			
Signature 						Date			

RECEIVED
 SEP 11 2023
 OFFICE OF THE SUPERINTENDENT
 Sacramento City Unified School District

Grant Award Notification

GRANTEE NAME AND ADDRESS Mr. Jorge Aguilar, Superintendent Sacramento City Unified School District PO Box 246870 Sacramento, CA 95824-6870			CDE GRANT NUMBER			
			FY	PCA	Vendor Number	Suffix
			2023	23181	67439	03
Attention Mr. Jorge Aguilar, Superintendent			STANDARDIZED ACCOUNT CODE STRUCTURE		COUNTY	
Program Office Accounting Office, Categorical Programs			Resource Code	Revenue Object Code	34	
Telephone 916-643-9000			7220	8590	INDEX	
Name of Grant Program California Partnership Academies (CPA) Program					0615	
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total	Amend. No.	Award Starting Date	Award Ending Date
	\$81,000		\$81,000		7/01/2023	6/30/2025
CFDA Number	Federal Grant Number	Federal Grant Name			Federal Agency	
I am pleased to inform you that you have been funded for the Health and Medical Sciences Academy (0168) at Hiram W. Johnson High School.						
This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, this award will be amended accordingly.						
Please return the original, signed Grant Award Notification (AO-400) to:						
Michelle Upton, Associate Governmental Program Analyst Career and College Transition Division California Department of Education 1430 N Street, Suite 4202 Sacramento, CA 95814-5901						
California Department of Education Contact				Job Title		
Maria Burreight				Education Administrator		
E-mail Address				Telephone		
CPAcademies@cde.ca.gov				916-319-0891		
Signature of the State Superintendent of Public Instruction or Designee				Date		
				August 24, 2023		
CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS						
<i>On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both, and I agree to comply with all requirements as a condition of funding.</i>						
Printed Name of Authorized Agent				Title		
Jesse Castillo				Asst Superintendent of Business Services		
E-mail Address				Telephone		
jesse-m-castillo@scusd.edu				(916) 643-9055		
Signature				Date		
				SEP 11 2023		

RECEIVED
 SEP 11 2023
 OFFICE OF THE CLERK
 Sacramento City Unified School District

Grant Award Notification

GRANTEE NAME AND ADDRESS Mr. Jorge Aguilar, Superintendent Sacramento City Unified School District PO Box 246870 Sacramento, CA 95824-6870			CDE GRANT NUMBER			
			FY	PCA	Vendor Number	Suffix
			2023	23181	67439	03
Attention Mr. Jorge Aguilar, Superintendent			STANDARDIZED ACCOUNT CODE STRUCTURE		COUNTY	
Program Office Accounting Office, Categorical Programs			Resource Code	Revenue Object Code	34	
Telephone 916-643-9000			7220	8590	INDEX	
Name of Grant Program California Partnership Academies (CPA) Program					0615	
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total	Amend. No.	Award Starting Date	Award Ending Date
	\$81,000		\$81,000		7/01/2023	6/30/2025
CFDA Number	Federal Grant Number	Federal Grant Name			Federal Agency	
I am pleased to inform you that you have been funded for the Health and Medical Sciences Academy (0168) at Hiram W. Johnson High School.						
This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, this award will be amended accordingly.						
Please return the original, signed Grant Award Notification (AO-400) to:						
Michelle Upton, Associate Governmental Program Analyst Career and College Transition Division California Department of Education 1430 N Street, Suite 4202 Sacramento, CA 95814-5901						
California Department of Education Contact Maria Burreight				Job Title Education Administrator		
E-mail Address CPAcademies@cde.ca.gov				Telephone 916-319-0891		
Signature of the State Superintendent of Public Instruction or Designee 				Date August 24, 2023		
CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS						
<i>On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both, and I agree to comply with all requirements as a condition of funding.</i>						
Printed Name of Authorized Agent Jesse Castillo				Title Asst Superintendent of Business Services		
E-mail Address jesse-m-castillo@scusd.edu				Telephone (916) 643-9055		
Signature 				Date SEP 11 2023		

RECEIVED
 SEP 11 2023
 OFFICE OF THE CLERK
 Sacramento City Unified School District

Grant Award Notification

GRANTEE NAME AND ADDRESS Mr. Jorge Aguilar, Superintendent Sacramento City Unified School District PO Box 246870 Sacramento, CA 95824-6870			CDE GRANT NUMBER			
			FY	PCA	Vendor Number	Suffix
			2023	23181	67439	01
Attention Mr. Jorge Aguilar, Superintendent			STANDARDIZED ACCOUNT CODE STRUCTURE			COUNTY
Program Office Accounting Office, Categorical Programs			Resource Code	Revenue Object Code	34	
Telephone 916-643-9000			7220	8590	INDEX	
Name of Grant Program California Partnership Academies (CPA) Program					0615	
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total	Amend. No.	Award Starting Date	Award Ending Date
	\$81,000		\$81,000		7/01/2023	6/30/2025
CFDA Number	Federal Grant Number	Federal Grant Name			Federal Agency	
<p>I am pleased to inform you that you have been funded for the Law and Public Services Academy (0571) at C. K. McClatchy High School.</p> <p>This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, this award will be amended accordingly.</p> <p>Please return the original, signed Grant Award Notification (AO-400) to:</p> <p style="text-align: center;">Michelle Upton, Associate Governmental Program Analyst Career and College Transition Division California Department of Education 1430 N Street, Suite 4202 Sacramento, CA 95814-5901</p>						
California Department of Education Contact Maria Burreight				Job Title Education Administrator		
E-mail Address CPAcademies@cde.ca.gov				Telephone 916-319-0891		
Signature of the State Superintendent of Public Instruction or Designee 				Date August 24, 2023		
CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS						
<i>On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both, and I agree to comply with all requirements as a condition of funding.</i>						
Printed Name of Authorized Agent Jesse Castillo				Title Asst Superintendent of Business Services		
E-mail Address jesse-m-castillo@scusd.edu				Telephone (916) 643-9055		
Signature ▶				Date		

RECEIVED

SEP 11 2023

Grant Award Notification

GRANTEE NAME AND ADDRESS Sacramento City Unified P.O. Box 246870 Sacramento, CA 95824-6870			CDE GRANT NUMBER			
			FY	PCA	Vendor Number	Suffix
			23	14332	6743	00
Attention Jorge Aguilar, Superintendent			STANDARDIZED ACCOUNT CODE STRUCTURE			COUNTY
Program Office Sacramento City Unified			Resource Code	Revenue Object Code	34	
Telephone 916-643-9000			5630	8290	INDEX	
Name of Grant Program Education for Homeless Children and Youth						0510
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total	Amend. No.	Award Starting Date	Award Ending Date
	\$77,068.52		\$77,068.52		7/1/2023	6/30/2024
CFDA Number	Federal Grant Number	Federal Grant Name			Federal Agency	
84.196A	S196A210005	Education for Homeless Children and Youth			U.S. Department of Education	
<p>I am pleased to inform you that you have been funded for the 2023-24 Education for Homeless Children and Youth (EHCY) Grant.</p> <p>This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, then this award will be amended accordingly.</p> <p>Please return the original, signed Grant Award Notification (AO-400) and Budget within 10 days of receipt to:</p> <p style="text-align: center;">Jennifer Thao, Associate Governmental Program Analyst Grant Administration and Support Office California Department of Education 1430 N Street, Suite 6208 Sacramento, CA 95814-5901</p>						
California Department of Education Contact Jennifer Thao				Job Title Associate Governmental Program Analyst		
E-mail Address JThao@cde.ca.gov				Telephone 916-319-0717		
Signature of the State Superintendent of Public Instruction or Designee 				Date September 15, 2023		
CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS						
<i>On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both; and I agree to comply with all requirements as a condition of funding.</i>						
Printed Name of Authorized Agent Jesse Castillo				Title Asst Superintendent of Business Services		
E-mail Address jesse-m-castillo@scusd.edu				Telephone (916) 643-9055		
Signature 				Date 9/21/23		



Agreement for Architectural Services

between

Sacramento City Unified School District

and

Nacht & Lewis Architects, Inc.

for

Architectural Services

**Fern Bacon Middle School Modernization and New
School Construction**

Dated: October 5, 2023

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AGREEMENT FOR ARCHITECTURAL SERVICES

This Agreement for Architectural Services is made as of October 5, 2023, between the Sacramento City Unified School District, a California public school district ("District"), and Nacht & Lewis ("Architect") (collectively "Parties"), for the following project ("Project"):

Fern Bacon Middle School Modernization and New Construction

For and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

Article 1. Definitions

- 1.1. In addition to the definitions above, the following definitions of words or phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1. **Agreement:** The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2. **Architect:** The Architect identified in the first paragraph of this Agreement, including all Consultants to the Architect. The term Architect means the Design Professional in General Responsible Charge on this Project.
 - 1.1.3. **As-Built Drawings ("As-Builts"):** Any document prepared and submitted by District's Contractor(s) that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by Construction Change Documents and change orders, and detailed by the District's construction contractor(s) on a Conforming Set.
 - 1.1.4. **Bid Set:** The plans, drawings, and specifications at the end of the Construction Documents Phase that the Division of the State Architect ("DSA") has approved and that the District can use to go out to bid for construction of the Project.
 - 1.1.5. **Conforming Set:** The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase. The Architect shall ensure that DSA has approved all revisions to the Bid Set that are incorporated onto the Conforming Set and for which DSA approval is required.

- 1.1.6. **Construction Budget**: The total amount of funds indicated by the District for the entire Project plus all other costs, including design, construction, administration, and financing.
- 1.1.7. **Construction Change Documents (“CCD”)**: The documentation of changes to the DSA-approved construction documents.
- 1.1.8. **Construction Cost Budget**: The total cost to District of all elements of the Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with this Agreement. The Construction Cost Budget does not include the compensation of the Architect and the Architect’s Consultants, the cost of land, rights-of-way, financing or other costs which are the responsibility of the District, including construction management.
- 1.1.9. **Construction Manager**: The District’s representative on the Project if the District retains a construction manager, project manager, or owner’s representative.
- 1.1.10. **Contractor**: One or more licensed contractors under contract with the District for construction of all or a portion of the Project.
- 1.1.11. **Consultant(s)**: Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Architect.
- 1.1.12. **District**: The Sacramento City Unified School District.
- 1.1.13. **DSA**: The Division of the State Architect.
- 1.1.14. **Extra Services**: District-authorized services outside of the scope in **Exhibit “A”** or District-authorized reimbursable not included in Architect’s Fee.
- 1.1.15. **Laboratory of Record**: The District-designated laboratory(ies) for testing of concrete, soils, materials, and other required testing.
- 1.1.16. **Project**: Fern Bacon Middle School located at 4140 Cuny Avenue, Sacramento CA 95823.
- 1.1.17. **Record Drawings**: A final set of drawings prepared by the Architect that incorporates all changes from all As-Builts, sketches, details, and clarifications. This includes a “1A” sheet.

- 1.1.18. **Service(s):** All labor, materials, supervision, services, tasks, and work that the Architect is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.
- 1.1.19. **Visually Verify:** To verify to the fullest extent possible by physical inspection and reasonable investigation and without any destructive action.

Article 2. Scope, Responsibilities, and Services of Architect

- 2.1. Architect shall render the Services described in **Exhibit "A,"** commencing with receipt of a written Notice to Proceed signed by the District representative. Architect's Services will be completed in accordance with the schedule attached as **Exhibit "C."**
- 2.2. Architect and its Consultants shall provide Services for the Project (i) using its professional skill and judgment; (ii) acting with due care and in accordance with respective applicable standards of care under California law for those providing similar services for projects the size, scope and complexity of the Project for California school districts in or around the same geographic area of the District; (iii) the terms of this Agreement; and (iv) in accordance with said standards regarding application and interpretation of applicable law, code, rule or regulation at the time the Services are rendered ("Standard of Care"). All persons providing professional services hereunder shall be properly licensed as required by California law.
- 2.3. The District intends to award the Project to Contractor(s) pursuant to a competitive bid process. District reserves its right to use alternative delivery methods and the Architect's scope of work may be adjusted accordingly.
- 2.4. Architect acknowledges that all California public school districts are obligated to develop and implement the following storm water requirements for the discharge of storm water to surface waters from its construction and land disturbance activities where the project disturbs one (1) or more acres of land and is not part of a larger common plan of development or sale, the project disturbs one acre or more of land, or the project disturbs less than one (1) acre of land but is part of a larger common plan of development or sale, or where the District engages in maintenance (e.g., fueling, cleaning, repairing) or transportation activities.
- 2.4.1. Architect shall provide the design for the Project, without limitation:

- 24.1.1. A municipal Separate Storm Sewer System ("MS4"). An MS4 is a system of conveyances used to collect and/or convey storm water, including, without limitation, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
- 24.1.2. A Storm Water Pollution Prevention Plan ("SWPPP") that contains specific best management practices ("BMPs") and establishes numeric effluent limitations.
- 2.4.2. Architect shall conform its design work to the District's storm water requirements indicated above, that are approved by the District and applicable to the Project, at no additional cost to the District. In addition, as required Architect shall develop a grading and drainage plan and a site plan from architectural information showing a final development of the site. This drawing will also include a horizontal and vertical control plan and a utility infrastructure plan. The Services described in this subparagraph shall be provided by a professional civil engineer who contracts with or is an employee of the Architect.
- 2.5. Architect shall contract for or employ at Architect's expense, Consultant(s) to the extent deemed necessary for completion of the Project including, but not limited to: architects; mechanical, electrical, structural and civil engineers; landscapers; and interior designers, licensed as such by the State of California as part of the Basic Services under this Agreement. The names of Consultant(s) shall be submitted to the District for approval prior to commencement of Services, as indicated below. The District reserves the right to reject Architect's use of any particular Consultant. Nothing in the foregoing procedure shall create any contractual relationship between the District and any Consultant employed by the Architect under terms of the Agreement. Architect shall require each of the Consultants retained by it to execute agreements with standard of care and indemnity provisions commensurate with this Agreement, but Architect shall remain solely responsible and liable to District for all matters covered by this Agreement.
- 2.6. Architect shall coordinate with District personnel or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work related to the Project. This shall include, without limitation, coordination with State labor compliance, if any. If the Architect employs Consultant(s), the Architect shall ensure that its contract(s) with its Consultant(s) include language notifying the Consultant(s) of State labor compliance, if any.

- 2.7. Architect shall identify the regulatory agencies that have jurisdiction over essential building and design elements and coordinate with and implement the requirements of the regulatory agencies, including, without limitation, the California Department of Education, the Office of Public School Construction, the Department of General Services, DSA, including DSA Fire/Life Safety, DSA Access Compliance Section, DSA Structural Safety Section, the State Fire Marshal and any regulatory office or agency that has authority for review and supervision of school district construction projects.
- 2.7.1. If the Project is subject to DSA jurisdiction, then Architect, and its Consultants, if any, shall comply with all the DSA requirements, including without limitation, all the requirements included and/or referenced in the following forms, bulletins ("BU"), interpretations of regulations ("IR"), policies ("PL"), or procedures ("PR"):
- 2.7.1.1. DSA IR A-6, Construction Change Document Submittal and Approval Process.
 - 2.7.1.2. DSA IR A-18, Use of Construction Documents Prepared by Other Professionals.
 - 2.7.1.3. DSA IR A-24, Construction Phase Duties of the School District, Contractor and Design Professional.
 - 2.7.1.4. DSA PR 07-01: Pre-Check Approval Process.
 - 2.7.1.5. DSA PR 07-02: Over-The-Counter Review of Projects Using Pre-Check Approved Design.
 - 2.7.1.6. DSA PR 18-04.BB18: Electronic Plan Review for Design Professionals of Record Using Bluebeam 2018.
 - 2.7.1.7. DSA PR 18-09.BB18: Electronic Plan Review for Over-the-Counter ("OTC") Projects Using Bluebeam 2018.
 - 2.7.1.8. Form DSA PR 13-01, Construction Oversight Process.
 - 2.7.1.8.1. Each of Architect's duties as provided in the DIR Construction Oversight Process shall be performed timely so as not to result in any delay to the Project.
 - 2.7.1.9. Form DSA PR 13-02, Project Certification Process.

- 2.7.2. Notwithstanding the DSA forms, BUs, IRs, PLs, or PRs referenced anywhere in this Agreement, each of which is current as of the Effective Date, all Projects subject to DSA's jurisdiction shall be submitted for review, back check, and approval, under the electronic plan review process ("EPR process"), rather than paper submission, for all projects submitted to DSA. Architect, and its Consultants, if any, shall comply with the EPR process and related DSA procedures, including, without limitation, DSA PR 18-04.BB18 and DSA PR 18-09.BB18, and any subsequent or replacement procedures relating to the EPR process promulgated by DSA. Any reference herein to a particular DIR form, BU, IR, PL, or PR, shall mean and include the then-current DIR form, BU, IR, PL, or PR, respectively, and, to the extent that the EPR process has superseded such form or paper submission process, the EPR process then in effect shall control.
- 2.8. Architect shall provide Services as required to obtain any local, state and/or federal agencies' approval for on-site and off-site work related to the Project including review by regulatory agencies having jurisdiction over the Project.
- 2.9. Architect shall coordinate the work of the District's DSA project inspector(s) ("Project Inspector(s)") and the Laboratory of Record. Architect shall provide code required supervision of special inspectors not provided by the Laboratory of Record.
- 2.10. Architect shall give efficient supervision to Services, using its professional skill and attention. Architect shall carefully study and compare all contract documents, drawings, specifications, and other instructions ("Contract Documents") and shall at once report to District, Construction Manager, and Contractor, any error, inconsistency, or omission that Architect or its employees may discover, in writing, with a copy to District's Project Inspector(s). Architect shall have responsibility for discovery of errors, inconsistencies, or omissions in its own Contract Documents and that of its Sub consultants, but shall have no responsibility for District hired consultants.
- 2.11. Architect recognizes that the District may obtain the services of a Construction Manager and that Architect may have to assume certain coordination and management responsibilities, including tracking Requests for Information ("RFI"), providing RFI responses, and leading all coordination meetings between the District, Project Inspectors, and Contractors on the Project. The District reserves the right to retain the services of a Construction Manager at any time. The Construction Manager, if any, shall be authorized to give Architect Services authorizations and

issue written approvals and notices to proceed on behalf of District. The District reserves the right to designate a different Construction Manager at any time. Any task, including, but not limited to, reviews or approvals that the District may perform pursuant to this Agreement may be performed by the Construction Manager, unless that task indicates it shall be performed by the Governing Board of the District. In addition, the District may have a constructability review of Architect's design documents. Architect shall conform any design documents to the constructability review as part of the Services under this Agreement and shall not be entitled to any compensation as Extra Services for this activity.

- 2.12. Architect shall provide computer-generated pictures downloaded to computer files, updated as requested by the District, that the District may use on its website.
- 2.13. As part of the basic Services pursuant to this Agreement, Architect is not responsible for:
 - 2.13.1. Ground contamination or hazardous material analysis.
 - 2.13.2. Any asbestos and/or lead testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
 - 2.13.3. Compliance with the California Environmental Quality Act ("CEQA"), except that Architect agrees to coordinate its work with that of any CEQA consultants retained by the District, to provide current elevations and schematic drawings for use in CEQA compliance documents, and to incorporate any mitigation measures adopted by the District into the Project design at no additional cost to the District.
 - 2.13.4. Historical significance report.
 - 2.13.5. Soils investigation.
 - 2.13.6. Geotechnical hazard report, except as indicated in **Exhibit "A."**
 - 2.13.7. Topographic surveys of existing conditions
 - 2.13.8. State and Local agency fees.
 - 2.13.9. Testing and inspection

Article 3. Architect Staff

3.1. Architect has been selected to perform the Services herein because of the skills and expertise of key individuals.

3.2. Architect agrees that the following key people in Architect's firm shall be associated with the Project in the following capacities:

Principal In Charge: Brian Maytum

Project Director: Brian Maytum

Project Architect(s): Chris Flatt

Major Consultants:

Electrical: Capital Engineering Consultants

Low Voltage/Fire Alarm: KMM Services

Mechanical/Plumbing: Capital Engineering Consultants

Landscaping: MTW Group

Structural: Buehler Structural Engineers

Civil: Warren Consulting Engineers

Cost Estimating: Sierra West

3.3. Architect shall not change any of the key personnel listed above without prior written approval by the District, unless said personnel cease to be employed by Architect. In either case, the District shall be allowed to interview and approve replacement personnel.

3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice Architect shall have five (5) calendar days to remove that person from the Project and replace that person with one acceptable to the District. All lead or key personnel for any Consultant must also be designated by the Consultant and are subject to all conditions stated in this paragraph.

3.5. Architect represents that Architect has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of Services required under this Agreement and that no person having any such interest shall be employed by Architect.

3.6. Architect shall comply with Education Code section 17302(a) and agrees that any plans and/or specifications included in the Services shall be prepared under the supervision of licensed personnel, and that licensed

personnel shall be in "responsible charge" of persons who observe the construction.

Article 4. Schedule of Services

Architect shall commence Services under this Agreement upon receipt of a written Notice to Proceed and shall prosecute the Services diligently as described in **Exhibit "A,"** so as to proceed with and complete the Services in compliance with the schedule in **Exhibit "C."** Time is of the essence and failure of Architect to perform Services on time as specified in this Agreement is a material breach of this Agreement. It shall not be a material breach if a delay is beyond the Architect's or its Consultant(s)' reasonable control.

Article 5. Construction Cost Budget

- 5.1. Architect hereby accepts the District's established Construction Cost Budget and Project scope. In accordance with **Exhibit "A,"** the Architect shall have responsibility to further develop, review, and reconcile the Construction Cost Budget for the District at the beginning of the Project and at the completion of each design phase. The District and Construction Manager shall also have responsibility to develop, review, and reconcile the Construction Cost Budget with the Architect.
- 5.2. Architect shall complete all Services as described in **Exhibit "A,"** including all plans, designs, drawings, specifications and other Contract Documents, so that the cost to construct the work designed by the Architect will not exceed the Construction Cost Budget, as adjusted subsequently with the District's written approval. Architect shall maintain cost controls throughout the Project to deliver the Project within the Construction Cost Budget.
- 5.3. The District may, in its sole discretion, do one, or a combination, of the following if any of the events in Article 5.4 occur:
 - 5.3.1. Give Architect written approval on an agreed adjustment to the Construction Cost Budget.
 - 5.3.2. Authorize Architect to re-negotiate, when appropriate, and/or re-bid the Project within three (3) months' time of receipt of bids (exclusive of District and other agencies' review time) at no additional cost to the District.

- 5.3.3. Terminate this Agreement if the Project is abandoned by the District, without further obligation by either party.
- 5.3.4. Within three (3) months' time of receipt of bids, instruct Architect to revise the drawings and specifications (in scope and quality as approved by the District) to bring the Project within the Construction Cost Budget for re-bidding at no additional cost to the District.
- 5.4. If any of the following events occur, the District may exercise any one, or any combination, of the actions set forth in Article 5.3 above:
 - 5.4.1. The lowest responsive base bid received is in excess of five percent (5%) of the Construction Cost Budget; or
 - 5.4.2. If the combined total of base bid and all additive alternates come in ten percent (10%) or more under the Construction Cost Budget; or
 - 5.4.3. If the Construction Cost Budget increases in phases subsequent to the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the county in which the District is located, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy.

Article 6. Fee and Method of Payment

- 6.1. The District shall pay Architect for all Services contracted for under this Agreement an amount equal to the following ("Fee"):

A fixed fee amount of **\$3,600,000**. The fee represents 6% of the proposed construction value of \$60,000,000.00 million. At the completion of Schematic Design phase, a one-time fee reconciliation to a final, confirmed construction cost shall occur.

Reimbursable Expenses are in addition to compensation for Basic and Additional Services and will be billed at a multiple of 1.10% the expenses incurred. These charges include, but are not limited to, expenses incurred which are directly related to the Project, such as reproductions, plans and plots for owner, agency or contractor's use, standard form documents, postage, handling and delivery of Instruments of Service, and mileage. Reimbursable expenses are not expected to exceed **\$180,000**. All reimbursable expenses must be pre-approved by District.

- 6.2. The District shall pay Architect the Fee pursuant to the provisions of **Exhibit "D."**
- 6.3. Architect shall bill for performance of Services under this Agreement in accordance with **Exhibit "D."**
- 6.4. No increase in Fee will be due from CCDs and/or change orders generated during the construction period to the extent caused by Architect's error or omission.
- 6.5. The Architect's Fee set forth in this Agreement shall be full compensation for all of Architect's Services incurred in the performance hereof as indicated in **Exhibit "D."**
- 6.6. Regardless of the structure of Architect's Fee, the Architect's Fee may be adjusted downward if the Scope of Services of this Agreement is reduced by the District in accordance with this Agreement.
- 6.7. Neither the District's review, approval of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Architect shall remain liable to the District in accordance with this Agreement for direct damages to the District caused by Architect's failure to perform any of the Services furnished under this Agreement to the standard of care under California law for architects performing similar work for California school districts in or around the same geographic area as the District.

Article 7. Payment for Extra Services or Changes

Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** only upon certification that the claimed Extra Service was authorized as indicated herein and that the Extra Services have been satisfactorily completed. If any service is done by Architect without prior written authorization by the Construction Manager or the District's authorized representative, the District will not be obligated to pay for such service. The foregoing provision notwithstanding, Architect will be paid by the District as described in **Exhibit "B"** for Extra Services that the Construction Manager or the District's authorized representative verbally requests, provided that Architect confirms such request in writing pursuant to the notice requirements of this Agreement, and proceeds with such Extra Services not earlier than two (2) business days after the District receives confirmation of the request from the Architect.

Article 8. Ownership of Data

- 8.1. Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for the District to use, at its discretion, all plans including, but not limited to, record drawings, specifications, estimates and other documents that Architect or its Consultants prepare or cause to be prepared pursuant to this Agreement.
- 8.2. Architect retains all rights to all copyrights over designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that Architect or its Consultants prepare or cause to be prepared pursuant to this Agreement.
- 8.3. Architect shall perform the Services and prepare all documents under this Agreement with the assistance of Computer Aided Design Drafting Technology ("CADD") (e.g., AutoCAD). Architect shall deliver to District all drawings in DWG format. As to any drawings that Architect provides in a CADD file format, the District acknowledges that anomalies and errors may be introduced into data when it is transferred or used in a computer environment, and that the District should rely on hard copies of all documents.
- 8.4. In order to document exactly what CADD information was given to the District, Architect and District shall each date and sign a "hard" copy of reproducible documents that depict the information at the time Architect produces the CADD information. The District agrees to release Architect from all liability, damages, and/or claims that arise due to any changes made to this information by anyone other than Architect or its Consultant(s) subsequent to it being given to the District.
- 8.5. Following the termination of this Agreement, for any reason whatsoever, Architect shall promptly deliver to the District upon written request and at no cost to the District the following items (hereinafter "Instruments of Service"), which the District shall have the right to utilize in any way permitted by statute:
 - 8.5.1. One (1) set of the Contract Documents, including the bidding requirements, specifications, and all existing cost estimates for the Project, in hard copy, reproducible format.
 - 8.5.2. One (1) set of fixed image CADD files in DXF format of the drawings that are part of the Contract Documents.
 - 8.5.3. One (1) set of non-fixed image CADD drawing files in DXF or DWG or both formats of the site plan, floor plans (architectural, plumbing,

structural, mechanical and electrical), roof plan, sections and exterior elevations of the Project.

8.5.4. All finished or unfinished documents, studies, reports, calculations, drawings, maps, models, photographs, technology data and reports prepared by the Architect under this Agreement.

8.5.5. The obligation of Section 8.5 of this Agreement shall survive the termination of this Agreement for any reason whatsoever.

8.6. In the event the District changes or uses any fully or partially completed documents without Architect's knowledge or participation or both, the District agrees to release Architect of responsibility for such changes, and shall hold Architect harmless from and against any and all claims on account of any damages or losses to property or persons, or economic losses, arising out of that change or use, unless Architect is found to be liable in a forum of competent jurisdiction. In the event that the District uses any fully or partially completed documents without the Architect's full involvement, the District shall remove all title blocks and other information that might identify Architect and its Consultants.

Article 9. Termination of Contract

9.1. District's Request for Assurances: If District at any time reasonably believes that Architect is or may be in default under this Agreement, District may in its sole discretion notify Architect of this fact and request written assurances from Architect of performance of Services and a written plan from Architect to remedy any potential default under the terms this Agreement that the District may advise Architect of in writing. Architect shall, within ten (10) days of District's request, deliver a written cure plan that meets the requirements of the District's request for assurances. Architect's failure to provide such written assurances of performance and the required written plan, within ten (10) days of request, will constitute a material breach of this Agreement sufficient to justify termination for cause.

9.2. District's Termination of Architect for Cause: If Architect fails to perform Architect's duties to the satisfaction of the District, or if Architect fails to fulfill in a timely and professional manner Architect's material obligations under this Agreement, or if Architect shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement, in whole or in part, effective immediately upon the District giving written notice thereof to the Architect. In the event of a termination pursuant to this subdivision, Architect may invoice the District for all Services performed until the notice of termination, but the District

shall have the right to withhold payment and deduct any amounts equal to the District's costs because of Architect's actions, errors, or omissions. District may, at its discretion, provide the Architect time to cure its default or breach.

- 9.3. District's Termination of Architect for Convenience: District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, Architect may invoice District and District shall pay all undisputed invoice(s) for Services performed until the District's notice of termination for convenience.
- 9.4. Architect's Termination of Agreement for Cause: Architect has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement and fails to cure such material default within sixty (60) days of receipt of written notice of said defaults, or if the default cannot be cured within sixty (60) days, commence to cure such default, diligently pursue such cure, and complete the cure within a reasonable time following written notice and demand from Architect. Such termination shall be effective thirty (30) days after receipt of written notice from Architect to the District. Architect may invoice the District and the District shall pay all undisputed invoice(s) for Services performed until Architect's notice of termination.
- 9.5. Effect on Pre-Termination Services: Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 9.6. Ceasing Services upon Termination: If, at any time in the progress of the Design of the Project, the Governing Board of the District determines that the Project should be terminated, Architect, upon written notice from the District of such termination, shall immediately cease Services on the Project. The District shall pay Architect only the fee associated with the Services provided since the last invoice that has been paid and up to the notice of termination.
- 9.7. Project Suspension: If the District suspends the Project for more than one hundred twenty (120) consecutive days, Architect shall be compensated for Services performed prior to notice of that suspension. When the Project is resumed, the schedule shall be adjusted and Architect's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Architect's Services. Architect shall make every effort to maintain the same Project personnel after suspension. If the District suspends the

Project for more than two (2) years, Architect may terminate this Agreement by giving written notice.

Article 10. Indemnity/Architect Liability

- 10.1. To the furthest extent permitted by California law and in accordance with California Civil Code section 2782.8, Architect shall indemnify and hold free and harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and members ("the Indemnified Parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim(s)") to the extent that the Claim(s) arises out of, pertains to, or relates to the negligence, recklessness, or willful misconduct of the Architect, its directors, officers, employees, subcontractors, consultants, or agents, arising out or, connected with, or resulting from the performance of the Services, the Project, of this Agreement.. Architect, to the furthest extent permitted by California law, also has the duty to defend the Indemnified Parties from Claim(s) at Architect's own expense, including attorneys' fees and costs, however, in no event shall the cost to defend charged to the Architect exceed the Architect's proportionate percentage of fault. Notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the design professional shall meet and confer with other parties regarding unpaid defense costs. If a Claim arises out of, or relates in any way to the Services provided under this Agreement, upon the District's or the Architect's request, the District and the Architect agree to undertake good faith measures to allow the Architect to assist the District in resolving the dispute or litigation. The Architect's assistance, described as "Mandatory Assistance" in Exhibit A, Section B.8, shall be provided at Architect's own expense and excluded from any reimbursement calculation. At the commencement of the Mandatory Assistance Phase, District and Architect shall also negotiate in good faith as to the scope and extent of further assistance, including consideration of a joint defense agreement if appropriate. During the Mandatory Assistance Phase, each Party shall be responsible for their own attorneys' fees and costs incurred; however, each Party reserves its rights pursuant to Civil Code section 2782.8.
- 10.2. Architect shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim as defined in Article 10.1. These amounts may be paid by Architect to District or the District may in reasonable good faith withhold those costs from amounts owing to Architect, pending resolution of the dispute.

- 10.3. Architect's duty to indemnify under this Agreement shall apply during the term of this Agreement and shall survive any expiration or termination of this Agreement until such Claim(s) are barred by the applicable statute of limitations and is in addition to any other rights or remedies that the District may have under the law or under this Agreement.

Article 11. Fingerprinting

- 11.1. Pursuant to Education Code section 45125.2, the District has determined on the basis of scope of Services in this Agreement, that Architect, its Consultants and their employees will have only limited contact with pupils. Architect shall promptly notify the District in writing of any facts or circumstances which might reasonably lead the District to determine that contact will be more than limited as defined by Education Code section 45125.1(d).
- 11.2. For all workers on District property, the Architect shall comply with all applicable federal, state and local laws regarding COVID-19. Further, except to the extent the Order provides otherwise, the Architect and Architect's personnel shall continue to comply with all other applicable terms in the CDPH's State Public Health Officer Orders.

Article 12. Responsibilities of the District

- 12.1. The District shall examine the documents submitted by the Architect and shall render decisions so as to avoid unreasonable delay in the process of the Architect's Services.
- 12.2. The District shall verbally or in writing advise Architect if the District becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's documents. Failure to provide such notice shall not relieve Architect of its responsibility therefore, if any.
- 12.3. The District shall furnish the services of a hazardous material consultant or other consultants when such services are requested in writing by Architect and deemed necessary by the District or are requested by the District. These services shall include: asbestos and lead paint survey; abatement documentation; and specifications related to said matters, which are to be incorporated into bid documents prepared by Architect. If the hazardous materials consultant is furnished by the District and is not a Consultant of the Architect, the specifications shall include a note to the effect that the hazardous materials consultant's specifications are included in the Architect's bid documents for the District's convenience and have not been

prepared or reviewed by the Architect. The note shall also direct questions about the hazardous materials consultant's specifications related to asbestos and lead paint survey and/or abatement documentation to the preparer of the hazardous materials consultant's specifications.

- 12.4. The District shall timely provide to the Architect all relevant information in its possession regarding the Project that is necessary for performance of Architect's services.

Article 13. Liability of District

- 13.1. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.
- 13.2. District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Architect, or by its employees, even though such equipment be furnished or loaned to Architect by District.

Article 14. Nondiscrimination

Architect agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Architect and all of its subcontractors. In addition, Consultant agrees to require like compliance by all of its subcontractor(s).

Article 15. Insurance

- 15.1. Architect shall comply with the insurance requirements for this Agreement, set forth in **Exhibit "E."**
- 15.2. Architect shall provide certificates of insurance and endorsements to District prior to commencement of the work of this Agreement as required in **Exhibit "E."**

Article 16. Covenant against Contingent Fees

Architect warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Architect, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Architect, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the contract price or consideration or to recover the full amount of such fee, commission, percentage fee, gift, or contingency.

Article 17. Entire Agreement/Modification

This Agreement, including the Exhibits attached hereto, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. Architect shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. Architect specifically acknowledges that in entering this Agreement, Architect relies solely upon the provisions contained in this Agreement and no others.

Article 18. Non-Assignment of Agreement

In as much as this Agreement is intended to secure the specialized Services of the Architect, Architect may not assign, transfer, delegate or sublet any interest therein without the prior written consent of District and any such assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void. Likewise, District may not assign, transfer, delegate or sublet any interest therein without the prior written consent of Architect and any such assignment, transfer, delegation or sublease without Architect's prior written consent shall be considered null and void. If an assignment is approved, this Agreement shall be binding on the successors and assign of the parties.

Article 19. Law, Venue

- 19.1. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.
- 19.2. To the fullest extent permitted by California law, the county in which the District administration office is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

Article 20. Alternative Dispute Resolution

- 20.1. All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice.

- 20.2. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Architect shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Architect's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Architect submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

- 20.3. Pending resolution of the dispute, Architect agrees it will neither rescind the Agreement nor stop the performance of the Services.

Article 21. Tolling of Claims

Architect agrees to toll all statutes of limitations for District's assertion of claims against Architect that arise out of, pertain to, or relate to Contractors' or subcontractors' claims against District involving Architect's work, until the Contractors' or subcontractors' claims are finally resolved.

Article 22. Attorneys' Fees

In the event either party shall bring any action or legal proceeding for damages for any alleged breach of any provision of or performance under this Agreement, to terminate this Agreement, or to enforce, protect or establish any term or covenant of this Agreement or right or remedy of either party, the prevailing party shall be entitled to recover, as a part of the action or proceeding, reasonable attorneys' fees and court costs, including consultants' fees, attorneys' fees and costs for appeal, as may be fixed by the court. The term "prevailing party" shall mean the party who received substantially the relief requested, whether by settlement, dismissal, summary judgment, judgment, or otherwise.

Article 23. Severability

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Article 24. Employment Status

- 24.1. Architect shall, during the entire term of Agreement, be an independent contractor and nothing in this Agreement is intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the District to exercise discretion or control over the professional manner in which Architect performs the Services that are the subject matter of this Agreement; provided always, however, that the Services to be provided by Architect shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 24.2. Architect understands and agrees that Architect's personnel are not and will not be eligible for membership in or any benefits from any District group plan for hospital, surgical or medical insurance or for membership in any District retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee.
- 24.3. Should the District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Architect, or any employee or Consultant of Architect, is an employee of the District for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Architect which can be applied against this liability). The District shall then forward those amounts to the relevant taxing authority.
- 24.4. Should a relevant taxing authority determine a liability for past services performed by Architect for the District, upon notification of such fact by the District, Architect shall promptly remit such amount due or arrange with the District to have the amount due withheld from future payments to Architect under this Agreement (again, offsetting any amounts already paid by Architect which can be applied as a credit against such liability).

- 24.5. A determination of employment status pursuant to the preceding two (2) paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Architect shall not be considered an employee of the District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Architect is an employee for any other purpose, then Architect agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Architect or its employees or Consultants was not an employee.
- 24.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

Article 25. Certificate of Architect

- 25.1. Architect certifies that the Architect is properly certified or licensed under the laws and regulations of the State of California to provide the professional services that it has herein agreed to perform.
- 25.2. Architect certifies that it is aware of the provisions of the California Labor Code that require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with those provisions before commencing the performance of the Services of this Agreement.
- 25.3. Architect certifies that it is aware of the provisions of California Labor Code and California Code of Regulations that require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). Architect agrees to fully comply with and to require its Consultant(s) to fully comply with all requirements of the Prevailing Wage Laws, if applicable to Architect and its Consultants' professional services to be provided under this Agreement.

Article 26. Cost Disclosure - Documents and Written Reports

Architect shall be responsible for compliance with California Government Code section 7550, if the total cost of the Contract is over five thousand dollars (\$5,000).

Article 27. Notice & Communications

Notices and communications between the Parties to this Agreement may be sent to the following addresses:

District:

Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824
ATTN: Chris Ralston, Director III, Facilities
EMAIL: chris-ralston@scusd.edu

Architect:

Nacht & Lewis
600 Q Street, Suite 100
Sacramento, CA 95811
ATTN: Brian Maytum

With a Copy to:

Dannis Woliver Kelley
200 California Street #400
San Francisco, CA 94111
ATTN: Deidree Sakai, Esq.

Any notice personally given shall be effective upon receipt. Any notice sent by electronic mail shall be effective the day after transmission. Any notice sent by overnight delivery service shall be effective the day after delivery. Any notice given by mail shall be effective five (5) days after deposit in the United States mail.

Article 28. Disabled Veteran Business Enterprise Participation

Pursuant to section 17076.11 of the Education Code, the District has a participation goal for disabled veteran business enterprises (“DVBEs”) of at least three percent (3%), per year, of funds expended each year by the District on projects that use funds allocated by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act (the “Act”). This Project may use funds allocated under the Act. Therefore, to the extent feasible and pertaining to future hirings, Architect, before it executes the Agreement, shall provide to the District certification of compliance with the procedures for implementation of DVBE contracting goals, appropriate documentation identifying the amount(s) intended to be paid to DVBEs in conjunction with the contract, and documentation demonstrating Architect’s good faith efforts to meet these goals.

Article 29. District’s Right to Audit

29.1. District retains the right to review and audit, and the reasonable right of access to Architect’s and any Consultant’s premises to review and audit the Architect’s compliance with the provisions of this Agreement (“District’s Right”). The District’s Right includes the right to inspect, photocopy, and to

retain copies, outside of Architect's premises, of any and all Project-related records and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District shall keep this information confidential, as allowed by applicable law.

- 29.2. The District's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines is necessary to discover and verify whether Architect is in compliance with all requirements of this Agreement.
- 29.3. If there is a claim for additional compensation or for Extra Services, the District's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the District determines is necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.
- 29.4. Architect shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. Architect shall make available to the District for review and audit all Project-related accounting records and documents and any other financial data. Upon District's request, Architect shall submit exact duplicates of originals of all requested records to the District.
- 29.5. Architect shall include audit provisions in any and all of its subcontracts, and shall ensure that these sections are binding upon all Consultants.
- 29.6. Architect shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Architect's Project-related records and information.

Article 30. Other Provisions

- 30.1. Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.
- 30.2. The individual executing this Agreement on behalf of Architect warrants and represents that she/he is authorized to execute this Agreement and bind the CM to all terms hereof.

- 30.3. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature. All counterparts so executed shall constitute one Agreement binding all the Parties hereto.
- 30.4. Architect shall issue a credit to the District as an offset to the Architect's Fee, an amount equal to fifty percent (50%) of the actual tax benefit derived by the Architect or its shareholders, after deducting associated tax consulting fees based on the Project per Internal Revenue Code section 179D (the Energy Efficient Commercial Buildings deduction).

Article 31.

Exhibits "A" through "H" attached hereto are hereby incorporated by this reference and made a part of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

NACHT & LEWIS ARCHITECTS, INC.

Date: _____, 20__

Date: September 15, 2023

By: _____

By:  _____

Title: Jesse Castillo, Assistant Superintendent of Business Services

Title: Brian Maytum, Vice President and Principal

EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF ARCHITECT

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EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF ARCHITECT

Architect shall provide all professional services necessary for completing the following:

SCOPE OF PROJECT

Project Name: Fern Bacon MS Modernization and New Construction

Cost Budget: \$60,000,000 (Construction budget)

BASIC SERVICES

Architect agrees to provide the Services described below:

1. Architect shall be responsible for the professional quality and technical accuracy of all studies, reports, projections, master plans, designs, drawings, specifications and other services furnished by Architect under the Agreement as well as coordination with all master plans, studies, reports and other information provided by District. Architect shall, without additional compensation, correct or revise any errors or omissions in its studies, reports, projections, master plans, design, drawings, specifications and other Services.
2. Architect will use all due care and diligence to confirm that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and publishes any potentially relevant information that could, in any way, have an impact on a Contractor's cost of performance. Architect shall advise the District of the most effective methods of identifying and securing such information as part of each stage of design. Architect shall track for District's benefit all such suggested and disclosed information.
3. The District shall provide all information available to it to the extent the information relates to Architect's scope of work. This information shall include, if available,
 - a. As-builts;
 - b. Physical characteristics;
 - c. Legal limitations and utility locations for the Project site(s);
 - d. Written legal description(s) of the Project site(s);
 - e. Grades and lines of streets, alleys, pavements, and adjoining property and structures;

- f. Adjacent drainage;
- g. Rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries and contours of the Project site(s);
- h. Locations, dimensions and necessary data with respect to existing buildings, other improvements and trees;
- i. Information concerning available utility services and lines, mechanical and other services, both public and private, above and below grade, including inverts and depths;
- j. Surveys, reports, as-built drawings, record drawings; and
- k. Subsoil data, chemical data, and other data logs of borings.

Architect shall Visually Verify this information and all existing Project utilities, including capacity, and document the location of existing utility lines, telephone, water, sewage, storm drains and other lines on or around the Project to the extent determinable by the documents provided by the District.

If Architect determines that the information or documentation the District provides is insufficient for purposes of design, or if Architect requires: a topographical survey; a geotechnical report; structural, mechanical, and/or chemical tests; tests for air and/or water pollution; test borings; test pits; determinations of soil bearing values; percolation tests; ground corrosion tests; resistivity tests; tests for hazardous materials; tests for anticipating subsoil conditions; and/or other information that the District has not provided, then, at the soonest possible time after Architect has become aware that this additional information is needed, the Architect shall request that the District acquire that information. If the Parties mutually agree in writing, this additional information and service shall be procured through the Architect, who may invoice the District for those services as Extra Services.

- 4. **Technology Backbone.** Architect shall be responsible for the coordination of the design and the layout of the technology backbone system with the District's technology consultant, and lay out any included technology backbone system. The coordination effort shall include location and routing of raceways, conduits and outlets and the required spaces to accommodate electrical, data and communication wiring. Architect and Consultant(s) shall prepare and be responsible for documents prepared by the Architect based on the information provided by the District's technology consultant as appropriate to the level of design completion.
- 5. **District Standards.** Architect shall incorporate into its work and the work of all Consultants the adopted District standards for facilities and construction.

High Performance Schools. If the District adheres to the Collaborative for High Performance School (“CHPS”) Best Practice Standards, the Services provided by the Architect shall incorporate the CHPS Best Practice Standards and criteria to the extent feasible.

6. **Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the District's request, the Architect, its agents, officers, and employees agree to assist in resolving the dispute or litigation. Architect's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation (“Mandatory Assistance”).

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C. PRE-DESIGN AND START-UP SERVICES

1. Project Initiation

Upon final execution of the Agreement with the District, Architect shall:

- a. Within the first week following execution of the Agreement, review the proposed Schedule of Services set forth in **Exhibit "C"** to the Agreement and prepare a detailed scope of work list and work plan for documentation to the District's satisfaction. This scope of work list and work plan will identify specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, planning, architectural programming, concepts and schematic design preparation and estimating that are part of the work of the Project. Architect shall also identify milestone activities or dates, specific task responsibilities, required completion times necessary for review and approval by the District and by all regulatory agencies and additional definition of deliverables.
- b. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.

2. Development of Architectural Program

Architect shall prepare for the District's review of an architectural program as follows:

- a. Perform pre-design investigations to establish appropriate guidelines around which and within which the Project is to be designed. Identify design issues relating to functional needs, directives and constraints imposed by regulatory codes. Review all data pertinent to the Project including survey, site maps, geotechnical reports and recommendations, soil testing results reports, and pertinent historical data, and other relevant information provided by District.
- b. Review DSA codes pertaining to the proposed Project design.
- c. Identify design issues relating to functional needs, directives and constraints imposed by applicable regulatory codes.
- d. Based on survey and topography data provided by the District, input into computer and develop existing conditions base for the Schematic Design Phase.
- e. Administer Project as required to coordinate work with the District and among Consultants.

- f. Review District-provided standards for facilities and construction, including but not limited to designation of any material, product, thing or service by specific brand or trade name pursuant to Public Contract Code section 3400, subdivision (c).

3. **Construction Cost Budget**

- a. Architect shall have responsibility to further develop, review, and reconcile the Construction Cost Budget within the parameters of the Construction Budget established by the District for the Project. The estimates forming the basis of the Construction Cost Budget are to be based on the developed functional architectural program as approved by the District. The following conditions apply to the Construction Cost Budget prepared by the Architect:
 - (i) All costs are to be based on current bid prices, with escalation rate and duration clearly identified as a separate line item; rate of cost escalation and projected bid and construction dates are to be approved by the District and its representatives.
 - (ii) Format shall be estimated space use square foot costs (classroom sq. ft. costs, office space, etc.
 - (iii) Contingencies for design, bidding, and construction are to be included as individual line items, with the percentage and base of calculation clearly identified.
 - (iv) Architect shall include all information and estimates from the District and/or the Construction Manager that are intended to be part of the Construction Cost Budget.
 - (v) One week prior to submittal of documents, Architect shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, Architect shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.
 - (vi) Mechanical, electrical, civil, landscape and estimating consultant(s) shall participate in the progress meeting as appropriate and shall provide input and feedback into the development of the Construction Cost Budget.
- b. The Construction Cost Budget will inform the District's Construction Budget for the Project. The accuracy of the Construction Cost Budget shall be the responsibility of the Architect.

4. Presentation

If requested, Architect, along with any involved consultant(s), shall present and review with the District and, if directed, with the District's Governing Board, the summary and detail of work involved in this Phase, including two-dimensional renderings of any proposed facility suitable for public presentation.

5. Deliverables and Numbers of Copies

Within thirty (30) days of the end of this Phase, Architect shall provide to the District an electronic copy of the following items produced in this Phase:

- a. Architectural Program (include comparison between developed program and "model" program, include narrative explaining any substantial deviations);
- b. Site Plan;
- c. Revised Construction Cost Budget;
- d. Final Schedule of Services;
- e. Meeting Reports/Minutes from the Kick-off and other meetings; and
- f. Renderings, if requested by District.

6. Meetings

During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops minimally on a bi-weekly basis.

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D. SCHEMATIC DESIGN PHASE

Upon District's acceptance of Architect's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Architect shall prepare for the District's review a Schematic Design Study, containing the following items as applicable to the Project scope, as follows:

1. Prepare and review with District staff a scope of work list and work plan identifying specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, planning, architectural programming, concepts and schematic design preparation and estimating that are part of the work of the Project. Also identified will be milestone activities or dates, specific task responsibilities of the Architect, required completion times necessary for the review and approval by the District and by pertinent regulatory agencies and additional definition of deliverables.
2. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.
3. **Architectural**
 - a. Scaled floor plans showing overall dimensions, identifying the various major areas and their relationship. Include circulation and room-by-room tabulation of all net usable floor areas and a summary of gross floor area. Also, provide typical layouts of major equipment or operational layout.
 - b. Preliminary building exterior elevations and sections in sufficient detail to demonstrate design concept indicating location and size of fenestration.
 - c. As applicable, identify proposed roof system, deck, insulation system, and drainage technique.
 - d. Identify minimum finish requirements, including ceiling, floors, walls, doors, windows, and types of hardware.
 - e. Identify code requirements, include occupancy classification(s) and type of construction.
4. **Structural**
 - a. Layout structural systems with dimensions and floor elevations. Identify structural systems (including pre-cast, structural steel with composite deck, structural steel bar joists) with preliminary sizing identified.

- b. Identify foundation systems (including fill requirements, piles, caissons, spread footings) with preliminary sizing identified.

5. **Mechanical**

- a. Calculate block heating, ventilation, and cooling loads including skin versus internal loading.
- b. Select a minimum of two (2) HVAC systems that appear compatible with loading conditions for subsequent life cycle costing.
- c. Show selected system on drawings as follows:
 - (i) Single line drawing(s) of all mechanical equipment spaces, ductwork and pipe chases.
 - (ii) Location and preliminary sizing of all major equipment and duct work in allocated spaces.
 - (iii) Schematic piping.
 - (iv) Temperature control zoning.
- d. Provide design criteria to include the intent base of design for the Project.
- e. Evaluate and confirm the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

6. **Electrical**

- a. Calculate overall approximate electrical loads.
- b. Identify proposed electrical system for service, power, lighting, low voltage and communication loads, including proposed or planned additional buildings or other facilities on the Project site.
- c. Show system(s) selected on drawings as follows:
 - (i) Single line drawing(s) showing major distribution system.
 - (ii) Location and preliminary sizing of all major electrical systems and components including:

- (A) Load centers.
 - (B) Main panels.
 - (C) Switch gear.
- d. Provide design criteria to include the intent base of design for the Project.
 - e. Evaluate and confirm the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

7. **Civil**

- a. Develop on and off site utility systems such as sewer, water, storm drain, firewater lines and fire hydrants.
- b. Identify surface improvements including roadways, walkways, parking (with assumed wheel weights), preliminary finish grades and drainage.
- c. Coordinate finish floor elevations with architectural site plan.

8. **Specifications**

Prepare outline specifications of proposed architectural, structural, mechanical and electrical materials, systems and equipment and their criteria and quality standards. Architect is to use District's standardized equipment/material list for new construction and modernization in development of the Project design and specifications. Architect shall review and comment on District's construction bid contracts and contract documents (the "Division 0" and "Division 1" documents) as part of its Services under the Agreement.

9. **Construction Cost Budget**

Revise the Construction Cost Budget for the Project. Along with the conditions identified in the preceding Phase, the following conditions apply to the revised Construction Cost Budget:

- a. Schematic Estimates: This estimate consists of unit cost applied to the major items and quantities of work. The unit cost shall reflect the complete direct current cost of work. Complete cost includes labor, material, waste allowance, sales tax and subcontractor's mark-up.
 - (i) General conditions shall be applied separately. This estimate shall be prepared by specification section and summarized by the CSI categories.

- b. The estimate shall separate the Project's building cost from site and utilities cost. Architect shall submit to the District the cost estimating format for prior review and approval.
- c. Escalation: all estimates shall be priced out at current market conditions. The estimates shall incorporate all adjustments as appropriate, relating to mid-point construction, contingency, and cost index (i.e. Lee Saylor Index).
- d. The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Architect.
- e. Architect shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, Architect shall coordinate with the District and Construction Manager to further develop, review, and reconcile the Construction Cost Budget.
- f. At the end of this Phase, the Construction Cost Budget may include design contingencies of no more than ten percent (10%) in the cost estimates.

10. Deliverables and Numbers of Copies

Within thirty (30) days of the end of this Phase, Architect shall provide to the District a hard copy of the following items produced in this phase, together with one (1) copy of each item in electronic format:

- a. Breakdown of Construction Cost Budget as prepared for this Phase;
- b. Meeting reports/minutes;
- c. Schematic Design Package with alternatives;
- d. Statement indicating changes made to the Architectural Program and Schedule;
and
- e. Copy of the DSA file, including all correspondence and meeting notes to date, or notification in writing that Architect has not met or corresponded with DSA.

11. Presentation

- a. Architect shall present and review with the District the detailed Schematic Design.

- b. The Schematic Design shall be revised within the accepted program parameters until a final concept within the accepted Construction Cost Budget has been accepted and approved by the District at no additional cost to the District.

12. **Meetings**

During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops minimally on a bi-weekly basis.

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E. DESIGN DEVELOPMENT PHASE

Upon District's acceptance of Architect's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Architect shall prepare from the accepted deliverables from the Schematic Design Phase, the Design Development Phase documents consisting of the following for each proposed system within Architect's scope of services:

1. Architectural

- a. Scaled, dimensioned floor plans with final room locations including all openings.
- b. 1/8" scale building sections showing dimensional relationships, materials and component relationships.
- c. Exterior elevations of all proposed new buildings, existing buildings to be renovated and all architectural elements of the Project.
- d. Identification of all fixed equipment to be installed in Project.
- e. Interior finishes identified and located within the rooms of all buildings.
- f. Site plan completely drawn with beginning notes and dimensions including grading and paving.
- g. Preliminary development of details and large scale blow-ups.
- h. Legend showing all symbols used on drawings.
- i. Floor plans identifying all fixed and major movable equipment and furniture.
- j. Further refinement of Outline Specifications for architectural, structural, mechanical, electrical, civil and landscape manuals, systems and equipment.
- k. Typical reflected ceiling development including ceiling grid and heights for each ceiling to be used, showing:
 - (i) Light fixtures.
 - (ii) Ceiling registers or diffusers.
 - (iii) Access Panels.

2. **Structural**

- a. Structural drawings with all major members located and sized.
- b. Establish final building and floor elevations.
- c. Preliminary specifications.
- d. Preliminary calculations for the structural systems including lateral force resistive systems, foundations, and all structural system components.
- e. Identify foundation requirement (including fill requirement, piles) with associated soil pressure, water table and seismic center.

3. **Mechanical**

- a. Heating and cooling load calculations as required and major duct or pipe runs sized to interface with structural.
- b. Major mechanical equipment should be scheduled indicating size and capacity.
- c. Ductwork and piping should be substantially located and sized.
- d. Plumbing plans for the Project shall indicate numbers and locations of fixtures and be in conformance with the code-mandated fixture count requirements of the Project.
- e. Devices in ceiling should be located.
- f. Legend showing all symbols used on drawings.
- g. More developed Outline Specifications indicating quality level and manufacture.
- h. Control Systems identified.
- i. Further evaluation and confirmation of the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

4. **Electrical**

- a. All lighting fixtures should be located and scheduled showing all types and quantities of fixtures to be used, including proposed lighting levels for each usable space.
- b. All major electrical equipment should be scheduled indicating size and capacity.

- c. Complete electrical distribution including a one-line diagram indicating final location of switchboards, communications, controls (high and low voltage), motor control centers, panels, transformers and emergency generators, if required. Low-voltage system includes fire alarm system, security system, clock and public address system, bell system, voice-data system, and telecom/technology system.
- d. Legend showing all symbols used on drawings.
- e. More developed and detailed Outline Specifications indicating quality level and manufacture.
- f. Further evaluation and confirmation of the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

5. **Civil**

- a. Further refinement of Schematic Design Phase development of on and off site utility systems for sewer, electrical, water, storm drain and fire water. Includes, without limitation, pipe sizes, materials, invert elevation location and installation details.
- b. Further refinement of Schematic Design Phase roadways, walkways, parking and storm drainage improvements. Includes details and large scale drawings of curb and gutter, manhole, thrust blocks, paved parking and roadway sections.

6. **Bid Documents**

Architect shall review and comment on District's construction bid contracts and contract documents (the "Division 0" documents and "Division 1" documents) as part of its Services under the Agreement.

7. **Construction Cost Budget**

- a. Revise the Construction Cost Budget for the Project. Along with the conditions identified in the Agreement and the preceding Phases, the following conditions apply to the revised Construction Cost Budget:
 - (i) Design Development Estimate: This further revised estimate shall be prepared by specification section, summarized by CSI category and divided by trade and work item. The estimate shall include individual item unit costs of materials, labor and equipment. Sales tax, Contractor's mark-ups, and general conditions shall be listed separately.

- (ii) The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Architect.
 - (iii) At this stage of the design, the Construction Cost Budget may include design contingencies of no more than ten percent (10%) in the cost estimates.
- b. Architect shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, the Architect shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.

8. Deliverables and Numbers of Copies

Architect shall provide to the District a hard copy of the following items produced in this phase, together with one (1) copy of each item in electronic format:

- a. Design Development drawing set from all professional disciplines necessary to deliver the Project;
- b. Specifications;
- c. Revised Construction Cost Budget; and
- d. Copy of the DSA file, including all correspondence and meeting notes to date, or notification in writing that Architect has not met or corresponded with DSA.

The Design Development deliverables shall be revised within the accepted program parameters until a final concept within the accepted Construction Cost Budget has been accepted and approved by the District at no additional cost to the District.

9. Meetings

During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops minimally on a bi-weekly basis.

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F. CONSTRUCTION DOCUMENTS PHASE

Upon District's acceptance of Architect's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Architect shall prepare from the accepted deliverables from the Design Development Phase the Construction Documents consisting of the following for each proposed system within Architect's scope of work. All Projects subject to DSA's jurisdiction shall be submitted for review, back check, and approval, under the electronic plan review process ("EPR process"), rather than paper submission.

1. Construction Documents – 100% / Completion Stage:

a. Architectural

- (i) Completed site plan.
- (ii) Completed floor plans, elevations, and sections.
- (iii) Architectural details and large blow-ups completed.
- (iv) Finish, door, and hardware schedules completed, including all details.
- (v) Site utility plans completed.
- (vi) Fixed equipment details and identification completed.
- (vii) Reflected ceiling plans completed.

b. Structural

- (i) Structural floor plans and sections with detailing completed.
- (ii) Structural calculations completed.

c. Mechanical

- (i) Large scale mechanical details complete.
- (ii) Mechanical schedules for equipment completed.
- (iii) Completed electrical schematic for environmental cooling and exhaust equipment.
- (iv) Complete energy conservation calculations and report.

d. **Electrical**

- (i) Lighting and power plan showing all switching and controls. Fixture schedule and lighting details completed.
- (ii) Distribution information on all power consuming equipment, including lighting, power, signal and communication device(s) branch wiring completed.
- (iii) All electrical equipment schedules completed.
- (iv) Special system components plans completed.
- (v) Electrical load calculations completed.

e. **Civil**

All site plans, site utilities, parking and roadway systems completed.

f. **Construction Cost Budget**

- (i) Revise the Construction Cost Budget for the Project. Along with the conditions identified in the preceding phases, Architect shall update and refine the fifty percent (50%) Construction Documents Phase revisions to the Construction Cost Budget.
- (ii) The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Architect.
- (iii) Architect shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, Architect shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.
- (iv) At this stage of the design, the Construction Cost Budget shall not include any design contingencies in excess of the cost estimates.

g. **Specifications**

- (i) Complete development and preparation of technical specifications describing materials, systems and equipment, workmanship, quality and performance criteria required for the construction of the Project.

- (ii) No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless:
 - (A) The specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service, as required by Public Contract Code section 3400, or
 - (B) The designation is allowable by specific allowable exemptions or exceptions pursuant to Public Contract Code section 3400.
- (iii) Specifications shall not contain restrictions that will limit competitive bids other than those required for maintenance convenience by the District and only with District's prior approval.
- (iv) At one hundred percent (100%) review, District shall review the Specifications and shall direct Architect to make corrections at no cost to the District.
- (v) Coordination of the Specifications with specifications developed by other disciplines.
- (vi) Specifications shall be in CSI format.

h. Constructability Review

The District and/or its designee, at its sole discretion, shall have the right to conduct a constructability review of the Construction Documents. A report shall be given to the Architect who shall make necessary changes along with providing written comments for each item listed in the report. Conducting a constructability review does not excuse the Architect's obligation to provide Services that shall comply with professional architectural standards, including the standard of care applicable to architects designing public school facilities and applicable requirements of federal, state, and local law.

i. Deliverables and Numbers of Copies

Within thirty (30) days of the end of this Phase, Architect shall provide to the District a hard copy of the following items produced in this Phase, together with one (1) copy of each item in electronic format:

- (i) Working drawings;
- (ii) Specifications;
- (iii) Engineering calculations;

- (iv) Construction Cost Budgets;
- (v) Statement of requirements for testing and inspection of service for compliance with Construction Documents and applicable codes;
- (vi) Copy of DSA file including all correspondence, meeting, minutes or reports, back-check comments, checklists to date; and
- (vii) Statement indicating any authorized changes made to the design from the last Phase and the cost impact of each change on the previously approved Construction Cost Budget. If no design changes occur but shifts of costs occur between disciplines, identify for District review.

2. Construction Documents Final Back-Check Stage:

- a. The Construction Documents final back-check stage shall be for the purpose of the Architect incorporating all regulatory agencies' comments into the drawings, specifications, and estimate. All changes made by the Architect during this stage shall be at no additional cost to the District.
- b. The final contract documents delivered to the District upon completion of the Architect's work shall be the Bid Set and shall consist of the following:
 - (i) Specifications: Original word-processed technical specifications on reproducible masters in CSI format.
- c. Architect shall update and refine the Consultants' completed Contract Documents.
- d. Conclusion of Construction Document Phase requires final stamp-out by DSA.

3. Meetings

During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops minimally on a monthly basis.

G. BIDDING PHASE

Upon District's acceptance of Architect's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Architect shall perform Bidding Phase services for District as follows:

1. Contact potential bidders and encourage their participation in the Project.
2. Coordinate the development of the bidding procedures and the construction Contract Documents with the District.
3. The development of the bidding procedures and the construction Contract Documents shall be the joint responsibility of the District and Architect. Nevertheless, Architect will use all due care and diligence to confirm that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and publishes any potentially relevant information that could, in any way, have an impact on a Contractor's cost of performance.
4. While the Project is being advertised for bids, all questions concerning intent shall be referred to the District for screening and subsequent processing through Architect.
5. In the event that items requiring interpretation of the drawings or specifications are discovered during the bidding period, those items shall be analyzed by the Architect for decision by the District as to the proper procedure required. Corrective action will be in the form of an addendum prepared by the Architect and issued by the District.
6. Attend bid opening.
7. Coordinate with Architect Consultants.
8. Respond to District and potential bidder questions and clarifications.
9. Deliverables and Number of Copies

Within thirty (30) days of the end of this Phase, Architect shall provide to the District a hard copy of the following items produced in this Phase, together with one (1) copy of each item in electronic format:

- a. Meeting report/minutes from the kick-off meeting;
- b. Meeting report/minutes from the pre-bid site walk; and
- c. Upon completion of the Bidding Phase, Architect shall produce a Conforming Set of plans and specifications incorporating all addenda issued thus far. Architect shall supply District with two (2) complete, reproducible sets of plans and specifications marked as a Conforming Set.

H. CONSTRUCTION CONTRACT ADMINISTRATION PHASE

Upon District's acceptance of Architect's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Architect shall perform Construction Contract Administration Phase services for the District as follows:

1. Architect's responsibility to provide basic services for the Construction Phase under the Agreement commences with the award of the contract for construction and terminates upon satisfactory performance and completion of all tasks in this phase and commencement of the Closeout Phase or upon the District's terminating the Agreement, whichever is earlier.
2. **Construction Oversight and Project Certification Process**
 - a. Architect shall ensure that the Project Inspector is approved by the DSA for the Project by submitting the applicable Inspector's Qualification Record (form DSA 5 or more current version) to and by obtaining approval from the DSA prior to commencement of construction and prior to requesting issuance of project inspections cards (form DSA 152 or more current version).
 - b. Architect shall request issuance of the proper number of project inspection cards (forms DSA 152 or more current version) by electronically submitting form DSA 102-IC (or more current version) to the DSA after the construction contract has been awarded. Architect shall provide project inspection cards to the Project Inspector prior to commencement of construction.
 - c. Prior to commencement of construction, Architect shall provide (1) a copy of the DSA approved construction documents and (2) the DSA approved Statement of Structural Tests and Special Inspections (form DSA 103 or more current version) prepared by Architect to the Project Inspector and Laboratory of Record.
 - d. Architect shall prepare and submit a Contract Information form (form DSA 102 or more current version) for all construction contracts.
 - e. Architect shall maintain such personal contact with the Project as is necessary to assure themselves of compliance, in every material respect, with the DSA-approved construction documents. Personal contact shall include visits to the Project site by the Architect or engineer or their qualified representative to observe construction.
 - f. Architect shall notify DSA as to the disposition of materials noted on laboratory testing, and/or special inspection, reports as not conforming to the DSA-approved construction documents.
 - g. Architect shall respond to DSA field trip notes as necessary.

- h. Architect shall submit an interim Verified Report (form DSA 6-AE or more current version) to the DSA electronically and a copy to the Project Inspector for each of the applicable nine (9) sections of form DSA 152 prior to the Project Inspector signing off that section of the project inspection card.
- i. Architect shall submit a Statement of Final Actual Project Cost (form DSA 168 or more current version) to the DSA.
- j. Architect shall submit Verified Reports (form DSA 6-AE or more current form) to the DSA and to the Project Inspector if any of the following events occur: (1) when construction is sufficiently complete in accordance with the DSA-approved construction documents so that the District can occupy or utilize the Project; (2) work on the Project is suspended for a period of more than one month; (3) the services of the Architect are terminated for any reason prior to completion of the Project; or (4) DSA requests a Verified Report.

3. Change Orders

- a. Architect shall review all of Contractor's change order requests to determine if those requests are valid and appropriate. Architect shall provide a recommendation to District as to whether the change should be approved, partially approved, returned to the Contractor for clarification, or rejected.
- b. Architect shall furnish all necessary Construction Change Documents and additional drawings for supplementing, clarifying, and/or correcting purposes and for change orders. The District shall request these Construction Change Documents and drawings from the Architect, which shall be provided at no additional cost unless designated as Extra Services by the District. The original tracing(s) and/or drawings and contract wording for change orders shall be submitted to the District for duplication and distribution.

4. Submittals

- a. Architect shall review and approve or take other appropriate action upon Contractor's submittals such as: shop drawings, Project data, samples and Construction Change Documents, but only for the purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.
- b. Architect shall review Contractor's schedule of submittals and advise the District on whether that schedule is complete. Architect shall provide the District with proposed revisions to this schedule and advise the District on whether the District should approve this schedule.

- c. Architect's action upon Contractor's submittals shall be taken as expeditiously as possible so as to cause no unreasonable delay in the construction of the Project or in the work of Contractor(s), while allowing sufficient time in the Architect's professional judgment to permit adequate review. In no case shall the review period associated with a single, particular submittal exceed twenty-one (21) calendar days from its receipt by the Architect. Architect's response to each submittal shall be a substantive and acceptable response. This twenty-one (21)-day time period shall not include time when a submittal is within the District's control or if the submittal is being reviewed by DSA. In no way does this provision reduce Architect's liability if it fails to prepare acceptable documents.
5. **RFIs.** During the course of construction as part of the basic services, Architect must respond to all Requests for Information ("RFI") as expeditiously as possible so as not to impact and delay the construction progress. In no case shall the review period associated with an RFI exceed seven (7) calendar days from receipt by the Architect. Architect's response to each RFI shall be a substantive and acceptable response. This seven-day time period shall not include time when a submittal is within the District's control or if the submittal is being reviewed by DSA. In no way does this provision reduce the Architect's liability if it fails to prepare acceptable documents. Architect must verify that RFIs are passed through the Project Inspector, if any.
6. **Notices of Deficient Work.** On the basis of on-site observations, Architect shall keep the District informed of the progress and the quality of the work, and shall endeavor to guard the District against defects and deficiencies in the work. Architect shall timely notify the District in writing of any defects or deficiencies in the work by any of the District's Contractors that Architect may observe. However, Architect shall not be a guarantor of the Contractor's performance.
7. **As-Built Drawings.** Architect shall review and evaluate for District the Contractor(s)' documentation of the actual construction performed during the Project that the Contractor(s) should prepare and submit as As-Builts. As-Builts are documents that show the actual construction performed during the Project, including changes necessitated by Construction Change Documents and change orders, and detailed by the District's construction Contractor(s) on a Conforming Set.
8. **Record Drawings.** Architect shall incorporate all information on all As-Builts, sketches, details, and clarifications, and prepare one (1) set of final Record Drawings for the District. The Record Drawings shall incorporate onto one (1) set of drawings, all changes from all As-Builts, sketches, details, and clarifications, including, without limitation, all requests for information, Construction Change Documents and change orders based upon the construction Contractor's representations of actual construction. Architect shall deliver the Record Drawings to the District at completion of the construction in a format acceptable to the District, and it shall be a condition precedent to the District's approval

of Architect's final payment. Architect may insert the following notice on the Record Drawings:

These drawings [or corrected specifications] have been prepared based on information submitted, in part, by others. Architect has provided a review consistent with its legal standard of care.

9. **O&M Manuals and Warranties.** Architect shall review equipment, operation and maintenance manuals, and a complete set of warranty documents for all equipment and installed systems, to ensure that they meet the requirements of the plans and specifications.
10. **Start-up.** Architect shall also provide, at the District's request, architectural/engineering advice to the District on start-up, break-in, and debugging of facility systems and equipment, and on apparent deficiencies or defects in construction following the acceptance of the Contractor's work.
11. **Payment Statements.** Recommendations of Payment by Architect constitute Architect's representation to the District that work has progressed to the point indicated to the best of Architect's knowledge, information, and belief, and that the quality of the work is in general conformance with the Contract Documents.

12. **Deliverables and Number of Copies**

Within thirty (30) days of the end of this Phase, Architect shall provide to the District a hard copy of the following items produced in this Phase, together with one (1) copy of each item in electronic format:

- a. Meeting report/minutes from the kick-off meeting;
- b. Observation reports; and
- c. Weekly meeting reports.

13. **Meetings**

During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops minimally on a bi-weekly basis.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

I. CLOSE OUT PHASE

1. As the Construction Administration Phase progresses, Architect shall perform the following Close Out Phase services for the District as required in a timely manner:
 - a. Architect shall review the Project and observe the construction as required to determine when the Contractor has completed the construction of the Project and shall prepare punch lists of items that remain in need of correction or completion.
 - b. Architect shall collect from the Contractor, review, and forward to the District all written warranties, operation manuals, and spare parts with Architect's recommendation as to the adequacy of these items.
 - c. Architect shall prepare or collect, as applicable, and provide to DSA, all reports required by DSA related to the design and construction of the Project.
 - d. Architect shall respond to the DSA "90-day" letter.
 - e. Architect shall obtain all required DSA approval of all Construction Change Documents and addenda to the Contractor's contract.
 - f. Architect shall prepare a set of As-Built Drawings for the Project, as required by the District.
 - g. Architect shall review and prepare a package of all warranty and O&M documentation.
 - h. Architect shall organize electronic files, plans and prepare a Project binder.
 - i. Architect shall have primary responsibility to coordinate all Services required to close-out the design and construction of the Project with the District and among Consultants.
2. When the design and construction of the Project is complete, the District shall prepare and record with the County Recorder a Notice of Completion for the Project.
3. **Deliverables and Number of Copies**
 - a. Punch list; and
 - b. Upon completion of the Project, all related Project documents, including As-Builts and Record Drawings. These are the sole property of the District.

4. Meetings

During this phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as needed.

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to the Agreement shall be performed by Architect if needed and if authorized or requested by the District:

- A. Providing services as directed by the District that are not part of the Basic Services of this Agreement, or otherwise included within **Exhibit "A."**
- B. Providing deliverables or other items in excess of the number indicated in **Exhibit "A."** Before preparing, providing, sending, or invoicing for extra deliverables, Architect shall inform the District that expected deliverables may be in excess of the number indicated in **Exhibit "A,"** so that the District can procure the additional deliverables itself or direct Architect to procure the deliverables at the District's expense or on the District's account at a specific vendor.
- C. Making revisions in drawings, specifications, or other documents when such revisions are required by the enactment or revisions of codes, laws, or regulations subsequent to the preparation of the Conforming Set.
- D. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of that work.
- E. Providing services made necessary by the default of Contractor(s).
- F. In the absence of a final Certificate of Payment or Notice of Completion, providing services more than ninety (90) days after the date of completion of work by Contractor(s) and after Architect has completed all of its obligations and tasks under the Agreement.
- G. Providing services as an expert and/or witness for the District in any mediation, arbitration, and/or trial in which the Architect is (1) not a party, and (2) did not in any way cause the dispute that is being adjudicated.
- H. The following rates, which include overhead, administrative cost, and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement.

Job Title	Hourly Rate
Principal In Charge:	\$345.00
Senior Project Manager:	\$255.00
Project Manager:	\$225.00
Senior Project Architect:	\$240.00
Project Architect:	\$210.00
Designer:	\$175.00
Intern Designer::	\$175.00
Project Administrator:	\$120.00

- I. The mark-up on any approved reimbursable item of Extra Services shall not exceed five percent (5%).
 - 1. The following items are approved for mark-up:
 - a. Sub-consultant Invoices.
 - 2. Any approved item of Extra Services not identified in the above list may not be marked-up.

J. **Format and Content of Invoices** (Extra Services Only)

Architect acknowledges that the District requires Architect’s invoices to include detailed explanations of the Services performed. For example, a six hour charge for “RFIs and CORs” is unacceptable and will not be payable. A more detailed explanation, with specificity, is required. This includes a separate entry for each RFI, PCO, CCD and change order. For example, the following descriptions, in addition to complying with all other terms of this Agreement, would be payable. The times indicated below are just placeholders:

Review RFI 23; review plans and specifications for response to same; prepare responses to same and forward to contractor, district, construction manager, and project inspector.	0.8 hours
Review COR 8; review scope of same and plans and specifications for appropriateness of same; prepare draft change order and language for same.	0.7 hours
Review COR 11; review scope of same and plans and specifications for appropriateness of same; prepare rejection of COR 11 for review by district, CM, IOR.	1.2 hours

END OF EXHIBIT

EXHIBIT "C"

SCHEDULE OF SERVICES

- A. Promptly after the execution of this Agreement, Architect shall prepare and submit for approval to the District a Schedule of Services showing the order in which Architect proposes to carry out Architect's Services ("Schedule of Services"). The Schedule of Services shall apply to the completion of all Services listed hereunder within the times established by this Agreement. The Schedule of Services shall be in the form of a progress chart clearly delineating all important increments and review dates. Architect shall update the Schedule of Services on a monthly basis and deliver two (2) hard copies and one (1) electronic copy to the District along with the monthly billing.
- B. Architect shall complete Services required under the Development of Architectural Program section within **three (3) months** after written authorization from the District to proceed.
- C. Architect shall complete Services required under the Schematic Design Phase within **Four (4) months** after written authorization from District to proceed.
- D. Architect shall complete Services required under the Design Development Phase within **Four (4) months** after receipt of a written authorization from District to proceed.
- E. Architect shall complete Services required under Construction Documents Phase within **Eight (8) months** after written authorization from District to proceed, and as more specifically indicated below. Excluded from this duration is the time associated with DSA review the Construction Documents back-check stage.
 - 1. DSA Review & Approval **5 months**
 - 2. Bidding/Procurement/Award (partial overlap w/DSA review) **2 months**
 - 3. Construction Administration (accounting for phasing) **20 months**
 - 4. Project Closeout **2 months**
- F. The durations stated above include the review periods of **48 months** required by the District.
- G. All times to complete tasks set forth in this Exhibit are of the essence, as indicated in the Agreement. If delays in the Schedule of Services are incurred as a result of the District's inability to comply with requested meeting schedules, Architect shall maintain the right to request an adjustment in the Schedule of Services if deemed necessary to meet the deadlines set forth in this Exhibit. If approved, those extensions shall be authorized in writing by the District.

END OF EXHIBIT

EXHIBIT "D"

PAYMENT SCHEDULE

A. Compensation

1. The payment of consideration to Architect as provided herein shall be full compensation for all of Architect's Services incurred in the performance hereof, including, printing and shipping of deliverables in the quantities set forth in **Exhibit "A,"** Except as expressly set forth in the Agreement and **Exhibit "B,"** there shall be no payment for extra costs or expenses.
2. The total compensation to Architect shall be as stated in Article 6 of the Agreement.
3. District shall pay Architect as follows for all Services contracted for under this Agreement:

PERCENTAGE OF TOTAL FEE PER PHASE	
Phase	Phase Amount
Pre-Design/Architectural Program Development Phase	<u>2.5%</u>
Schematic Design Phase	<u>10%</u>
Design Development Phase	<u>15%</u>
Construction Documents Phase-Submittal to DSA	<u>27.5%</u>
Approval by DSA	10%
Bidding Phase	<u>2%</u>
Construction Contract Administration Phase	<u>23%</u>
Close Out Phase	<u>10%</u>
Generate Punch List	2%
Sign Off On Punch List	2%
Receive and Review All M & O Documents	2%
Filing All DSA Required Close Out Documents	2%
Receiving DSA Close Out, including DSA approval of the final set of Record Drawings	2%
TOTAL BASE COMPENSATION	<u>100%</u>

Reimbursable Expenses are in addition to compensation for Basic and Additional Services and will be billed at a multiple of 1.10% the expenses incurred. These charges include, but are not limited to, expenses incurred which are directly related to the Project, such as reproductions, plans and plots for owner, agency or contractor's use, standard form documents, postage, handling and delivery of Instruments of Service, and mileage. Reimbursable expenses are not expected to exceed **\$180,000**.

B. Method of Payment

1. Invoices shall be on a form approved by the District and are to be submitted to the District via the District's authorized representative.
2. Architect shall submit to District on a monthly basis documentation showing proof that payments were made to its Consultant(s).
3. Architect shall submit to the District for approval a copy of the Architect's monthly pay request format.
4. Upon receipt and approval of Architect's invoices, the District agrees to make payments of undisputed amounts within thirty (30) days of receipt of the invoice as follows:

a. Pre- Design/Architectural Program Development Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Pre-Design/Architectural Program.

b. For Schematic Design Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Schematic Design Phase by the District.

c. For Design Development Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Design Development Phase by the District.

d. For Construction Documents Phase:

Monthly payments for percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Construction Documents Phase by the District.

e. For Bidding Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon the District's award of the bid.

f. For Construction Contract Administration Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon the District's notice of completion.

g. For Close Out:

Lump sum payment no sooner than thirty-five (35) days and no later than forty-five (45) days after completion of all items in this Phase.

END OF EXHIBIT

EXHIBIT "E"

INSURANCE REQUIREMENTS

- A. Architect shall procure, prior to commencement of the Services of this Agreement 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 Services hereunder by the Architect, his agents, representatives, employees and Consultant(s). Architect's liabilities, including but not limited to Architect's indemnity or defense obligations, under this Agreement shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Architect's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement, as required or when requested, may be treated by the District as a material breach of contract.
- B. **Minimum Scope and Limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits. Umbrella or Excess Liability policies are acceptable where the need for higher liability limits is noted and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and other liability coverage (except Professional Liability) designated under this Section B – Insurance Requirements." Minimum Scope of Insurance:
1. **Commercial General Liability.** Two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to each project/location or the general aggregate limit shall be twice the required occurrence limit.
 2. **Commercial Automobile Liability.** Two million dollars (\$2,000,000) per accident for bodily injury and property damage.
 3. **Workers' Compensation Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, Architect shall keep in full force and effect, a Workers' Compensation policy.
 4. **Employers' Liability.** For all of the Architect's employees who are subject to this Agreement, Architect shall keep in full force and effect, an Employment Practices Liability policy with minimum liability coverage of two million dollars (\$2,000,000) per occurrence.
 5. **Professional Liability.** This insurance shall cover the prime design professional and his/her consultant(s) on a Claims Made basis for two Million Dollars (\$2,000,000) aggregate limit subject to no more than two hundred thousand dollars (\$200,000) per claim deductible, coverage to continue through completion of construction plus two (2) years thereafter.

- C. District reserves the right to modify the limits and coverages described herein, with appropriate credits or changes to be negotiated for such changes.
- D. **Deductibles and Self-Insured Retention:** Architect shall inform the District in writing if any deductibles or self-insured retention exceeds two hundred thousand dollars (\$200,000). At the option of the District, either:
1. The District can accept the higher deductible;
 2. Architect's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or
- E. **Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
1. The District, its representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Architect; Instruments of Service and completed operations of the Architect; premises owned, occupied or used by the Architect; or automobiles owned, leased, hired or borrowed by the Architect. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
 2. For any claims related to the projects, Architect's insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of Architect's insurance and shall not contribute with it.
 3. Architect shall provide an endorsement that the insurer waives the right of subrogation against District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 4. Architect's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 5. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
 6. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.
 7. Architect shall pay all insurance premiums, including any charges for required waivers of subrogation or the endorsement of additional insureds. If Architect fails to

maintain insurance, District may take out comparable insurance, and deduct and retain amount of premium from any sums due Architect under the Agreement.

8. Architect shall require all sub consultants to maintain the level of insurance Architect deems appropriate with respect to the consultant's scope of the Work unless otherwise indicated in the Agreement. Architect shall cause the sub consultants to furnish proof thereof to District within ten (10) days of District's request. Should Architect not require sub consultants to provide the same level of insurance as is required of Architect, as provided in this Agreement, Architect is not relieved of its indemnity obligations to District or fulfilling its insurance requirements as provided in this Agreement.
- F. **Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A: VII. Architect shall inform the District in writing if any of its insurer(s) have an A.M. Best's rating less than A: VII. At the option of the District, the District may either:
1. Accept the lower rating; or
 2. Require Architect to procure insurance from another insurer.
- G. **Verification of Coverage:** Prior to commencing with its provision of Services under this Agreement, Architect shall furnish District with:
1. Certificates of insurance showing maintenance of the required insurance coverages; and
 2. Original endorsements affecting general liability and automobile liability coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverages on its behalf. All endorsements are to be received and approved by the District before Services commence.
- H. **Copy of Insurance Policy(ies):** Upon the District's request, Architect will furnish District with a copy of all insurance policies related to its provision of Services under this Agreement.

END OF EXHIBIT

EXHIBIT "F"

IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code Sections 2202-2208)

PROJECT/CONTRACT NO.: Fern Bacon MS Modernization and New Construction /478 between the Sacramento City Unified School District ("District") and Nacht & Lewis Architects ("Consultant") ("Contract" or "Project").

Prior to bidding on or submitting a proposal for a contract for goods or services of \$1,000,000 or more, the bidder/proposer must submit this certification pursuant to Public Contract Code section 2204.

The proposer must complete **ONLY ONE** of the following two options. To complete OPTION 1, check the corresponding box **and** complete the certification below. To complete OPTION 2, check the corresponding box, complete the certification below, and attach documentation demonstrating the exemption approval.

- OPTION 1.** Proposer is not on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code section 2203(b), and we are not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.
- OPTION 2.** Proposer has received a written exemption from the certification requirement pursuant to Public Contract Code sections 2203(c) and (d). *A copy of the written documentation demonstrating the exemption approval is included with our proposal.*

CERTIFICATION:

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the bidder/proposer to the OPTION selected above. This certification is made under the laws of the State of California.

<i>Vendor Name/Financial Institution (Printed)</i> Nacht & Lewis Architects, Inc.	<i>Federal ID Number (or n/a)</i> 94-26888872
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i> Brian J. Maytum, Principal / Vice President	<i>Date Executed</i> September 15, 2023

END OF DOCUMENT



Agreement for Construction Management Services

between

Sacramento City Unified School District

and

Kitchell/CEM, Inc.

C.K. McClatchy High School

HVAC Project

Dated: October 5, 2023

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EXHIBITS “A” – “E”

AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES

This Agreement for Construction Management Services ("Agreement") is made as of October 5, 2023, between the Sacramento City Unified School District, a California public school district ("District"), and Kitchell/CEM, Inc. ("CM") (both collectively "Parties"), for the following project ("Project"):

The construction administration of C.K. McClatchy High School HVAC Project located at 3066 Freeport Boulevard, Sacramento CA 95818

See **Exhibit "A"** for detailed Project scope.

The Project may include multiple components. Any one of the components or combination thereof may be changed, including terminated, as indicated herein, without changing in any way the remaining component(s) or this Agreement. The provisions of this Agreement shall apply to each component without regard to the status of the remaining component(s). CM shall invoice for each component separately and District shall compensate CM for each component separately on a proportionate basis based on the level and scope of work completed for each component.

For and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

ARTICLE 1. Definitions

- 1.1 In addition to the definitions above, the following definitions for words or phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1 **Agreement:** The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2 **Architect:** The architect(s) that the District designates as being the architect(s) for all or a portion of the Project, including all consultants to the Architect(s).
 - 1.1.3 **As-Built Drawings ("As-Builts"):** Any document prepared and submitted by District Contractor that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by Construction Change Documents and change orders, and detailed by the District's construction Contractor on a Conforming Set.
 - 1.1.4 **Board:** The District's Governing Board.
 - 1.1.5 **Conforming Set:** The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase.
 - 1.1.6 **Construction Budget:** The total amount indicated by the District for the Project plus all other costs, including design, construction, administration, financing, and all other costs.

- 1.1.7 **Construction Change Documents (“CCD”)**: The documentation of changes to the DSA-approved construction documents.
- 1.1.8 **Construction Cost Budget**: The total cost to District of all elements of a Project designed or specified by the Architect, as adjusted during and at the end of the design phase in accordance with this Agreement and the Agreement for Architectural Services. The Construction Cost Budget does not include the compensation of the Project Design Team, the Program Manager, the CM and any subconsultants, the cost of the land, rights-of-way, or financing, which are the responsibility of the District.
- 1.1.9 **Construction Manager**: The entity listed in the first paragraph of this Agreement.
- 1.1.10 **Consultant(s)**: Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the CM.
- 1.1.11 **Contractor**: One or more licensed and registered contractors under contract with the District for construction of all or a portion of the Project.
- 1.1.12 **Design Team**: The Architect(s) that the District designates as being the architect(s) for all or a portion of the Project, including all consultants to the Architect(s), plus all engineer(s) or other designer(s), who have a responsibility to the District to design all or a portion of the Project either directly or as a subconsultant or subcontractor. The term Design Team includes the Design Professional in General Responsible Charge on this Project.
- 1.1.13 **DIR**: California Department of Industrial Relations.
- 1.1.14 **District**: The Sacramento City Unified School District.
- 1.1.15 **District’s Representative**: The individual identified herein that is authorized to act on the District’s behalf with respect to the Project. The initial District’s Representative shall be Chris Ralston, Director III of Facilities. District may change the District’s Representative by notice as set forth herein.
- 1.1.16 **DSA**: Division of the State Architect in the California Department of General Services.
- 1.1.17 **Extra Services**: District-authorized Services outside of the scope in **Exhibit “A”** or District-authorized reimbursables not included in CM’s fee.
- 1.1.18 **Fee**: The CM’s Fee is defined in Article 7 and payable as set forth in **Exhibit “D.”**

- 1.1.19 **Program Manager:** Any program manager hired to perform program management services for the District, including all Consultant(s) to the Program Manager.
- 1.1.20 **Project Inspector, Inspector of Record, IOR:** The agent of the DSA at the project site whose primary responsibility will be to insure that the project is constructed in compliance with current codes; DSA-approved plans and specifications relating to fire life safety, structure, and accessibility; and quality controls required of a public works facility. The IOR will report to both the DSA and the Architect.
- 1.1.21 **Record Drawings:** A final set of drawings prepared by the Architect incorporating all changes from all As-Builts, sketches, details, and clarifications.
- 1.1.22 **Service(s):** All labor, materials, supervision, services, tasks, and work that the CM is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.

ARTICLE 2. Term

- 2.1 **Term:** This Agreement shall become effective on September 1, 2023, and, except as otherwise provided herein, will continue in effect until December 31, 2024.

ARTICLE 3. Scope, Responsibilities and Services of CM

- 3.1 **Scope:** CM shall provide the Services described herein and under **Exhibit "A"** for the Project.
- 3.2 **Standard of Care:** CM, its officers, agents, employees, subcontractors, Consultants and any persons or entities for whom CM is responsible, shall provide all Services pursuant to this Agreement in accordance with the requirements of this Agreement and in a manner consistent with the standard of care under California law applicable to those who specialize in providing the same services for projects of the type, scope, and complexity of the Project. The District's review, approval of, or payment for any of the Services required under this Agreement shall not be construed as assent that CM has complied, nor in any way relieve the CM of compliance, with (i) the applicable standard of care, or (ii) applicable statutes, regulations, rules, guidelines and requirements.
- 3.3 **Coordination:** In the performance of CM's services under this Agreement, CM agrees that it will maintain coordination with District-designated representatives as may be requested and desirable. This shall include, without limitation, coordination with all members of the District's Design Team, the Project Inspector, and the Program Manager.

- 3.4 **Other Consultants:** If the CM employs sub-consultant(s), the CM shall ensure that its contract(s) with its sub-consultant(s) include language incorporating the terms of this Agreement.
- 3.5 **CM's as District Representative:** CM will act as the District's agent to render the Services and furnish the work as described in **Exhibit "A,"** commencing with the receipt of a written Notice to Proceed signed by the District Representative. CM's services will be completed in accordance with the schedule attached as **Exhibit "C."** During the Project's Construction Phase, the District may require that the Contractors submit all notices and communication relating to the Project directly to the CM.
- 3.6 **Review of General Obligation Bond Program Report and District's Facilities Master Plan:** CM will review the District's Facilities Master Plan for the District and other written materials the District makes available by the District to CM to understand fully the nature, extent and intent of the Facilities Plan and the Project.
- 3.7 **Review of Measure H:** CM will review Measure H and other written materials made available by the District to CM that relate to Measure H to fully understand the extent of funding available to implement the District's Master Facilities Plan for the District, the anticipated schedule for issuance of Bonds under Measure H relative to the anticipated design, bidding and construction of projects.
- 3.8 **Expansion of Work based on Additional Funds:** Should the Board decide to expand the scope of the Project and/or supplement the Construction Budget based upon availability of additional funds, Construction Manager agrees to perform the additional scope of work under the fee and cost terms of this Agreement.
- 3.9 **Conflicts of Interest Prohibited:**
- 3.9.1 CM understands that District officials and employees are prohibited from involvement in decisions in which they may have a financial interest pursuant to Government Code sections 1090 and 87100 et seq., and certifies that it does not know of any facts indicating that any District official or employee has an ownership or other financial interest, direct or indirect, in this Agreement. Further, CM hereby certifies that no current District official or employee of the District, and no one who has been a District official or employee of the District within the past two years has participated in bidding, selling or promoting this Agreement. CM understands that in addition to the remedies available at law, that any failure to provide an accurate certification or any violation of this provision shall make the Agreement voidable by District.
- 3.9.2 CM shall not be permitted to submit proposals or otherwise seek contracts for the following services to be procured by the District in connection with any project covered by this Agreement: Design

Professional, IORs or Test/Inspection. If CM identifies potential Design Professionals, Project Inspectors or Test/Inspection services in connection with a project, CM shall affirmatively and unequivocally represent and warrant to the District that neither CM nor any person who holds equity interest in CM's organization is a former or current holder of any equity interest in the firm identified or has any financial interest in the firm identified. District reserves the sole discretion to waive this subsection's requirements on a case-by-case basis.

ARTICLE 4. CM Staff

- 4.1 The District selected CM to perform the Services because of the CM's skills and expertise of key personnel.
- 4.2 CM agrees that the following key personnel in CM's firm shall be associated with the Project and perform the Services in the following capacities:
 - Project Director: Dan Porter
 - Project Manager II/CM: Ryan Wade
 - Field Eng/Project Eng II: Andrew Lai
- 4.3 CM shall not change any of the key personnel listed above without the District's prior written approval, unless said personnel cease to be employed by CM. Regardless of the reason for the change in key personnel, District shall be allowed to interview and retains the right to approve replacement personnel.
- 4.4 If any designated lead or key person fails to perform to the satisfaction of the District, then upon the District's written notice, the CM will have seven (7) calendar days to remove that person from the Project and shall provide a replacement person acceptable to the District.
 - 4.4.1 All lead or key personnel for any Consultant must also be designated by the Consultant and are subject to all conditions stated in this Agreement.
- 4.5 CM represents that the Construction Manager has no existing interest and will not acquire any interest, direct or indirect, that could conflict in any manner or degree with the performance of Services required under this Agreement. CM agrees further that no person having any such interest shall be employed by CM.

ARTICLE 5. Schedule of Work

CM shall commence work under this Agreement upon receipt of a Notice to Proceed and shall prosecute the work diligently as described in **Exhibit "A"** so as to proceed with and complete the Services in compliance with the schedule attached as **Exhibit**

“C.” Time is of the essence and failure of CM to perform work on time as specified in this Agreement is a material breach of this Agreement.

ARTICLE 6. Construction Cost Budget

- 6.1 CM shall have responsibility, along with the Architect, to develop, review, and reconcile the Construction Cost Budget per Project with the Architect and the District throughout the design process and construction.
- 6.2 The Construction Cost Budget shall be the total cost to District of all Project elements the Design Team designs or specifies.
- 6.3 CM shall work cooperatively with the Project Design Team throughout the Project, including but not limited to, the Schematic Design Phase, Design Development Phase, and Construction Documents Phase, as described in **Exhibit “A,”** so that the Project’s construction cost as designed by the Project Design Team will not exceed the Construction Cost Budget, as may be adjusted subsequently with the District’s written approval. CM shall notify the District if it believes the Project’s construction cost of the work by the Project Design Team will exceed the Construction Cost Budget, and/or if it believes the construction cost as designed will exceed the Construction Cost Budget. CM, however, shall not perform or be responsible for any design or architectural services.
- 6.4 Evaluations of the District’s Construction Budget, and CM’s preliminary and detailed cost estimates, represent the CM’s best judgment as a professional familiar with the construction industry.
- 6.5 If the Bidding Phase has not commenced within ninety (90) days after DSA approval of the plans and specifications, the Construction Cost Budget may be adjusted at District’s request to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the District and the date on which proposals are sought.
- 6.6 The District may, in its sole discretion, do one, or a combination, of the following if any of the events in Article 6.7 occur:
 - 6.6.1 Give CM written approval of an agreed adjustment to the Construction Cost Budget.
 - 6.6.2 Authorize CM to re-negotiate and/or re-bid the Project, when appropriate, within three (3) months’ time of receipt of bids, at no additional cost to the District (exclusive of District and other agencies’ review time).
 - 6.6.3 Terminate this Agreement if the Project is abandoned by the District without further obligation by either party.
 - 6.6.4 Within three (3) months of receipt of bids, instruct Design Team to revise the drawings and specifications (in scope and quality as approved by the District) to bring the Project within the

Construction Cost Budget for re-bidding. CM will perform cost estimation, value engineering, constructability reviews, and/or bidding support at no additional cost to the District.

- 6.7 If any of the following events occur, the District may exercise any one, or any combination, of the actions set forth in Article 6.6 above:
- 6.7.1 The lowest responsive base bid received is five percent (5%) or more in excess of the Construction Cost Budget or
 - 6.7.2 The combined total of base bid and all additive alternates equal or exceed ten percent (10%) of the Construction Cost Budget; or
 - 6.7.3 The Construction Cost Budget increases in phases subsequent to the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the Sacramento Area, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy.

ARTICLE 7. Fee and Method of Payment for Basic Services

- 7.1 District shall pay CM an amount not to exceed **One Hundred Eighty-Five Thousand Six Hundred Eighty Dollars (\$185,680)** for all services contracted for under this Agreement and based on the Fee Schedule set forth in **Exhibit "D."**
- 7.2 District shall pay CM the Fee pursuant to the provisions herein and the method of payment set forth in **Exhibit "D."**
- 7.3 CM shall bill its work under this Agreement on a percent of completion basis in accordance with **Exhibit "D."**
- 7.4 No increase in fee will be due from change orders generated during the construction period to the extent caused by CM's error(s) or omission(s).
- 7.5 The CM's fee set forth in this Agreement shall be full compensation for all of CM's Services incurred in the performance hereof as indicated in **Exhibit "D,"** including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location, offices, per diem expenses, printing, providing or shipping of deliverables in the quantities set forth in **Exhibit "A."**

ARTICLE 8. Payment for Extra Services

- 8.1 Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** at the rates set forth in **Exhibit "D"** only upon certification of the District's prior written authorization of the claimed Extra Services and the Extra Services have been satisfactorily completed.
- 8.2 CM shall submit to District a written proposal describing the proposed scope of services and listing the personnel, labor duration, rates, and cost. CM shall proceed with Extra Services only upon receiving the District's prior written authorization. CM will not be entitled to any compensation for Extra Services performed prior to receiving District's written authorization.
- 8.3 If CM performs any Extra Services without the District's authorized representative's prior written authorization, the District will not be obligated to pay for such Extra Services. The foregoing provision notwithstanding, CM will be paid by the District as described in **Exhibit "B"** for Extra Services the District's authorized representative verbally requests, provided CM confirms such request in writing pursuant to the notice requirements of this Agreement, and proceeds with such Extra Services not earlier than two (2) business days after the District receives CM's written confirmation of the request.

ARTICLE 9. Ownership of Data

- 9.1 All of CM's work product prepared or generated in connection with this Agreement is the District's property.
- 9.2 Upon the District's request, the CM shall make available to the District all work product completed or in progress at the time of such a request.
- 9.3 After Project completion or, if the District exercises the right to terminate this Agreement pursuant to the Agreement terms, CM shall assemble and deliver to District within five (5) calendar days of the District's written request, all of CM's work product of the generated, prepared, reviewed or compiled in connection with this Agreement and the Services and authorized Extra Services hereunder. This includes, without limitation, all CM generated documents, copies of all documents CM exchanged with or copied to or from all other Project participants, and all closeout documents. CM shall be index and organize appropriately said Project records for easy use by District personnel.
- 9.4 All Project records are District property, whether or not those records are in the CM's possession. District retains all rights to all copyrights, designs, and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that CM or its Consultants prepare or cause to be prepared pursuant to this Agreement. Notwithstanding the preceding sentence, CM and its Consultants shall be entitled to reuse work product generated under this Agreement.

ARTICLE 10. Termination of Contract

- 10.1 District's Request for Assurances: If District at any time reasonably believes CM is or may be in default under this Agreement, District may in its sole discretion notify CM of this fact and request written assurances from CM of performance of Services and a written plan from CM to remedy any potential default under the terms this Agreement that the District may advise CM of in writing. CM shall, within ten (10) calendar days of District's request, deliver a written cure plan that meets the District's requirements in its request for assurances. CM's failure to provide such written assurances of performance and the required written plan, within ten (10) calendar days of request, will constitute a material breach of this Agreement sufficient to justify termination for cause.
- 10.2 District's Termination of CM for Cause: If CM fails to perform CM's duties to the District's satisfaction, or if CM fails to fulfill in a timely and professional manner CM's material obligations under this Agreement, or if CM violates any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement effective immediately upon the District giving CM written notice thereof. In the event of a termination pursuant to this subdivision, CM may invoice District for all work performed until the notice of termination, but District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of CM's actions, errors, or omissions.
- 10.3 District's Termination of CM for Convenience: District shall have the right in its sole discretion to terminate this Agreement for its own convenience. In the event of a termination for convenience, CM may invoice District and District shall pay all undisputed invoice(s) for work performed until the notice of termination. This shall be the only amount(s) potentially owing to CM if there is a termination for convenience.
- 10.4 CM's Termination of Agreement for Cause: CM has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement and fails to cure such material default within sixty (60) days of receipt of written notice of said defaults, or if the default cannot be cured within sixty (60) days, commence to cure such default, diligently pursue such cure, and complete the cure within a reasonable time following written notice and demand from CM. Such termination shall be effective after receipt of written notice from CM to the District.
- 10.5 Effect on Pre-Termination Services: Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 10.6 Ceasing Services upon Termination: If, at any time in the progress of performing Services under this Agreement, the District determines that CM's Services should be terminated, the CM, upon the District's written notice of such termination, shall immediately cease providing Services, except to transfer files as directed by the District. The District shall pay CM only the fee

associated with the Services provided and approved by District since the last paid invoice and up to the notice of termination.

- 10.7 Project Suspension: If the Project is suspended by the District for more than one hundred and eighty (180) consecutive days, the CM shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the schedule shall be adjusted and the CM's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the CM's Services. CM shall make every effort to maintain the same Project personnel after suspension.

ARTICLE 11. Indemnity

- 11.1 To the furthest extent permitted by California law, CM shall indemnify and hold free and harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim") to the extent caused by the negligence, recklessness, or willful misconduct of the CM, its officers, employees, subcontractors, consultants, or agents, excluding without limitation, the payment of all consequential damages. CM shall also, to the furthest extent permitted by California law, defend the Indemnified Parties at CM's own expense, including attorneys' fees and costs, from any and all Claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld.
- 11.2 CM shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim. CM's obligation pursuant to Article 11.1 includes reimbursing the District for the cost of any settlement paid by the Indemnified Parties and for any and all fees and costs, including but not limited to, legal fees and costs, expert witness fees, and consultant fees, incurred by the Indemnified Parties in the defense of any Claim(s), or to enforce the indemnity herein. CM's obligation to indemnify shall not be restricted to insurance proceeds.
- 11.3 District may withhold from amounts owing to CM any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CM.

ARTICLE 12. Conduct on Project Site and Fingerprinting

- 12.1 Unacceptable and/or loud language will not be tolerated. "Cat calls" or other derogatory language toward students or public will not be allowed.
- 12.2 Drugs, alcohol, and smoking on District property are strictly prohibited. No drugs, alcohol and/or smoking are allowed at any time in any building and/or grounds on District's property. No students, staff, visitors or contractors are to use drugs on District's property.

- 12.3 Pursuant to Education Code section 45125.2, the District has determined on the basis of the scope of Services in this Agreement that CM and its subcontractors and employees will have only limited contact with pupils. CM will promptly notify the District in writing of any facts or circumstances which might reasonably lead the District to determine that contact will be more than limited. Should there be more than limited contact, CM shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. CM shall not permit any employee to have any contact with District pupils until such time as the CM has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. CM's responsibility shall extend to all employees, agents, and employees or agents of its Consultants regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as CM's independent contractors. CM shall provide to District verification of compliance with this section by submitting an executed Criminal Background Investigation Certification (**Exhibit "E"**).
- 12.4 For all workers on District property, CM shall comply with all applicable federal, state and local laws regarding COVID-19, including but not limited to the CDPH's State Public Health Officer Orders.

ARTICLE 13. Responsibilities of the District

- 13.1 The District shall examine the documents submitted by the CM and shall render decisions so as to avoid unreasonable delay in the process of the CM's Services.
- 13.2 The District shall provide to the CM as complete information as is available to District regarding the District's Project requirements.
- 13.3 The District shall retain design professional(s) whose services, duties and responsibilities will be described in written agreement(s) between the District and design professional(s).
- 13.4 Unless the contract documents require that Contractor provide any of the following, the District shall, in a timely manner, and with CM's assistance, secure, submit and pay for necessary approvals, easements, assessments, permits and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, subject to CM's and/or the Design Team's duties to recommend or provide same.
- 13.5 The District, its representatives, and consultants shall communicate with the Contractor either directly or through the CM.
- 13.6 The District shall designate an officer, employee and/or other authorized representatives to act on the District's behalf with respect to the Project. The District's Project representative shall be available during working hours and as

District's Project representative shall be available during working hours and as often as may be required to render decisions and to furnish information in a timely manner.

ARTICLE 14. Liability of District

- 14.1 Other than as provided in this Agreement, District's obligations under this Agreement shall be limited to the payment of the compensation as provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District or CM be liable to the other, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 14.2 CM shall pay to District any and all costs incurred by District, or for which District may become liable, to the extent caused by negligent delays, acts, or omissions of CM in its performance of its Services.
- 14.3 District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by CM, or by its employees, even though such equipment be furnished or loaned to CM by District.
- 14.4 CM hereby waives any and all claim(s) for recovery from the District under this Agreement, which loss or damage is covered by valid and collectible insurance policies. CM agrees to have its required insurance policies endorsed to prevent the invalidation of insurance coverages by reason of this waiver. This waiver shall extend to claims paid, or expenses incurred, by CM's insurance company on the District's behalf.

ARTICLE 15. Insurance

- 15.1 CM shall procure, prior to commencement of Services, and will 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 work hereunder by the CM, their agents, representatives, employees and sub-consultant(s). CM's liabilities, including but not limited to, CM's indemnity or defense obligations under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and CM's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement, as required or when requested, may be treated by the District, subject to its sole discretion, as a material breach of contract.
- 15.2 **Minimum Scope and Limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:

death, advertising injury, and medical payments arising from the performance of any portion of the Services. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project/location or the general aggregate limit shall be twice the required occurrence limit.

- 15.2.2 **Commercial Automobile Liability, Any Auto.** Two million dollars (\$2,000,000) per occurrence.
- 15.2.3 **Workers' Compensation.** Statutory limits required by the State of California. For all of the CM's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, CM shall keep in full force and effect, a Workers' Compensation policy. CM shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
- 15.2.4 **Employer's Liability.** One million dollars (\$1,000,000) per accident for bodily injury or disease. For all of the CM's employees who are subject to this Agreement, CM shall keep in full force and effect, an Employers' Liability policy. That policy shall provide employers' liability coverage with minimum liability coverage of Two million dollars (\$2,000,000) per occurrence. CM shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
- 15.2.5 **Professional Liability.** This insurance shall cover the CM and its sub-consultant(s), if any, for two million dollars (\$2,000,000) aggregate limit subject to no claim deductible, coverage to continue through completion of construction plus two years thereafter. The policy must contain terms or endorsements extending coverage that requires the insurer to defend and indemnify for acts which happen before the effective date of the policy provided the claim is first made during the policy period.
- 15.3 The District reserves the right to modify the limits and coverages described herein, with appropriate credits or charges to be negotiated for such changes.
- 15.4 **Deductibles and Self-Insured Retention:** Any deductibles or self-insured retention exceeding Twenty-Five Thousand Dollars (\$25,000) must be declared to and approved by the District. At the option of the District, either:
 - 15.4.1 The District can accept the higher deductible;

- 15.4.2 CM's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or
- 15.4.3 CM shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 15.5 **Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - 15.5.1 All policies except for the worker's compensation, employer's liability and professional liability insurance policy shall be written on an occurrence form.
 - 15.5.2 The District, its representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the CM; Instruments of Service and completed operations of the CM; premises owned, occupied or used by the CM; or automobiles owned, leased, hired or borrowed by the CM. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds. All endorsements shall waive any right to subrogation against any of the Additional Insureds.
 - 15.5.3 Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
 - 15.5.4 CM shall pay all insurance premiums, including any charges for required waivers of subrogation or the endorsement of additional insureds. If CM fails to maintain insurance, District may take out comparable insurance, and deduct and retain amount of premium from any sums due CM under the Agreement.
 - 15.5.5 The CM's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - 15.5.6 Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, not renewed, or material change in coverage except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.
 - 15.5.7 CM's insurance coverage shall be primary and non-contributory insurance as respects the Additional Insureds with respect to any claims related to, arising out of, or connected with the Project. Any insurance or self-insurance maintained by the Additional Insureds

shall be in excess of the CM's insurance and shall not contribute with it.

- 15.5.8 Construction Manager shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 - 15.5.9 CM shall require all subconsultants to maintain the level of insurance CM deems appropriate with respect to the consultant's scope of the Work unless otherwise indicated in the Agreement. CM shall cause the subconsultants to furnish proof thereof to District within ten (10) days of District's request. Should CM not require subconsultants to provide the same level of insurance as is required of CM, as provided in this Agreement, CM is not relieved of its indemnity obligations to District or fulfilling its insurance requirements as provided in this Agreement.
 - 15.5.10 If CM normally carries insurance in an amount greater than the minimum amounts required herein, that greater amount shall become the minimum required amount of insurance for purposes of the Agreement. Therefore, CM hereby acknowledges and agrees that all insurance carried by it shall be deemed liability coverage for all actions it performs in connection with the Agreement.
- 15.6 **Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. CM shall inform the District in writing if any of its insurer(s) have an A.M. Best's rating less than A:VII. At the option of the District, the District may either:
- 15.6.1 Accept the lower rating; or
 - 15.6.2 Require CM to procure insurance from another insurer.
- 15.7 **Verification of Coverage:** Prior to commencing with its provision of Services under this Agreement, but no later than three (3) calendar after the Notice of Award, CM shall furnish the District with:
- 15.7.1 Certificates of insurance showing maintenance of the required insurance coverage;
 - 15.7.2 Original endorsements affecting coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before work commences.
- 15.8 **Copy of Insurance Policy(ies):** Upon the District's request, CM will furnish District with a copy of all insurance policies related to its provision of Services under this Agreement.

ARTICLE 16. Nondiscrimination

CM agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Consultant and all of its subcontractors. In addition, Consultant agrees to require like compliance by all of its subcontractor(s).

ARTICLE 17. Covenant Against Contingent Fees

CM warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CM, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CM, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the contract price or consideration or otherwise recover the full amount of such fee, commission, percentage fee, gift, or contingency.

ARTICLE 18. Entire Agreement/Modification

This Agreement, including the Exhibits hereto, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. CM shall be entitled to no benefit other than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. CM specifically acknowledges that in entering into this Agreement, CM relies solely upon the provisions contained in this Agreement and no others.

ARTICLE 19. Non-Assignment of Agreement

This Agreement is intended to secure the CM's specialized services. CM may not assign, transfer, delegate or sublet any interest therein without the District's prior written consent. Any assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void.

ARTICLE 20. Law, Venue

- 20.1 This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.
- 20.2 To the fullest extent permitted by California law, Sacramento County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

ARTICLE 21. Alternative Dispute Resolution

- 21.1 All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice.
- 21.2 If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.
- 21.3 Notwithstanding any disputes, claims or other disagreements between the CM and the District, CM shall continue to provide and perform Services hereunder pending a subsequent resolution of such disputes.

ARTICLE 22. Tolling of Claims

CM agrees to toll all statutes of limitations for District's assertion of claims against CM that arise out of, pertain to, or relate to Contractors' or subcontractors' claims against District involving CM's work, until the Contractors' or subcontractors' claims are finally resolved.

ARTICLE 23. Severability

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

ARTICLE 24. Employment Status

- 24.1 CM shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which CM performs the Services which are the subject matter of this Agreement; provided always, however, that the Services to be provided by CM shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 24.2 CM understands and agrees that CM's personnel are not and will not be eligible for: membership in, or to receive any benefits from, any District group

plan for hospital, surgical or medical insurance; membership in any District retirement program; paid vacation, paid sick leave or other leave, with or without pay; or any other benefits which accrue to a District employee.

- 24.3 Should District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that CM or any employee of CM is an employee of District for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by CM which can be applied against this liability). District shall then forward those amounts to the relevant taxing authority.
- 24.4 Should a relevant taxing authority determine a liability for past services performed by CM for District, upon notification of such fact by District, CM shall promptly remit the amount due or arrange with District to have the amount due withheld from future payments to CM under this Agreement (again, offsetting any amounts already paid by CM which can be applied as a credit against that liability).
- 24.5 A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, CM shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine CM is an employee for any other purpose, then CM agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined CM was not an employee.
- 24.6 Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

ARTICLE 25. Warranty of CM

- 25.1 CM warrants that CM is properly licensed and/or certified under the laws and regulations of the State of California to provide the Services that it has herein agreed to perform. CM further warrants that all of the work CM performs under this Agreement shall comply with all applicable laws, rules, regulations and codes of the United States and the State of California. CM also warrants that it shall comply with all applicable ordinances, regulations, and resolutions of Sacramento County.
- 25.2 CM certifies that it is aware of the provisions of the California Labor Code of the State of California, requiring every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that, if applicable, it will comply with those provisions before commencing the performance of the work of this Agreement.

25.3 To the extent that the work performed under this contract is subject to labor compliance and enforcement by the DIR, CM specifically acknowledges and understands that it shall perform the Services while complying with all applicable provisions of Division 2, Part 7, Chapter 1 of the Labor Code and Title 8 of the California Code of Regulations, including all applicable prevailing wage requirements.

ARTICLE 26. Cost Disclosure - Documents and Written Reports

CM shall be responsible for compliance with California Government Code section 7550, if the total cost of the Agreement is over five thousand dollars (\$5,000).

ARTICLE 27. Communications / Notice

Notices and communications between the Parties to this Agreement may be sent to the following addresses by registered or certified mail with postage prepaid, return receipt requested, by overnight delivery service, or by personal delivery:

District:

Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824
ATTN: Tina Alvarez Bevens

CM:

Kitchell/CEM Inc.
2450 Venture Oaks Way, Ste 500
Sacramento CA 95833
ATTN: Jeff Dees/Dan Porter

If notice is given by registered or certified mail with postage prepaid, return receipt requested, it shall be considered delivered on the day the notice is signed for. If notice is given by overnight delivery service, it shall be considered delivered on the date stated in the proof of delivery.

CM and District, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

ARTICLE 28. Disabled Veteran Business Enterprise Participation

Pursuant to section 17076.11 of the Education Code, the District has a participation goal for disabled veteran business enterprises ("DVBE") of at least three percent (3%), per year, of funds expended each year by the District on projects that use funds allocated by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act (the "Act"). This Project may use funds allocated under the Act. Therefore, CM, before it executes the Agreement, shall provide to the District certification of compliance with the procedures for implementation of DVBE contracting goals, appropriate documentation identifying the amount(s) intended to be paid to DVBEs in conjunction with the contract, and/or documentation demonstrating CM's good faith efforts to meet these goals.

ARTICLE 29. District's Right to Audit

29.1 District retains the right to review and audit, and the reasonable right of access to CM's and any Consultant's premises to review and audit the CM's compliance with the provisions of this Agreement ("District's Right"). The

District's Right includes the right to inspect, photocopy, and to retain copies, outside of CM's premises, of any and all Project-related records and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District shall keep this information confidential, as allowed by applicable law.

- 29.2 The District's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines is necessary to discover and verify whether CM is in compliance with all requirements of this Agreement.
- 29.3 If there is a claim for additional compensation or for Extra Services, the District's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the District determines is necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.
- 29.4 CM shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. CM shall make available to the District for review and audit all Project-related accounting records and documents and any other financial data. Upon District's request, CM shall submit exact duplicates of originals of all requested records to the District.
- 29.5 CM shall include audit provisions in any and all of its subcontracts, and shall ensure that these sections are binding upon all Consultants.
- 29.6 CM shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of CM's Project-related records and information.

ARTICLE 30. Other Provisions

- 30.1 CM shall be responsible for the cost of construction change orders caused directly by CM's willful misconduct or negligent acts, errors or omissions. Without limiting CM's liability for indirect or consequential cost impacts, the direct costs for which CM shall be liable shall equal its proportionate share of the difference between the cost of the change order and the reasonable cost of the work had such work been a part of the originally prepared Construction Documents. These amounts shall be paid by CM to District or the District may withhold those costs from amounts due or to become due to CM.
- 30.2 Neither the District's review, approval of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and CM shall remain liable to the District in accordance with this Agreement for all damages to the District caused by CM's failure to perform any of the Services furnished under this Agreement to the standard of care of the CM for its Services, which shall be, at a minimum, the standard of care of construction managers performing similar work for

California public school districts at or around the same time and in or around the same geographic area of the District.

- 30.3 CM shall share, credit, or reimburse District fifty percent (50%) of the amount of any tax deduction and/or credit CM receives for District Projects under the Commercial Buildings Energy-Efficiency Tax Deduction, 26 U.S. Code § 179D ("Section 179D"). CM shall provide District with all necessary documentation to enable District to verify the amounts of the Section 179D tax deduction. CM shall notify District in writing of the Section 179D tax deduction within 30 days of when CM receives IRS notice of the Section 179D tax deduction or receives the Section 179D tax refund, whichever occurs first.
- 30.4 Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.
- 30.5 The individual executing this Agreement on behalf of CM warrants and represents that she/he is authorized to execute this Agreement and bind the CM to all terms hereof.
- 30.6 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature. All counterparts so executed shall constitute one Agreement binding all the Parties hereto.

ARTICLE 31. Exhibits.

Exhibits "A" through "E" attached hereto are hereby incorporated by this reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT KITCHELL/CEM INC.

By: _____
Jesse Castillo
Assistant Superintendent

By: _____
Wendy Cohen
President

Date: _____

Date: 9/16/2023

EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF CONSTRUCTION MANGER

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EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF CONSTRUCTION MANAGER

Construction Manager ("CM") shall provide professional services necessary for completing the following:

1. BASIC SERVICES

- 1.1. Provide work which shall comply with professional standards and applicable requirements of federal, state, and local law.
- 1.2. Monitor and advise the District as to all material developments in the Project. Maintain reporting systems for scope, sequencing, scheduling, budgets and communication for the Project using existing District software.
- 1.3. Be the focal point of all communication to and from construction Contractor(s).
- 1.4. Implement methods to budget and track all expenditures on the Project. CM shall generate monthly reports to the District reflecting this information.
- 1.5. Prepare methods to track and report on schedule status for the Project. CM shall develop master schedules and milestone schedules for the Project, and shall report on same each month to the District.
- 1.6. CM shall work cooperatively with District to anticipate and maintain a schedule of upcoming Board information and action items and shall prepare reports, background materials, and preliminary materials in District-specified format.
- 1.7. CM shall work cooperatively with the Design Team and the District to:
 - 1.7.1. Define and schedule the Project.
 - 1.7.2. Provide Services that will result in the development of an overall Project strategy with regard to phases, construction schedules, timing, budget, prequalification, contractor and consultant procurement, construction materials, building systems, and equipment.
- 1.8. Organize an initial planning workshop to create baseline parameters for the Project(s), to define overall building requirements, Project(s) strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, CM will develop an implementation plan that identifies the various phases of the Project(s), coordination among phases, and budget and time constraints for each phase of the Project. The plan will include a detailed strategy, Project Budget and Project schedule as well as identification of critical events and milestone activities.
- 1.9. Perform constructability reviews, determine construction feasibility, availability of materials and labor, time requirements for installation and construction, and factors related to cost, including costs of alternative designs, of materials, preliminary budgets, and possible economies.

- 1.10. Interface with the Contractor and all subcontractors during construction to ensure that the District is provided with an acceptable Project and the best value for taxpayer dollars.
- 1.11. Advise the District as to the regulatory agencies that have jurisdiction over any portion or all of the Project, and as to coordination with and implementation of the requirements of the regulatory agencies, including without limitation DSA.
- 1.12. Contract for or employ, at CM's expense, sub-consultant(s) to the extent deemed necessary for CM's services. Nothing in the foregoing shall create any contractual relationship between the District and any sub-consultant(s) employed by the CM under terms of this Agreement.
- 1.13. Cooperate with the District, Board, and other professionals employed by the District for the design, coordination or management of other work related to the Project, including District staff and consultants, project manager(s), citizens' oversight committee, other District committees, and the community to facilitate the timely completion of the Project within Board-approved budgets and to District design standards.
- 1.14. Chair, conduct and take minutes of periodic meetings between District and its design professional(s), the Site Committee meetings, and construction meetings during the course of the Project. CM shall invite the District and/or its representative and the Project Inspector to participate in these meetings. CM shall keep meeting minutes to document comments generated in these meetings.
- 1.15. Develop for District approval a Project time schedule at the start of Project development that does the following:
 - 1.15.1. Provides sufficient time for prequalification, and if necessary the resolution of any appeals, bidding, and, if necessary, rebidding, or negotiating if applicable, the Project;
 - 1.15.2. Coordinates and integrates the design professional(s)' design efforts with bidding schedules;
 - 1.15.3. Includes realistic activity sequences and durations, allocation of labor and materials and delivery of products requiring long lead-time procurement; and
 - 1.15.4. Takes into account the District's occupancy requirements (showing portions of the Project having occupancy priority and ongoing operational occupancy requirements).
- 1.16. Be responsible for the professional quality and technical accuracy of all cost estimates, constructability reviews, studies, reports, projections, opinions of the probable cost of construction, and other services furnished by CM under this Agreement as well as coordination with all Master Plans, studies, reports and other information provided by District to CM. CM shall, without additional compensation, correct or revise any errors or omissions in materials it generates.
- 1.17. Maintain a log of all meetings, site visits or discussions held in conjunction with the work of the Project, with documentation of major discussion points, observations, decisions,

questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Project documentation.

- 1.18. Coordinate transmittal of documents to regulatory agencies for review and advise the District of potential problems in completion of such reviews.
- 1.19. Prepare a bidders list for each bid package for approval by the District.
- 1.20. Assistance with administration of the prequalification process;
- 1.21. Assistance in development of documents necessary or appropriate for bidding the Construction Contract for the Project;
- 1.22. Development of bidders' interest in a Project, including but not limited to telephonic and correspondence campaigns and preparing and placing notices and advertisements to solicit bids for the Project(s);
- 1.23. Assistance in conducting job walks and bidders' conferences and the maintenance and preparation of minutes of job walks or bidder's conferences;
- 1.24. Assistance in responding to bidders' inquiries and the development of bid addenda as necessary or appropriate;
- 1.25. Review of bid proposals for responsiveness to bid requirements, evaluation of bidder responsibility, and analysis of completed questionnaires;
- 1.26. Interviewing possible bidders, references, bonding agents and financial institutions;
- 1.27. Preparing recommendations for the District for pre-qualification of prospective bidders;
- 1.28. Tabulations and evaluation of bid results along with a recommendation for award of the Construction Contract for a Project;
- 1.29. Assisting with resolution of any appeals;
- 1.30. For Lease Leaseback projects, coordinate Request for Qualifications/Proposals ("RFP") process and assist in negotiation of agreements, including, Site Lease and Facilities Lease with guaranteed maximum price; and
- 1.31. Preparation of agenda items for Board approval.
- 1.32. Provide documentation, pictures, and other information and assistance to the District for the District's use on a website for public access to show Project status.
- 1.33. Provide direction and planning to ensure Project adherence to applicable environmental requirements, such as those emanating from the Environmental Protection Agency ("EPA"), Cal/EPA, the California Environmental Quality Act ("CEQA"), and State of California laws, regulations and rules. CM shall comply with, and ensure that all Consultants, all Contractors and their subcontractors and design professionals and their subconsultants comply with, any storm water pollution prevention plans, other storm water management program and other environmental impact mitigation requirements that are approved by the District and applicable to the Project, at no additional cost to the District.

- 1.34. Cooperate and implement District's reporting to and interface with the Labor Commissioner's Office, including but not limited to:
 - 1.34.1. Registering public works project with the Department of Industrial Relations (DIR) within thirty (30) days of the award, but in no event later than the first day in which a contractor has workers employed upon the public work;
 - 1.34.2. Requiring proof of public works contractor registration before accepting a bid or awarding a contract; and
 - 1.34.3. Reporting any suspected public works violations to the Labor Commissioner.
- 1.35. CM shall maintain accurate Project cost accounting records maintained with generally accepted accounting principles ("GAAP") on authorized work performed under unit costs, actual costs for labor and material, or other basis for maintaining required accounting records. CM shall provide accounting records to the District on a monthly basis, or as reasonably requested by District. CM shall afford the District access to these records and preserve these records for a period of three (3) years after final payment, at no cost to the District.
- 1.36. Assist Architect with the preparation of an estimate of costs for all addenda and coordinate with Architect to submit the estimate to the District for approval. Assist and coordinate with Architect as required to adjust the Construction Cost Budget and other Project costs as indicated in this Agreement and as required in the Agreement for Architectural Services.
- 1.37. Provide and maintain a management presence on the Project site.
- 1.38. CM is **NOT** responsible for:
 - 1.38.1. Ground contamination or hazardous material analysis.
 - 1.38.2. Any asbestos testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
 - 1.38.3. Compliance with the California Environmental Quality Act ("CEQA"), except that CM agrees to coordinate its work with that of any CEQA consultants retained by the District, and the work of Contractor and the Design Team to provide current information for use in CEQA compliance documents and to identify and carry out mitigation measures.
 - 1.38.4. Historical significance report.
 - 1.38.5. Soils investigation.
 - 1.38.6. Geotechnical hazard report.
 - 1.38.7. Topographic survey, including utility locating services.

2. GENERAL PROJECT SERVICES

- 2.1 **General:** Monitor and advise the District and Program Manager as to all material developments on the Project. CM shall implement with District approval reporting methods developed by Program Manager for schedules, cost and budget status. The CM shall be

the focal point of all communication to and from construction Contractor and shall be copied on all communications between the District and its Design Team.

- 2.2 **Scheduling:** Track and report on schedule status for Project. The CM shall develop Project master schedules and milestone schedules, and review and approve Contractor project schedules and milestone schedules for the project per specifications, and shall report on same each month to the District and Program Manager.
- 2.3 **Cost Controls:** Implement methods to track construction expenditures on the Project using methods developed by Program Manager. The CM shall generate monthly reports to the District reflecting this information.

3. PRECONSTRUCTION PHASE

- 3.1 To the extent requested by District or Program Manager, assist with providing overall coordination of the Project; serve as the focal point of communication, transmitting information to the District and Design Team on general aspects of the Project, including planning, scheduling, cost management, progress reporting, design review, dispute resolution, and documentation. Communications from the construction Contractor to the District and Design Team shall be through the CM. The CM shall receive simultaneous copies of all written communications from the District or the Design Team to the construction Contractor.
- 3.2 To the extent requested by District or Program Manager, assist with the detailed definition of project scope, budget, and schedule, as needed. Review and reconcile cost estimates from the assigned architect and coordinate peer review estimates when requested by the District. Advise the District regarding owner-supplied equipment and other potential cost-saving measures.
- 3.3 To the extent requested by District or Program Manager, assist the District in the solicitation and retention of design and engineering consultants, and coordinate design consultants' activities and delivery schedules, as needed. Provide value engineering and life cycle cost analysis.
- 3.4 Provide design-phase services in conjunction with the architecture firms awarded the Project by the District. Work with the Architect to conform and refine designs to correlate designs to budget and Facilities Master Plan, if applicable. Review design documents for constructability, scheduling, consistency, and coordination during schematic and design development phases of work. Perform constructability reviews at appropriate stages of design. Assist with verification of site conditions. Expedite design reviews, including modifications. Keep accurate documentation of all discussions with users regarding scope and resolution.
- 3.5 Prepare and maintain a Construction Management schedule for the Project. Prepare a procurement plan and move in occupancy planning, where required.
- 3.6 To the extent requested by District or Program Manager, assist with monitoring and reporting to the District on status of design and state approval in relation to the schedule for the Project. Attend meetings to coordinate design efforts for the Project. Assist in identifying and obtaining all necessary approvals.

- 3.7 To the extent requested by District or Program Manager, assist with soliciting proposals, evaluate, and recommend other professional consultants needed to complete the Project.
- 3.8 Implement District-approved implementation procedures, forms and reporting requirements for the Project that involve all members of the Project team, including the District, Design Team, and construction Contractor.
- 3.9 Work with the Design Team and District to develop the final sizes, choice of materials, services and utilities and other detailed design and performance criteria of the Project.
- 3.10 To the extent requested by District or Program Manager, provide value engineering at the Schematic Design and/or 100% Design Development Phase. This evaluation will consist of a review of the proposed materials, equipment, systems and other items depicted in the design documents and shall be coordinated with the District's design guidelines and design professional(s). The CM will prepare a value engineering report documenting the results of the evaluation and make recommendations to the District with respect to alternatives, deletions, or amendments of such proposed items that pertain to the anticipated construction costs, useful life, maintenance and operational costs and efficiencies. The CM shall provide to the District value engineering recommendations and cost/benefit analysis of those recommendations.
- 3.11 Perform or subcontract for constructability reviews of the Project at the Design Development Phase and at 90% of the Construction Documents Phase. The CM shall review the design documents for clarity, consistency, constructability and coordination. The results of the review shall be provided in writing and as notations on the documents to the District. The CM shall also make recommendations to the District with respect to constructability, construction cost, sequence of construction, and construction duration.
- 3.12 Develop master bid/award schedule(s) including construction milestones for the Project through the completion of construction, as directed by the District, in coordination with design professional(s) and advise and consult with the District. CM shall review and approve construction Contractor's schedules, but shall not dictate any construction Contractor's means and/or methods of performance.
- 3.13 Establish schedules for any Consultant, and for any hazardous materials or other testing, and review costs, estimates, and invoices of each.
- 3.14 Implement a management control system to support such functions as planning, organizing, scheduling, budgeting, reporting progress, and identifying and documenting problems and solutions for the Project. Prepare monthly progress reports for the District regarding the schedule for the Project.
- 3.15 To the extent requested by District or Program Manager, organize an initial planning workshop to create baseline parameters for the Project, to define overall building requirements, Project strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, Construction Manager will develop an implementation plan that identifies the various phases of the Project, coordination among phases, and budget and time constraints for each phase of the Project. The plan will include a detailed strategy, master budget and master schedule as well as identification of critical events and milestone activities.

- 3.16 To the extent requested by District or Program Manager, provide updated cost estimates for the Project at the Schematic Design, Design Development, and Construction Documents Phases as directed by District; coordinate with design professional(s) and reconcile cost estimates with design professional(s)' estimates.
- 3.17 Advise District regarding "green building" technology and lifecycle costing, when applicable.
- 3.18 Fully coordinate all changes requested by any utility company needed to complete the Project.
- 3.19 Review and tailor the District's front end documents for the Project. Recommend the number of days required for the construction phase (and any sub-phases, such as hazardous material abatement) and recommend the amount of the liquidated damages.

4. PRE-BID PHASE

- 4.1 Develop master schedules and construction schedules for the Project. Develop budget(s) for the Project based on construction cost estimates.
- 4.2 In consultation with the District and according to District-approved policies, procedures, and standards, implement procedures, forms, and reporting requirements for the Project. Establish, accordingly, a communications procedure for the Project that allows for decision making at appropriate levels of responsibility and accountability.
- 4.3 Work with the Program Manager and Design Team to modify or add to standard, special, or general conditions for contract documents that might be needed for unique Project or contract conditions, for the District's approval, and/or assist in the development of documents necessary for the bidding phase.
- 4.4 To the extent requested by District or Program Manager, make recommendations for development and implementation of procedures to comply with applicable bidding or RFP requirements for the Project as applicable and for expediting completion of the bidding process for the Project. The scope of the foregoing includes without limitation, recommendations of CM with respect to: (a) pre-qualification of potential contractors; (b) combination of two or more of the Projects for design, bidding and/or construction purposes; and (c) alternative construction delivery approaches for the Project, including consideration of a single general contractor and/or Lease Leaseback approach to construction for each Project.

5. BIDDING PHASE

- 5.1 To the extent requested by District or Program Manager, assist with pre-qualification process for the selection of prime and/or sub-contractors based on the detailed definition of Project scope, budget, schedule, and programming support. Develop a list of pre-qualified prime and sub-contractors, as required.
- 5.2 Develop bidders' interest in the Project. Coordinate all bid phase activities with District departments. Conduct pre-bid conferences to familiarize bidders with the bidding

documents, and any special systems, materials or methods and with Project procedures. Conduct job walks and bidders' conferences, maintain and prepare minutes of job walks or bidder's conferences. Field questions from bidders, referring questions to Design Team and District as required. Coordinate with Design Team to respond to bidder questions by addenda.

- 5.3 Prepare public solicitation notices for District approval. Review, coordinate, and estimate cost of bid phase addenda.
- 5.4 Review bid proposals for responsiveness to bid requirements, evaluate bidder responsibility, and conduct reference checks. Prepare bid analyses and advise the District on compliance of bidders with District requirements and bid requirements. Report and recommend to the District after review and evaluation. Make recommendations to the District for prequalification of bidders and award of contracts or rejection of bids.
- 5.5 Conduct post-bid conferences as required. Assist and advise regarding bid protests.
- 5.6 If appropriate, coordinate contracting with Contractor awarded the contract, including evaluating bonds and insurance, and negotiate final terms of construction contractor's contract(s), if applicable.
- 5.7 Conduct pre-award conferences with successful bidders.
- 5.8 Schedule and conduct preconstruction meetings. Maintain, prepare, and distribute minutes.
- 5.9 Assist with the preparation of agenda items for Board approval. Coordinate submittals required by governing agencies.

6. CONSTRUCTION PHASE

- 6.1 Administer the construction Contract.
- 6.2 Develop detailed construction schedules or review Contractor's submitted schedules, as needed. Administer and coordinate the work of Contractor on a daily basis. Enforce performance, scheduling, and notice requirements. Review Contractor's schedule submittals and make recommendations to the District.
- 6.3 Monitor schedule and cost information for Contractor. Document the progress and costs of the Project. Report and advise proactively on potential schedule and budget variances and impacts. Recommend potential solutions to schedule and cost problems. Work cooperatively with the District, Architect, and Contractor to ensure that Project is delivered on time and within budget. Review construction progress and prepare reports.
- 6.4 Verify permits, approvals, bonds, insurances, and schedules of values. Coordinate with DSA Project Inspector, and ensure compliance with all DSA reporting and closeout requirements. Submit necessary reports to state and local authorities.
- 6.5 Monitor the construction Contractor to verify that tools, equipment, and labor are furnished and work performed and completed within the time required or indicated by the plans and specifications, under the direction and to the satisfaction of the District. The CM expressly

agrees to verify that the specifications are met, observed, performed, and followed in accordance with the professional standards of care for construction management.

- 6.6 Coordinate work of the construction Contractor and effectively manage the Project to achieve the District's objectives in relation to cost, time and quality.
- 6.7 Provide continuous on-site construction management personnel, as needed. Conduct construction meetings for the Project to discuss and resolve such matters as progress, quality and scheduling. Said meetings shall be weekly unless Project conditions do not require that frequency. Prepare and promptly distribute minutes. When required by field or other conditions, construction progress, or the quality of workmanship, conduct special construction meetings; record, prepare, and distribute minutes of these meetings to the District, the affected construction Contractor, and Design Team.
- 6.8 Establish and implement team communication procedures.
- 6.9 Ensure that construction Contractor provides construction schedules as required by the construction Contracts, including activity sequences and durations, submittal schedule, or procurement schedule for products that require long lead time. The CM shall review construction Contractor's construction schedules for conformity with the requirements of the construction Contract and conformity with the overall schedule for the Project. Where construction Contractor's construction schedules do not so conform, the CM will take appropriate measures to secure compliance, subject to District approval.
- 6.10 Ensure construction Contractor's compliance with the requirements of the respective construction Contract for updating, revising, and other obligations relative to their respective construction schedules.
- 6.11 Cost Control. CM shall develop and monitor an effective system of construction cost control for the Project. CM shall identify variances between actual and budgeted or estimated costs and advise District and design professional(s) whenever a Project cost exceeds budgets or estimates. CM shall manage the construction bids and contracts in accordance with the Construction Budget.
- 6.12 Continually monitor whether construction contract requirements are being fulfilled and recommend courses of action to the District when Contractor fails to fulfill contractual requirements.
- 6.13 The CM may authorize minor variations in the work from the requirements of the contract documents that do not involve an adjustment in the contract price or the contract time or design and which are consistent with the overall intent of the contract documents. The CM shall provide to the design professional(s) and the District copies of these authorizations.
- 6.14 Evaluate and process payment applications and verify progress.
- 6.15 Verify that safety programs are developed and submitted by the construction Contractor as required by the Contract. Neither CM, Project Manager nor District shall be responsible for or have any liability for Contractor's failure to provide, comply with, or enforce said safety programs.

- 6.16 Implement quality control program, including As-Built Drawings accuracy. Coordinate and evaluate Contractor's recovery schedules.
- 6.17 Record the progress of the Project by a log.
- 6.18 Monitor ongoing Project costs to verify that projected costs do not exceed approved budget and provide the District timely notice of any potential increase in costs in excess of approved budgets provided to CM.
- 6.19 Negotiate Contractor's proposals and review change orders prepared by Design Team, with Design Team's input as needed, for approval by the District.
- 6.20 Evaluate and process change order requests. Make recommendations to the District. Determine cost and schedule effects of change orders. Prepare change order reports and maintain a change order log for the Project and implement procedures to expedite processing of change orders.
- 6.21 Assist the District in coordinating the services of special consultants and testing laboratories on the Project.
- 6.22 In conjunction with the Design Team, monitor work of the construction Contractor to determine that the work is being performed in accordance with the requirements of the respective construction documents for the Project, including but not limited to the plans, specifications, addenda, and all other contract documents, as well as all applicable laws, regulations and directives of agencies with jurisdiction over any of the Project. As appropriate, with assistance of Design Team, make recommendations to the District and Program Manager regarding special inspection or testing of work that is not in accordance with the provisions of the contract documents.
- 6.23 To guard District against defects in the work of the construction Contractor, the CM shall implement a quality control program to monitor the quality and workmanship of construction for conformity with:
 - 6.23.1 Accepted industry standards;
 - 6.23.2 Applicable laws, rules, or ordinances; and
 - 6.23.3 The design documents and contract documents.
- 6.24 Where the work of a construction Contractor does not conform as set forth above, the CM shall, with the input of Design Team:
 - 6.24.1 Notify the District of any non-conforming work observed by the CM;
 - 6.24.2 Reject the non-conforming work; and
 - 6.24.3 Take any and all action(s) necessary to compel the construction Contractor to correct the work.
- 6.25 Evaluate, track, and maintain logs of requests for information ("RFI") from construction Contractor and responses, shop drawings, samples, and other submittals, based, in part, on

information obtained from the design professional(s). Advise District and Program Manager as to status and criticality of RFIs.

- 6.26 Implement procedures, in collaboration with the District, Program Manager and Design Team, for expediting the processing and approval of shop drawings, product data, samples, and other submittals for each contract. Receive and transmit all submittals from the construction Contractor to the Design Team for review and approval. Maintain submittal and shop drawing logs.
- 6.27 Record the progress of work at the Project. When present, prepare daily reports for the Project containing a record of weather, construction Contractor(s) present and their number of workers, work accomplished, problems encountered, and other relevant data.
- 6.28 Prepare and distribute monthly project status reports for the Project including updates on project activities, progress of work, outstanding issues, potential problems, schedule, and status of RFIs, change orders, and submittals.
- 6.29 Coordinate, assist, and support Architect during construction administration phase as required.
- 6.30 CM shall maintain records of principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations as provided by the construction Contractor. At the completion of the Project, deliver all such records to District. Construction Contractor and design professional(s) share responsibility to prepare Record Drawings and As-Built Drawings.
- 6.31 Coordinate the move into the Projects.
- 6.32 Work with District team to develop lists of incomplete or unsatisfactory work ("punch lists").
- 6.33 Fully document and prepare deductive change orders for extra services of consultants that are the responsibility of a Contractor or another consultant. Present such a change order for signature by the Contractor or consultant.
- 6.34 Determine final completion and payment. Determine completion dates, final payments, and release of retention. Coordinate procurement and installation of Furniture, Fixtures, and Equipment ("FF&E").

7. PROJECT COMPLETION

- 7.1 The CM shall observe the construction Contractor's check-outs of utilities, operational systems and equipment, and start-up and testing. The CM shall maintain records of start-up and testing as provided by the construction Contractor and shall ensure the District of compliance with applicable provisions of the Contract, that all work has been performed and accepted, and that all systems are complete and operative.
- 7.2 At the punch list phase of the Project or designated portions thereof, CM, in consultation with the Architect, shall ensure the preparation of a list of incomplete or unsatisfactory work or work which does not conform to the requirements of the contract documents ("punch list work") and a schedule for the completion of the punch list work. CM shall provide this list to the construction Contractor. CM shall coordinate construction

Contractor's performance and completion of punch list work. CM shall review, with the Architect and District, the completed punch list work. CM shall ensure that, with input of the Architect, the completed punch list work complies with applicable provisions of the construction Contract.

- 7.3 CM shall determine, with the Architect and District, when the Project or designated portions thereof are complete.
- 7.4 CM shall conduct, with the Architect and District, final inspections of the Project or designated portions thereof. CM shall notify the District of final completion.
- 7.5 CM shall consult with the Architect and District and shall determine when the Project and the construction Contractor's work are finally completed. CM shall assist with the issuance of a Certificate of Final Completion, and shall provide to the District a written recommendation regarding payment to the Contractor.
- 7.6 CM shall coordinate close-out procedures, including personnel training. Advise District staff on systems operations, training and close-out of Project.
- 7.7 CM shall coordinate and expedite Contractor close-out requirements, including guarantees/warranties, certificates, keys, manuals, As-Built Drawings, Record Drawings, specifications, daily logs, and verified reports. Ensure that all other project participants submit necessary close-out documentation.
- 7.8 CM shall coordinate operational safety reviews with District post occupancy and manage corrective work as necessary.
- 7.9 CM shall ensure that all building commissioning requirements have been fulfilled in a timely manner through District commissioning agents.
- 7.10 CM shall obtain occupancy permits (where required), coordinate final testing, documentation, and regulatory inspections. Prepare occupancy plan report.
- 7.11 CM shall prepare final accounting reports.

8. FINAL DOCUMENTS

The Construction Manager shall review and monitor all As-Built Drawings, maintenance and operations manuals, and other closeout documents to be sure that all required documents meeting contract requirements are provided, and shall secure and transmit to the District and Program Manager those documents and all required guarantees, keys, manuals, record drawings, and daily logs. The Construction Manager shall also forward all documents and plans to the District upon completion of the project and ensure all such plans and documents are well organized for any appropriate audit or review of the Project.

9. WARRANTY

The Construction Manager shall assist Program Manager as necessary to implement a Warranty Inspection and Warranty Work procedure for the Project that Contractor must follow. The procedure shall include a twelve (12) month call back period and a final warranty inspection eleven

(11) months after Project completion to inspect the Project and identify any outstanding warranty work.

10. PROJECT CLOSEOUT

To the extent requested by District or Program Manager, the Construction Manager shall assist District, Architect, and Program Manager as necessary to ensure all information and documentation necessary for Project closeout with the DSA is complete and the Project is timely closed out with DSA. This includes but is not limited to reports from independent consultants, inspectors, testing laboratories, and corresponding or required DSA forms.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to this Agreement shall be performed by CM if needed and requested by District:

1. Providing services required because of significant documented changes in the Project initiated by the District, including but not limited to size, quality, complexity, or the District's schedule.
2. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of such work.
3. Providing services made necessary by the default of Contractor, or by major defects or deficiencies in the work of the Contractor, or by failure of performance of the District's consultants.
4. Seeking variances or changes to agency guidelines on behalf of the District when so directed by the District.
5. Preparing to serve or serving as a witness in connection with any public hearing, dispute resolution proceeding or legal proceeding, other than that necessitated by the negligent acts, errors or omissions of CM or where the CM is a party thereto, except for a Contractor's hearing necessitated by a bid protest or by a Contractor's request to substitute a subcontractor, or by handling of any stop payment notices.
6. Performing technical inspection and testing.
7. Providing other services not otherwise included in this Agreement and not customarily furnished in accordance with the generally accepted scope of construction management practice.

Format and Content of Invoices

CM acknowledges that the District requires CM's invoices to include detailed explanations of the Services performed. For example, a six hour charge for the entire day is unacceptable and will not be payable. A more detailed explanation describing specific tasks is required.

Hourly Rates for Extra Services

1. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement. CM shall bill in quarter-hour increments for all Extra Services.

<u>Job Title</u>	<u>Hourly Rate</u>
Project Director	\$215
Project Manager	\$160
Field Engineer/Project Engineer	\$105

2. The mark-up on any approved item of Extra Services performed by sub-consultant(s) or subcontractor(s) shall not exceed five percent (5%).

EXHIBIT "C"

SCHEDULE OF WORK

[To be completed/inserted]

EXHIBIT C

Sacramento City Unified School District - McClatchy - HVAC

Schedule / Phase	2023				2024												Total Hours	Rates	Total	
	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D				
	160	200	160	160	200	160	160	200	160	160	200	160	160	200	160	200				
Procurement of Long Lead Chiller (50 weeks)	Procurement of Long Lead Chiller (50 weeks)																			
Procurement of DBB	Procurement of DBB																			
Construction	Construction																			
Move in and Closeout	Move in and Closeout																			
CONSTRUCTION MANAGEMENT SERVICES																				
Position / Classification	Name																			
Project Director	Dan Pater	2	2	2	2	8	8	16	16	16	16	16	8	8	4			124.0	\$ 215.00	\$ 26,660
Project Manager	Ryan Wade	16	16	16	32	50	80	32	40	32	16	40	32	16	16			434.0	\$ 160.00	\$ 69,440
Project Engineer	Andrew Lai/TBD					100	80	80	100	80	80	80	60	60	60			780.0	\$ 105.00	\$ 81,900
Total (FTEs / Month)		18	18	18	34	158	168	136	164	136	120	144	108	84	80	0	0	1,386		\$ 185,680

Scope of Services:
Provide Construction management services from Design through DSA
Closeout

Note: Timeline is based on preliminary schedules. If the contractors schedule pushes out past this timeline the hours will need to be adjusted.

Architect	Lionakis
Project Budget	\$6,000,000
Fee %	3.1%

EXHIBIT "D"

FEE SCHEDULE

Compensation

1. The CM's fee set forth in this Agreement shall be full compensation for all of CM's Services incurred in its performance, including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location (travel reimbursements must be approved by District prior to travel), offices, per diem expenses, office supplies, printing, providing, or shipping of deliverables in the quantities set forth in **Exhibit "A."**
2. The amount of compensation shall be the amount set forth in the Agreement, including all billed expenses. No compensation will be paid or due, without advance written approval of the District.

Method of Payment of Basic Services

1. CM shall submit monthly invoices for the portion of the overall fee reflecting the services performed and costs incurred for each respective month. In no event shall the total payments exceed the CM's fee set forth in Article 7 this Agreement except as authorized under **Exhibit "B."**
2. CM shall submit these invoices in duplicate to the District via the District's authorized representative.
3. CM shall submit to District on a monthly basis documentation showing proof that payments were made to his/her sub-consultants.
4. Upon receipt and approval of CM's invoices, the District agrees to make payments on all undisputed amounts no later than thirty (30) days from receipt of the invoice.
5. The District may withhold or deduct from amounts otherwise due CM hereunder if CM fails to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after CM has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting therefrom.

EXHIBIT "E"

CRIMINAL BACKGROUND INVESTIGATION/FINGERPRINTING CERTIFICATION

PROJECT/CONTRACT NO.: 0510-433 between the Sacramento City Unified School District ("District") and Kitchell/CEM Inc. ("CM") for construction management services for the C.K. McClatchy High School HVAC Project ("Contract" or "Project").

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the CM currently under contract with the District; that I am familiar with the facts herein certified; and that I am authorized and qualified to execute this certificate on behalf of CM.

CM certifies that it has taken at least one of the following actions with respect to the Project that are the subject of the Contract (check all that apply):

- Pursuant to Education Code section 45125.2, CM has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between CM's employees and District pupils at all times; and/or
- Pursuant to Education Code section 45125.2, CM certifies that all employees will be under the continual supervision of, and monitored by, an employee of the CM who the California Department of Justice ("DOJ") has ascertained, or as described below, will ascertain, has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising CM's and its subcontractors' employees is:

Name: Jeff Dees

Title: Project Director

NOTE: If the CM is a sole proprietor, and elects the above option, CM must have the above-named employee's fingerprints prepared and submitted by the District, in accordance with Education Code section 45125.1(h). No work shall commence until such determination by the DOJ has been made.

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District and undertake to prepare and submit CM's fingerprints as if he or she was an employee of the District.

Date: _____

District Representative's Name and Title: Jesse Castillo, Assistant Superintendent of Business Services

District Representative's Signature: _____

- The Work on the Contract is either (i) at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of the Contract shall come in contact with the District pupils or (ii) CM's employees or any subcontractor or supplier of any tier of the Contract will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees, subcontractors or suppliers so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to CM under the Contract.

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District.

Date: _____

District Representative's Name and Title: _____

District Representative's Signature: _____

- The CM, who is not a sole proprietor, has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all CM's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the DOJ has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of CM's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or
- The CM is a sole proprietor and intends to comply with the fingerprinting requirements of Education Code section 45125.1(h) with respect to all CM's employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and hereby agrees to the District's preparation and submission of fingerprints such that the DOJ may determine that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. No work shall commence until such determination by the DOJ has been made.

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District and undertake to prepare and submit CM's fingerprints as if he or she was an employee of the District.

Date: _____

District Representative's Name and Title: _____

District Representative's Signature: _____

CM's responsibility for background clearance extends to all of its employees, subcontractors or suppliers, and employees of subcontractors or suppliers coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the CM.

KITCHELL/CEM INC.

By: _____

Wendy Cohen
President

Date: 9/16/2023



Agreement for Construction Management Services

between

Sacramento City Unified School District

and

Kitchell/CEM, Inc.

C.K. McClatchy High School

New Softball/Baseball Field Improvements Project

Dated: October 5, 2023

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EXHIBITS "A" – "E"

AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES

This Agreement for Construction Management Services ("Agreement") is made as of October 5, 2023, between the Sacramento City Unified School District, a California public school district ("District"), and Kitchell/CEM, Inc. ("CM") (both collectively "Parties"), for the following project ("Project"):

The construction administration of C.K. McClatchy High School New Baseball / Softball Field Improvements Project located at 3066 Freeport Boulevard, Sacramento CA 95818

See **Exhibit "A"** for detailed Project scope.

The Project may include multiple components. Any one of the components or combination thereof may be changed, including terminated, as indicated herein, without changing in any way the remaining component(s) or this Agreement. The provisions of this Agreement shall apply to each component without regard to the status of the remaining component(s). CM shall invoice for each component separately and District shall compensate CM for each component separately on a proportionate basis based on the level and scope of work completed for each component.

For and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

ARTICLE 1. Definitions

- 1.1 In addition to the definitions above, the following definitions for words or phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1 **Agreement:** The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2 **Architect:** The architect(s) that the District designates as being the architect(s) for all or a portion of the Project, including all consultants to the Architect(s).
 - 1.1.3 **As-Built Drawings ("As-Builts"):** Any document prepared and submitted by District Contractor that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by Construction Change Documents and change orders, and detailed by the District's construction Contractor on a Conforming Set.
 - 1.1.4 **Board:** The District's Governing Board.
 - 1.1.5 **Conforming Set:** The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase.
 - 1.1.6 **Construction Budget:** The total amount indicated by the District for the Project plus all other costs, including design, construction, administration, financing, and all other costs.

- 1.1.7 **Construction Change Documents (“CCD”)**: The documentation of changes to the DSA-approved construction documents.
- 1.1.8 **Construction Cost Budget**: The total cost to District of all elements of a Project designed or specified by the Architect, as adjusted during and at the end of the design phase in accordance with this Agreement and the Agreement for Architectural Services. The Construction Cost Budget does not include the compensation of the Project Design Team, the Program Manager, the CM and any subconsultants, the cost of the land, rights-of-way, or financing which are the responsibility of the District.
- 1.1.9 **Construction Manager**: The entity listed in the first paragraph of this Agreement.
- 1.1.10 **Consultant(s)**: Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the CM.
- 1.1.11 **Contractor**: One or more licensed and registered contractors under contract with the District for construction of all or a portion of the Project.
- 1.1.12 **Design Team**: The Architect(s) that the District designates as being the architect(s) for all or a portion of the Project, including all consultants to the Architect(s), plus all engineer(s) or other designer(s), who have a responsibility to the District to design all or a portion of the Project either directly or as a subconsultant or subcontractor. The term Design Team includes the Design Professional in General Responsible Charge on this Project.
- 1.1.13 **DIR**: California Department of Industrial Relations.
- 1.1.14 **District**: The Sacramento City Unified School District.
- 1.1.15 **District’s Representative**: The individual identified herein that is authorized to act on the District’s behalf with respect to the Project. The initial District’s Representative shall be Chris Ralston, Director III of Facilities. District may change the District’s Representative by notice as set forth herein.
- 1.1.16 **DSA**: Division of the State Architect in the California Department of General Services.
- 1.1.17 **Extra Services**: District-authorized Services outside of the scope in **Exhibit “A”** or District-authorized reimbursables not included in CM’s fee.
- 1.1.18 **Fee**: The CM’s Fee is defined in Article 7 and payable as set forth in **Exhibit “D.”**

- 1.1.19 **Program Manager:** Any program manager hired to perform program management services for the District, including all Consultant(s) to the Program Manager.
- 1.1.20 **Project Inspector, Inspector of Record, IOR:** The agent of the DSA at the project site whose primary responsibility will be to insure that the project is constructed in compliance with current codes; DSA-approved plans and specifications relating to fire life safety, structure, and accessibility; and quality controls required of a public works facility. The IOR will report to both the DSA and the Architect.
- 1.1.21 **Record Drawings:** A final set of drawings prepared by the Architect incorporating all changes from all As-Builts, sketches, details, and clarifications.
- 1.1.22 **Service(s):** All labor, materials, supervision, services, tasks, and work that the CM is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.

ARTICLE 2. Term

- 2.1 **Term:** This Agreement shall become effective on September 1, 2023, and, except as otherwise provided herein, will continue in effect until December 31, 2024.

ARTICLE 3. Scope, Responsibilities and Services of CM

- 3.1 **Scope:** CM shall provide the Services described herein and under **Exhibit "A"** for the Project.
- 3.2 **Standard of Care:** CM, its officers, agents, employees, subcontractors, Consultants and any persons or entities for whom CM is responsible, shall provide all Services pursuant to this Agreement in accordance with the requirements of this Agreement and in a manner consistent with the standard of care under California law applicable to those who specialize in providing the same services for projects of the type, scope, and complexity of the Project. The District's review, approval of, or payment for any of the Services required under this Agreement shall not be construed as assent that CM has complied, nor in any way relieve the CM of compliance, with (i) the applicable standard of care, or (ii) applicable statutes, regulations, rules, guidelines and requirements.
- 3.3 **Coordination:** In the performance of CM's services under this Agreement, CM agrees that it will maintain coordination with District-designated representatives as may be requested and desirable. This shall include, without limitation, coordination with all members of the District's Design Team, the Project Inspector, and the Program Manager.

- 3.4 **Other Consultants:** If the CM employs sub-consultant(s), the CM shall ensure that its contract(s) with its sub-consultant(s) include language incorporating the terms of this Agreement.
- 3.5 **CM's as District Representative:** CM will act as the District's agent to render the Services and furnish the work as described in **Exhibit "A,"** commencing with the receipt of a written Notice to Proceed signed by the District Representative. CM's services will be completed in accordance with the schedule attached as **Exhibit "C."** During the Project's Construction Phase, the District may require that the Contractors submit all notices and communication relating to the Project directly to the CM.
- 3.6 **Review of General Obligation Bond Program Report and District's Facilities Master Plan:** CM will review the District's Facilities Master Plan for the District and other written materials the District makes available by the District to CM to understand fully the nature, extent and intent of the Facilities Plan and the Project.
- 3.7 **Review of Measure H:** CM will review Measure H and other written materials made available by the District to CM that relate to Measure H to fully understand the extent of funding available to implement the District's Master Facilities Plan for the District, the anticipated schedule for issuance of Bonds under Measure H relative to the anticipated design, bidding and construction of projects.
- 3.8 **Expansion of Work based on Additional Funds:** Should the Board decide to expand the scope of the Project and/or supplement the Construction Budget based upon availability of additional funds, Construction Manager agrees to perform the additional scope of work under the fee and cost terms of this Agreement.
- 3.9 **Conflicts of Interest Prohibited:**
- 3.9.1 CM understands that District officials and employees are prohibited from involvement in decisions in which they may have a financial interest pursuant to Government Code sections 1090 and 87100 et seq., and certifies that it does not know of any facts indicating that any District official or employee has an ownership or other financial interest, direct or indirect, in this Agreement. Further, CM hereby certifies that no current District official or employee of the District, and no one who has been a District official or employee of the District within the past two years has participated in bidding, selling or promoting this Agreement. CM understands that in addition to the remedies available at law, that any failure to provide an accurate certification or any violation of this provision shall make the Agreement voidable by District.
- 3.9.2 CM shall not be permitted to submit proposals or otherwise seek contracts for the following services to be procured by the District in connection with any project covered by this Agreement: Design

Professional, IORs or Test/Inspection. If CM identifies potential Design Professionals, Project Inspectors or Test/Inspection services in connection with a project, CM shall affirmatively and unequivocally represent and warrant to the District that neither CM nor any person who holds equity interest in CM's organization is a former or current holder of any equity interest in the firm identified or has any financial interest in the firm identified. District reserves the sole discretion to waive this subsection's requirements on a case-by-case basis.

ARTICLE 4. CM Staff

- 4.1 The District selected CM to perform the Services because of the CM's skills and expertise of key personnel.
- 4.2 CM agrees that the following key personnel in CM's firm shall be associated with the Project and perform the Services in the following capacities:
 - Project Director: Dan Porter
 - Project Manager II/CM: Ryan Wade
 - Field Eng/Project Eng II: Andrew Lai
- 4.3 CM shall not change any of the key personnel listed above without the District's prior written approval, unless said personnel cease to be employed by CM. Regardless of the reason for the change in key personnel, District shall be allowed to interview and retains the right to approve replacement personnel.
- 4.4 If any designated lead or key person fails to perform to the satisfaction of the District, then upon the District's written notice, the CM will have seven (7) calendar days to remove that person from the Project and shall provide a replacement person acceptable to the District.
 - 4.4.1 All lead or key personnel for any Consultant must also be designated by the Consultant and are subject to all conditions stated in this Agreement.
- 4.5 CM represents that the Construction Manager has no existing interest and will not acquire any interest, direct or indirect, that could conflict in any manner or degree with the performance of Services required under this Agreement. CM agrees further that no person having any such interest shall be employed by CM.

ARTICLE 5. Schedule of Work

CM shall commence work under this Agreement upon receipt of a Notice to Proceed and shall prosecute the work diligently as described in **Exhibit "A"** so as to proceed with and complete the Services in compliance with the schedule attached as **Exhibit**

“C.” Time is of the essence and failure of CM to perform work on time as specified in this Agreement is a material breach of this Agreement.

ARTICLE 6. Construction Cost Budget

- 6.1 CM shall have responsibility, along with the Architect, to develop, review, and reconcile the Construction Cost Budget per Project with the Architect and the District throughout the design process and construction.
- 6.2 The Construction Cost Budget shall be the total cost to District of all Project elements the Design Team designs or specifies.
- 6.3 CM shall work cooperatively with the Project Design Team throughout the Project, including but not limited to, the Schematic Design Phase, Design Development Phase, and Construction Documents Phase, as described in **Exhibit “A,”** so that the Project’s construction cost as designed by the Project Design Team will not exceed the Construction Cost Budget, as may be adjusted subsequently with the District’s written approval. CM shall notify the District if it believes the Project’s construction cost of the work by the Project Design Team will exceed the Construction Cost Budget, and/or if it believes the construction cost as designed will exceed the Construction Cost Budget. CM, however, shall not perform or be responsible for any design or architectural services.
- 6.4 Evaluations of the District’s Construction Budget, and CM’s preliminary and detailed cost estimates, represent the CM’s best judgment as a professional familiar with the construction industry.
- 6.5 If the Bidding Phase has not commenced within ninety (90) days after DSA approval of the plans and specifications, the Construction Cost Budget may be adjusted at District’s request to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the District and the date on which proposals are sought.
- 6.6 The District may, in its sole discretion, do one, or a combination, of the following if any of the events in Article 6.7 occur:
 - 6.6.1 Give CM written approval of an agreed adjustment to the Construction Cost Budget.
 - 6.6.2 Authorize CM to re-negotiate and/or re-bid the Project, when appropriate, within three (3) months’ time of receipt of bids, at no additional cost to the District (exclusive of District and other agencies’ review time).
 - 6.6.3 Terminate this Agreement if the Project is abandoned by the District without further obligation by either party.
 - 6.6.4 Within three (3) months of receipt of bids, instruct Design Team to revise the drawings and specifications (in scope and quality as approved by the District) to bring the Project within the

Construction Cost Budget for re-bidding. CM will perform cost estimation, value engineering, constructability reviews, and/or bidding support at no additional cost to the District.

- 6.7 If any of the following events occur, the District may exercise any one, or any combination, of the actions set forth in Article 6.6 above:
- 6.7.1 The lowest responsive base bid received is five percent (5%) or more in excess of the Construction Cost Budget or
 - 6.7.2 The combined total of base bid and all additive alternates equal or exceed ten percent (10%) of the Construction Cost Budget; or
 - 6.7.3 The Construction Cost Budget increases in phases subsequent to the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the Sacramento Area, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy.

ARTICLE 7. Fee and Method of Payment for Basic Services

- 7.1 District shall pay CM an amount not to exceed **Two Hundred Eighteen Thousand Six Hundred Seventy Dollars (\$218,670)** for all services contracted for under this Agreement and based on the Fee Schedule set forth in **Exhibit "D."**
- 7.2 District shall pay CM the Fee pursuant to the provisions herein and the method of payment set forth in **Exhibit "D."**
- 7.3 CM shall bill its work under this Agreement on a percent of completion basis in accordance with **Exhibit "D."**
- 7.4 No increase in fee will be due from change orders generated during the construction period to the extent caused by CM's error(s) or omission(s).
- 7.5 The CM's fee set forth in this Agreement shall be full compensation for all of CM's Services incurred in the performance hereof as indicated in **Exhibit "D,"** including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location, offices, per diem expenses, printing, providing or shipping of deliverables in the quantities set forth in **Exhibit "A."**

ARTICLE 8. Payment for Extra Services

- 8.1 Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** at the rates set forth in **Exhibit "D"** only upon certification of the District's prior written authorization of the claimed Extra Services and the Extra Services have been satisfactorily completed.
- 8.2 CM shall submit to District a written proposal describing the proposed scope of services and listing the personnel, labor duration, rates, and cost. CM shall proceed with Extra Services only upon receiving the District's prior written authorization. CM will not be entitled to any compensation for Extra Services performed prior to receiving District's written authorization.
- 8.3 If CM performs any Extra Services without the District's authorized representative's prior written authorization, the District will not be obligated to pay for such Extra Services. The foregoing provision notwithstanding, CM will be paid by the District as described in **Exhibit "B"** for Extra Services the District's authorized representative verbally requests, provided CM confirms such request in writing pursuant to the notice requirements of this Agreement, and proceeds with such Extra Services not earlier than two (2) business days after the District receives CM's written confirmation of the request.

ARTICLE 9. Ownership of Data

- 9.1 All of CM's work product prepared or generated in connection with this Agreement is the District's property.
- 9.2 Upon the District's request, the CM shall make available to the District all work product completed or in progress at the time of such a request.
- 9.3 After Project completion or, if the District exercises the right to terminate this Agreement pursuant to the Agreement terms, CM shall assemble and deliver to District within five (5) calendar days of the District's written request, all of CM's work product of the generated, prepared, reviewed or compiled in connection with this Agreement and the Services and authorized Extra Services hereunder. This includes, without limitation, all CM generated documents, copies of all documents CM exchanged with or copied to or from all other Project participants, and all closeout documents. CM shall be index and organize appropriately said Project records for easy use by District personnel.
- 9.4 All Project records are District property, whether or not those records are in the CM's possession. District retains all rights to all copyrights, designs, and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that CM or its Consultants prepare or cause to be prepared pursuant to this Agreement. Notwithstanding the preceding sentence, CM and its Consultants shall be entitled to reuse work product generated under this Agreement.

ARTICLE 10. Termination of Contract

- 10.1 District's Request for Assurances: If District at any time reasonably believes CM is or may be in default under this Agreement, District may in its sole discretion notify CM of this fact and request written assurances from CM of performance of Services and a written plan from CM to remedy any potential default under the terms this Agreement that the District may advise CM of in writing. CM shall, within ten (10) calendar days of District's request, deliver a written cure plan that meets the District's requirements in its request for assurances. CM's failure to provide such written assurances of performance and the required written plan, within ten (10) calendar days of request, will constitute a material breach of this Agreement sufficient to justify termination for cause.
- 10.2 District's Termination of CM for Cause: If CM fails to perform CM's duties to the District's satisfaction, or if CM fails to fulfill in a timely and professional manner CM's material obligations under this Agreement, or if CM violates any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement effective immediately upon the District giving CM written notice thereof. In the event of a termination pursuant to this subdivision, CM may invoice District for all work performed until the notice of termination, but District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of CM's actions, errors, or omissions.
- 10.3 District's Termination of CM for Convenience: District shall have the right in its sole discretion to terminate this Agreement for its own convenience. In the event of a termination for convenience, CM may invoice District and District shall pay all undisputed invoice(s) for work performed until the notice of termination. This shall be the only amount(s) potentially owing to CM if there is a termination for convenience.
- 10.4 CM's Termination of Agreement for Cause: CM has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement and fails to cure such material default within sixty (60) days of receipt of written notice of said defaults, or if the default cannot be cured within sixty (60) days, commence to cure such default, diligently pursue such cure, and complete the cure within a reasonable time following written notice and demand from CM. Such termination shall be effective after receipt of written notice from CM to the District.
- 10.5 Effect on Pre-Termination Services: Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 10.6 Ceasing Services upon Termination: If, at any time in the progress of performing Services under this Agreement, the District determines that CM's Services should be terminated, the CM, upon the District's written notice of such termination, shall immediately cease providing Services, except to transfer files as directed by the District. The District shall pay CM only the fee

associated with the Services provided and approved by District since the last paid invoice and up to the notice of termination.

- 10.7 Project Suspension: If the Project is suspended by the District for more than one hundred and eighty (180) consecutive days, the CM shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the schedule shall be adjusted and the CM's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the CM's Services. CM shall make every effort to maintain the same Project personnel after suspension.

ARTICLE 11. Indemnity

- 11.1 To the furthest extent permitted by California law, CM shall indemnify and hold free and harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim") to the extent caused by the negligence, recklessness, or willful misconduct of the CM, its officers, employees, subcontractors, consultants, or agents, excluding without limitation, the payment of all consequential damages. CM shall also, to the furthest extent permitted by California law, defend the Indemnified Parties at CM's own expense, including attorneys' fees and costs, from any and all Claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld.
- 11.2 CM shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim. CM's obligation pursuant to Article 11.1 includes reimbursing the District for the cost of any settlement paid by the Indemnified Parties and for any and all fees and costs, including but not limited to, legal fees and costs, expert witness fees, and consultant fees, incurred by the Indemnified Parties in the defense of any Claim(s), or to enforce the indemnity herein. CM's obligation to indemnify shall not be restricted to insurance proceeds.
- 11.3 District may withhold from amounts owing to CM any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CM.

ARTICLE 12. Conduct on Project Site and Fingerprinting

- 12.1 Unacceptable and/or loud language will not be tolerated. "Cat calls" or other derogatory language toward students or public will not be allowed.
- 12.2 Drugs, alcohol, and smoking on District property are strictly prohibited. No drugs, alcohol and/or smoking are allowed at any time in any building and/or grounds on District's property. No students, staff, visitors or contractors are to use drugs on District's property.

- 12.3 Pursuant to Education Code section 45125.2, the District has determined on the basis of the scope of Services in this Agreement that CM and its subcontractors and employees will have only limited contact with pupils. CM will promptly notify the District in writing of any facts or circumstances which might reasonably lead the District to determine that contact will be more than limited. Should there be more than limited contact, CM shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. CM shall not permit any employee to have any contact with District pupils until such time as the CM has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. CM's responsibility shall extend to all employees, agents, and employees or agents of its Consultants regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as CM's independent contractors. CM shall provide to District verification of compliance with this section by submitting an executed Criminal Background Investigation Certification (**Exhibit "E"**).
- 12.4 For all workers on District property, CM shall comply with all applicable federal, state and local laws regarding COVID-19, including but not limited to the CDPH's State Public Health Officer Orders.

ARTICLE 13. Responsibilities of the District

- 13.1 The District shall examine the documents submitted by the CM and shall render decisions so as to avoid unreasonable delay in the process of the CM's Services.
- 13.2 The District shall provide to the CM as complete information as is available to District regarding the District's Project requirements.
- 13.3 The District shall retain design professional(s) whose services, duties and responsibilities will be described in written agreement(s) between the District and design professional(s).
- 13.4 Unless the contract documents require that Contractor provide any of the following, the District shall, in a timely manner, and with CM's assistance, secure, submit and pay for necessary approvals, easements, assessments, permits and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, subject to CM's and/or the Design Team's duties to recommend or provide same.
- 13.5 The District, its representatives, and consultants shall communicate with the Contractor either directly or through the CM.
- 13.6 The District shall designate an officer, employee and/or other authorized representatives to act on the District's behalf with respect to the Project. The District's Project representative shall be available during working hours and as

District's Project representative shall be available during working hours and as often as may be required to render decisions and to furnish information in a timely manner.

ARTICLE 14. Liability of District

- 14.1 Other than as provided in this Agreement, District's obligations under this Agreement shall be limited to the payment of the compensation as provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District or CM be liable to the other, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 14.2 CM shall pay to District any and all costs incurred by District, or for which District may become liable, to the extent caused by negligent delays, acts, or omissions of CM in its performance of its Services.
- 14.3 District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by CM, or by its employees, even though such equipment be furnished or loaned to CM by District.
- 14.4 CM hereby waives any and all claim(s) for recovery from the District under this Agreement, which loss or damage is covered by valid and collectible insurance policies. CM agrees to have its required insurance policies endorsed to prevent the invalidation of insurance coverages by reason of this waiver. This waiver shall extend to claims paid, or expenses incurred, by CM's insurance company on the District's behalf.

ARTICLE 15. Insurance

- 15.1 CM shall procure, prior to commencement of Services, and will 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 work hereunder by the CM, their agents, representatives, employees and sub-consultant(s). CM's liabilities, including but not limited to, CM's indemnity or defense obligations under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and CM's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement, as required or when requested, may be treated by the District, subject to its sole discretion, as a material breach of contract.
- 15.2 **Minimum Scope and Limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:

death, advertising injury, and medical payments arising from the performance of any portion of the Services. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project/location or the general aggregate limit shall be twice the required occurrence limit.

- 15.2.2 **Commercial Automobile Liability, Any Auto.** Two million dollars (\$2,000,000) per occurrence.
- 15.2.3 **Workers' Compensation.** Statutory limits required by the State of California. For all of the CM's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, CM shall keep in full force and effect, a Workers' Compensation policy. CM shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
- 15.2.4 **Employer's Liability.** One million dollars (\$1,000,000) per accident for bodily injury or disease. For all of the CM's employees who are subject to this Agreement, CM shall keep in full force and effect, an Employers' Liability policy. That policy shall provide employers' liability coverage with minimum liability coverage of Two million dollars (\$2,000,000) per occurrence. CM shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
- 15.2.5 **Professional Liability.** This insurance shall cover the CM and its sub-consultant(s), if any, for two million dollars (\$2,000,000) aggregate limit subject to no claim deductible, coverage to continue through completion of construction plus two years thereafter. The policy must contain terms or endorsements extending coverage that requires the insurer to defend and indemnify for acts which happen before the effective date of the policy provided the claim is first made during the policy period.
- 15.3 The District reserves the right to modify the limits and coverages described herein, with appropriate credits or charges to be negotiated for such changes.
- 15.4 **Deductibles and Self-Insured Retention:** Any deductibles or self-insured retention exceeding Twenty-Five Thousand Dollars (\$25,000) must be declared to and approved by the District. At the option of the District, either:
 - 15.4.1 The District can accept the higher deductible;

- 15.4.2 CM's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or
- 15.4.3 CM shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 15.5 **Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - 15.5.1 All policies except for the worker's compensation, employer's liability and professional liability insurance policy shall be written on an occurrence form.
 - 15.5.2 The District, its representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the CM; Instruments of Service and completed operations of the CM; premises owned, occupied or used by the CM; or automobiles owned, leased, hired or borrowed by the CM. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds. All endorsements shall waive any right to subrogation against any of the Additional Insureds.
 - 15.5.3 Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
 - 15.5.4 CM shall pay all insurance premiums, including any charges for required waivers of subrogation or the endorsement of additional insureds. If CM fails to maintain insurance, District may take out comparable insurance, and deduct and retain amount of premium from any sums due CM under the Agreement.
 - 15.5.5 The CM's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - 15.5.6 Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, not renewed, or material change in coverage except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.
 - 15.5.7 CM's insurance coverage shall be primary and non-contributory insurance as respects the Additional Insureds with respect to any claims related to, arising out of, or connected with the Project. Any insurance or self-insurance maintained by the Additional Insureds

shall be in excess of the CM's insurance and shall not contribute with it.

- 15.5.8 Construction Manager shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
- 15.5.9 CM shall require all subconsultants to maintain the level of insurance CM deems appropriate with respect to the consultant's scope of the Work unless otherwise indicated in the Agreement. CM shall cause the subconsultants to furnish proof thereof to District within ten (10) days of District's request. Should CM not require subconsultants to provide the same level of insurance as is required of CM, as provided in this Agreement, CM is not relieved of its indemnity obligations to District or fulfilling its insurance requirements as provided in this Agreement.
- 15.5.10 If CM normally carries insurance in an amount greater than the minimum amounts required herein, that greater amount shall become the minimum required amount of insurance for purposes of the Agreement. Therefore, CM hereby acknowledges and agrees that all insurance carried by it shall be deemed liability coverage for all actions it performs in connection with the Agreement.
- 15.6 **Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. CM shall inform the District in writing if any of its insurer(s) have an A.M. Best's rating less than A:VII. At the option of the District, the District may either:
 - 15.6.1 Accept the lower rating; or
 - 15.6.2 Require CM to procure insurance from another insurer.
- 15.7 **Verification of Coverage:** Prior to commencing with its provision of Services under this Agreement, but no later than three (3) calendar after the Notice of Award, CM shall furnish the District with:
 - 15.7.1 Certificates of insurance showing maintenance of the required insurance coverage;
 - 15.7.2 Original endorsements affecting coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before work commences.
- 15.8 **Copy of Insurance Policy(ies):** Upon the District's request, CM will furnish District with a copy of all insurance policies related to its provision of Services under this Agreement.

ARTICLE 16. Nondiscrimination

CM agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Consultant and all of its subcontractors. In addition, Consultant agrees to require like compliance by all of its subcontractor(s).

ARTICLE 17. Covenant Against Contingent Fees

CM warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CM, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CM, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the contract price or consideration or otherwise recover the full amount of such fee, commission, percentage fee, gift, or contingency.

ARTICLE 18. Entire Agreement/Modification

This Agreement, including the Exhibits hereto, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. CM shall be entitled to no benefit other than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. CM specifically acknowledges that in entering into this Agreement, CM relies solely upon the provisions contained in this Agreement and no others.

ARTICLE 19. Non-Assignment of Agreement

This Agreement is intended to secure the CM's specialized services. CM may not assign, transfer, delegate or sublet any interest therein without the District's prior written consent. Any assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void.

ARTICLE 20. Law, Venue

20.1 This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.

20.2 To the fullest extent permitted by California law, Sacramento County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

ARTICLE 21. Alternative Dispute Resolution

- 21.1 All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice.
- 21.2 If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.
- 21.3 Notwithstanding any disputes, claims or other disagreements between the CM and the District, CM shall continue to provide and perform Services hereunder pending a subsequent resolution of such disputes.

ARTICLE 22. Tolling of Claims

CM agrees to toll all statutes of limitations for District's assertion of claims against CM that arise out of, pertain to, or relate to Contractors' or subcontractors' claims against District involving CM's work, until the Contractors' or subcontractors' claims are finally resolved.

ARTICLE 23. Severability

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

ARTICLE 24. Employment Status

- 24.1 CM shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which CM performs the Services which are the subject matter of this Agreement; provided always, however, that the Services to be provided by CM shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 24.2 CM understands and agrees that CM's personnel are not and will not be eligible for: membership in, or to receive any benefits from, any District group

plan for hospital, surgical or medical insurance; membership in any District retirement program; paid vacation, paid sick leave or other leave, with or without pay; or any other benefits which accrue to a District employee.

- 24.3 Should District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that CM or any employee of CM is an employee of District for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by CM which can be applied against this liability). District shall then forward those amounts to the relevant taxing authority.
- 24.4 Should a relevant taxing authority determine a liability for past services performed by CM for District, upon notification of such fact by District, CM shall promptly remit the amount due or arrange with District to have the amount due withheld from future payments to CM under this Agreement (again, offsetting any amounts already paid by CM which can be applied as a credit against that liability).
- 24.5 A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, CM shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine CM is an employee for any other purpose, then CM agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined CM was not an employee.
- 24.6 Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

ARTICLE 25. Warranty of CM

- 25.1 CM warrants that CM is properly licensed and/or certified under the laws and regulations of the State of California to provide the Services that it has herein agreed to perform. CM further warrants that all of the work CM performs under this Agreement shall comply with all applicable laws, rules, regulations and codes of the United States and the State of California. CM also warrants that it shall comply with all applicable ordinances, regulations, and resolutions of Sacramento County.
- 25.2 CM certifies that it is aware of the provisions of the California Labor Code of the State of California, requiring every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that, if applicable, it will comply with those provisions before commencing the performance of the work of this Agreement.

25.3 To the extent that the work performed under this contract is subject to labor compliance and enforcement by the DIR, CM specifically acknowledges and understands that it shall perform the Services while complying with all applicable provisions of Division 2, Part 7, Chapter 1 of the Labor Code and Title 8 of the California Code of Regulations, including all applicable prevailing wage requirements.

ARTICLE 26. Cost Disclosure - Documents and Written Reports

CM shall be responsible for compliance with California Government Code section 7550, if the total cost of the Agreement is over five thousand dollars (\$5,000).

ARTICLE 27. Communications / Notice

Notices and communications between the Parties to this Agreement may be sent to the following addresses by registered or certified mail with postage prepaid, return receipt requested, by overnight delivery service, or by personal delivery:

District:

Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824
ATTN: Tina Alvarez Bevens

CM:

Kitchell/CEM Inc.
2450 Venture Oaks Way, Ste 500
Sacramento CA 95833
ATTN: Jeff Dees/Dan Porter

If notice is given by registered or certified mail with postage prepaid, return receipt requested, it shall be considered delivered on the day the notice is signed for. If notice is given by overnight delivery service, it shall be considered delivered on the date stated in the proof of delivery.

CM and District, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

ARTICLE 28. Disabled Veteran Business Enterprise Participation

Pursuant to section 17076.11 of the Education Code, the District has a participation goal for disabled veteran business enterprises ("DVBE") of at least three percent (3%), per year, of funds expended each year by the District on projects that use funds allocated by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act (the "Act"). This Project may use funds allocated under the Act. Therefore, CM, before it executes the Agreement, shall provide to the District certification of compliance with the procedures for implementation of DVBE contracting goals, appropriate documentation identifying the amount(s) intended to be paid to DVBEs in conjunction with the contract, and/or documentation demonstrating CM's good faith efforts to meet these goals.

ARTICLE 29. District's Right to Audit

29.1 District retains the right to review and audit, and the reasonable right of access to CM's and any Consultant's premises to review and audit the CM's compliance with the provisions of this Agreement ("District's Right"). The

District's Right includes the right to inspect, photocopy, and to retain copies, outside of CM's premises, of any and all Project-related records and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District shall keep this information confidential, as allowed by applicable law.

- 29.2 The District's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines is necessary to discover and verify whether CM is in compliance with all requirements of this Agreement.
- 29.3 If there is a claim for additional compensation or for Extra Services, the District's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the District determines is necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.
- 29.4 CM shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. CM shall make available to the District for review and audit all Project-related accounting records and documents and any other financial data. Upon District's request, CM shall submit exact duplicates of originals of all requested records to the District.
- 29.5 CM shall include audit provisions in any and all of its subcontracts, and shall ensure that these sections are binding upon all Consultants.
- 29.6 CM shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of CM's Project-related records and information.

ARTICLE 30. Other Provisions

- 30.1 CM shall be responsible for the cost of construction change orders caused directly by CM's willful misconduct or negligent acts, errors or omissions. Without limiting CM's liability for indirect or consequential cost impacts, the direct costs for which CM shall be liable shall equal its proportionate share of the difference between the cost of the change order and the reasonable cost of the work had such work been a part of the originally prepared Construction Documents. These amounts shall be paid by CM to District or the District may withhold those costs from amounts due or to become due to CM.
- 30.2 Neither the District's review, approval of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and CM shall remain liable to the District in accordance with this Agreement for all damages to the District caused by CM's failure to perform any of the Services furnished under this Agreement to the standard of care of the CM for its Services, which shall be, at a minimum, the standard of care of construction managers performing similar work for

California public school districts at or around the same time and in or around the same geographic area of the District.

- 30.3 CM shall share, credit, or reimburse District fifty percent (50%) of the amount of any tax deduction and/or credit CM receives for District Projects under the Commercial Buildings Energy-Efficiency Tax Deduction, 26 U.S. Code § 179D ("Section 179D"). CM shall provide District with all necessary documentation to enable District to verify the amounts of the Section 179D tax deduction. CM shall notify District in writing of the Section 179D tax deduction within 30 days of when CM receives IRS notice of the Section 179D tax deduction or receives the Section 179D tax refund, whichever occurs first.
- 30.4 Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.
- 30.5 The individual executing this Agreement on behalf of CM warrants and represents that she/he is authorized to execute this Agreement and bind the CM to all terms hereof.
- 30.6 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature. All counterparts so executed shall constitute one Agreement binding all the Parties hereto.

ARTICLE 31. Exhibits.

Exhibits "A" through "E" attached hereto are hereby incorporated by this reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT KITCHELL/CEM INC.

By: _____
Jesse Castillo
Assistant Superintendent

By: _____
Wendy Cohen
President

Date: _____

Date: 9/16/2023

EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF CONSTRUCTION MANGER

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EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF CONSTRUCTION MANAGER

Construction Manager ("CM") shall provide professional services necessary for completing the following:

1. BASIC SERVICES

- 1.1. Provide work which shall comply with professional standards and applicable requirements of federal, state, and local law.
- 1.2. Monitor and advise the District as to all material developments in the Project. Maintain reporting systems for scope, sequencing, scheduling, budgets and communication for the Project using existing District software.
- 1.3. Be the focal point of all communication to and from construction Contractor(s).
- 1.4. Implement methods to budget and track all expenditures on the Project. CM shall generate monthly reports to the District reflecting this information.
- 1.5. Prepare methods to track and report on schedule status for the Project. CM shall develop master schedules and milestone schedules for the Project, and shall report on same each month to the District.
- 1.6. CM shall work cooperatively with District to anticipate and maintain a schedule of upcoming Board information and action items and shall prepare reports, background materials, and preliminary materials in District-specified format.
- 1.7. CM shall work cooperatively with the Design Team and the District to:
 - 1.7.1. Define and schedule the Project.
 - 1.7.2. Provide Services that will result in the development of an overall Project strategy with regard to phases, construction schedules, timing, budget, prequalification, contractor and consultant procurement, construction materials, building systems, and equipment.
- 1.8. Organize an initial planning workshop to create baseline parameters for the Project(s), to define overall building requirements, Project(s) strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, CM will develop an implementation plan that identifies the various phases of the Project(s), coordination among phases, and budget and time constraints for each phase of the Project. The plan will include a detailed strategy, Project Budget and Project schedule as well as identification of critical events and milestone activities.
- 1.9. Perform constructability reviews, determine construction feasibility, availability of materials and labor, time requirements for installation and construction, and factors related to cost, including costs of alternative designs, of materials, preliminary budgets, and possible economies.

- 1.10. Interface with the Contractor and all subcontractors during construction to ensure that the District is provided with an acceptable Project and the best value for taxpayer dollars.
- 1.11. Advise the District as to the regulatory agencies that have jurisdiction over any portion or all of the Project, and as to coordination with and implementation of the requirements of the regulatory agencies, including without limitation DSA.
- 1.12. Contract for or employ, at CM's expense, sub-consultant(s) to the extent deemed necessary for CM's services. Nothing in the foregoing shall create any contractual relationship between the District and any sub-consultant(s) employed by the CM under terms of this Agreement.
- 1.13. Cooperate with the District, Board, and other professionals employed by the District for the design, coordination or management of other work related to the Project, including District staff and consultants, project manager(s), citizens' oversight committee, other District committees, and the community to facilitate the timely completion of the Project within Board-approved budgets and to District design standards.
- 1.14. Chair, conduct and take minutes of periodic meetings between District and its design professional(s), the Site Committee meetings, and construction meetings during the course of the Project. CM shall invite the District and/or its representative and the Project Inspector to participate in these meetings. CM shall keep meeting minutes to document comments generated in these meetings.
- 1.15. Develop for District approval a Project time schedule at the start of Project development that does the following:
 - 1.15.1. Provides sufficient time for prequalification, and if necessary the resolution of any appeals, bidding, and, if necessary, rebidding, or negotiating if applicable, the Project;
 - 1.15.2. Coordinates and integrates the design professional(s)' design efforts with bidding schedules;
 - 1.15.3. Includes realistic activity sequences and durations, allocation of labor and materials and delivery of products requiring long lead-time procurement; and
 - 1.15.4. Takes into account the District's occupancy requirements (showing portions of the Project having occupancy priority and ongoing operational occupancy requirements).
- 1.16. Be responsible for the professional quality and technical accuracy of all cost estimates, constructability reviews, studies, reports, projections, opinions of the probable cost of construction, and other services furnished by CM under this Agreement as well as coordination with all Master Plans, studies, reports and other information provided by District to CM. CM shall, without additional compensation, correct or revise any errors or omissions in materials it generates.
- 1.17. Maintain a log of all meetings, site visits or discussions held in conjunction with the work of the Project, with documentation of major discussion points, observations, decisions,

questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Project documentation.

- 1.18. Coordinate transmittal of documents to regulatory agencies for review and advise the District of potential problems in completion of such reviews.
- 1.19. Prepare a bidders list for each bid package for approval by the District.
- 1.20. Assistance with administration of the prequalification process;
- 1.21. Assistance in development of documents necessary or appropriate for bidding the Construction Contract for the Project;
- 1.22. Development of bidders' interest in a Project, including but not limited to telephonic and correspondence campaigns and preparing and placing notices and advertisements to solicit bids for the Project(s);
- 1.23. Assistance in conducting job walks and bidders' conferences and the maintenance and preparation of minutes of job walks or bidder's conferences;
- 1.24. Assistance in responding to bidders' inquiries and the development of bid addenda as necessary or appropriate;
- 1.25. Review of bid proposals for responsiveness to bid requirements, evaluation of bidder responsibility, and analysis of completed questionnaires;
- 1.26. Interviewing possible bidders, references, bonding agents and financial institutions;
- 1.27. Preparing recommendations for the District for pre-qualification of prospective bidders;
- 1.28. Tabulations and evaluation of bid results along with a recommendation for award of the Construction Contract for a Project;
- 1.29. Assisting with resolution of any appeals;
- 1.30. For Lease Leaseback projects, coordinate Request for Qualifications/Proposals ("RFP") process and assist in negotiation of agreements, including, Site Lease and Facilities Lease with guaranteed maximum price; and
- 1.31. Preparation of agenda items for Board approval.
- 1.32. Provide documentation, pictures, and other information and assistance to the District for the District's use on a website for public access to show Project status.
- 1.33. Provide direction and planning to ensure Project adherence to applicable environmental requirements, such as those emanating from the Environmental Protection Agency ("EPA"), Cal/EPA, the California Environmental Quality Act ("CEQA"), and State of California laws, regulations and rules. CM shall comply with, and ensure that all Consultants, all Contractors and their subcontractors and design professionals and their subconsultants comply with, any storm water pollution prevention plans, other storm water management program and other environmental impact mitigation requirements that are approved by the District and applicable to the Project, at no additional cost to the District.

- 1.34. Cooperate and implement District's reporting to and interface with the Labor Commissioner's Office, including but not limited to:
 - 1.34.1. Registering public works project with the Department of Industrial Relations (DIR) within thirty (30) days of the award, but in no event later than the first day in which a contractor has workers employed upon the public work;
 - 1.34.2. Requiring proof of public works contractor registration before accepting a bid or awarding a contract; and
 - 1.34.3. Reporting any suspected public works violations to the Labor Commissioner.
- 1.35. CM shall maintain accurate Project cost accounting records maintained with generally accepted accounting principles ("GAAP") on authorized work performed under unit costs, actual costs for labor and material, or other basis for maintaining required accounting records. CM shall provide accounting records to the District on a monthly basis, or as reasonably requested by District. CM shall afford the District access to these records and preserve these records for a period of three (3) years after final payment, at no cost to the District.
- 1.36. Assist Architect with the preparation of an estimate of costs for all addenda and coordinate with Architect to submit the estimate to the District for approval. Assist and coordinate with Architect as required to adjust the Construction Cost Budget and other Project costs as indicated in this Agreement and as required in the Agreement for Architectural Services.
- 1.37. Provide and maintain a management presence on the Project site.
- 1.38. CM is **NOT** responsible for:
 - 1.38.1. Ground contamination or hazardous material analysis.
 - 1.38.2. Any asbestos testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
 - 1.38.3. Compliance with the California Environmental Quality Act ("CEQA"), except that CM agrees to coordinate its work with that of any CEQA consultants retained by the District, and the work of Contractor and the Design Team to provide current information for use in CEQA compliance documents and to identify and carry out mitigation measures.
 - 1.38.4. Historical significance report.
 - 1.38.5. Soils investigation.
 - 1.38.6. Geotechnical hazard report.
 - 1.38.7. Topographic survey, including utility locating services.

2. GENERAL PROJECT SERVICES

- 2.1 **General:** Monitor and advise the District and Program Manager as to all material developments on the Project. CM shall implement with District approval reporting methods developed by Program Manager for schedules, cost and budget status. The CM shall be

the focal point of all communication to and from construction Contractor and shall be copied on all communications between the District and its Design Team.

- 2.2 **Scheduling:** Track and report on schedule status for Project. The CM shall develop Project master schedules and milestone schedules, and review and approve Contractor project schedules and milestone schedules for the project per specifications, and shall report on same each month to the District and Program Manager.
- 2.3 **Cost Controls:** Implement methods to track construction expenditures on the Project using methods developed by Program Manager. The CM shall generate monthly reports to the District reflecting this information.

3. PRECONSTRUCTION PHASE

- 3.1 To the extent requested by District or Program Manager, assist with providing overall coordination of the Project; serve as the focal point of communication, transmitting information to the District and Design Team on general aspects of the Project, including planning, scheduling, cost management, progress reporting, design review, dispute resolution, and documentation. Communications from the construction Contractor to the District and Design Team shall be through the CM. The CM shall receive simultaneous copies of all written communications from the District or the Design Team to the construction Contractor.
- 3.2 To the extent requested by District or Program Manager, assist with the detailed definition of project scope, budget, and schedule, as needed. Review and reconcile cost estimates from the assigned architect and coordinate peer review estimates when requested by the District. Advise the District regarding owner-supplied equipment and other potential cost-saving measures.
- 3.3 To the extent requested by District or Program Manager, assist the District in the solicitation and retention of design and engineering consultants, and coordinate design consultants' activities and delivery schedules, as needed. Provide value engineering and life cycle cost analysis.
- 3.4 Provide design-phase services in conjunction with the architecture firms awarded the Project by the District. Work with the Architect to conform and refine designs to correlate designs to budget and Facilities Master Plan, if applicable. Review design documents for constructability, scheduling, consistency, and coordination during schematic and design development phases of work. Perform constructability reviews at appropriate stages of design. Assist with verification of site conditions. Expedite design reviews, including modifications. Keep accurate documentation of all discussions with users regarding scope and resolution.
- 3.5 Prepare and maintain a Construction Management schedule for the Project. Prepare a procurement plan and move in occupancy planning, where required.
- 3.6 To the extent requested by District or Program Manager, assist with monitoring and reporting to the District on status of design and state approval in relation to the schedule for the Project. Attend meetings to coordinate design efforts for the Project. Assist in identifying and obtaining all necessary approvals.

- 3.7 To the extent requested by District or Program Manager, assist with soliciting proposals, evaluate, and recommend other professional consultants needed to complete the Project.
- 3.8 Implement District-approved implementation procedures, forms and reporting requirements for the Project that involve all members of the Project team, including the District, Design Team, and construction Contractor.
- 3.9 Work with the Design Team and District to develop the final sizes, choice of materials, services and utilities and other detailed design and performance criteria of the Project.
- 3.10 To the extent requested by District or Program Manager, provide value engineering at the Schematic Design and/or 100% Design Development Phase. This evaluation will consist of a review of the proposed materials, equipment, systems and other items depicted in the design documents and shall be coordinated with the District's design guidelines and design professional(s). The CM will prepare a value engineering report documenting the results of the evaluation and make recommendations to the District with respect to alternatives, deletions, or amendments of such proposed items that pertain to the anticipated construction costs, useful life, maintenance and operational costs and efficiencies. The CM shall provide to the District value engineering recommendations and cost/benefit analysis of those recommendations.
- 3.11 Perform or subcontract for constructability reviews of the Project at the Design Development Phase and at 90% of the Construction Documents Phase. The CM shall review the design documents for clarity, consistency, constructability and coordination. The results of the review shall be provided in writing and as notations on the documents to the District. The CM shall also make recommendations to the District with respect to constructability, construction cost, sequence of construction, and construction duration.
- 3.12 Develop master bid/award schedule(s) including construction milestones for the Project through the completion of construction, as directed by the District, in coordination with design professional(s) and advise and consult with the District. CM shall review and approve construction Contractor's schedules, but shall not dictate any construction Contractor's means and/or methods of performance.
- 3.13 Establish schedules for any Consultant, and for any hazardous materials or other testing, and review costs, estimates, and invoices of each.
- 3.14 Implement a management control system to support such functions as planning, organizing, scheduling, budgeting, reporting progress, and identifying and documenting problems and solutions for the Project. Prepare monthly progress reports for the District regarding the schedule for the Project.
- 3.15 To the extent requested by District or Program Manager, organize an initial planning workshop to create baseline parameters for the Project, to define overall building requirements, Project strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, Construction Manager will develop an implementation plan that identifies the various phases of the Project, coordination among phases, and budget and time constraints for each phase of the Project. The plan will include a detailed strategy, master budget and master schedule as well as identification of critical events and milestone activities.

- 3.16 To the extent requested by District or Program Manager, provide updated cost estimates for the Project at the Schematic Design, Design Development, and Construction Documents Phases as directed by District; coordinate with design professional(s) and reconcile cost estimates with design professional(s)' estimates.
- 3.17 Advise District regarding "green building" technology and lifecycle costing, when applicable.
- 3.18 Fully coordinate all changes requested by any utility company needed to complete the Project.
- 3.19 Review and tailor the District's front end documents for the Project. Recommend the number of days required for the construction phase (and any sub-phases, such as hazardous material abatement) and recommend the amount of the liquidated damages.

4. PRE-BID PHASE

- 4.1 Develop master schedules and construction schedules for the Project. Develop budget(s) for the Project based on construction cost estimates.
- 4.2 In consultation with the District and according to District-approved policies, procedures, and standards, implement procedures, forms, and reporting requirements for the Project. Establish, accordingly, a communications procedure for the Project that allows for decision making at appropriate levels of responsibility and accountability.
- 4.3 Work with the Program Manager and Design Team to modify or add to standard, special, or general conditions for contract documents that might be needed for unique Project or contract conditions, for the District's approval, and/or assist in the development of documents necessary for the bidding phase.
- 4.4 To the extent requested by District or Program Manager, make recommendations for development and implementation of procedures to comply with applicable bidding or RFP requirements for the Project as applicable and for expediting completion of the bidding process for the Project. The scope of the foregoing includes without limitation, recommendations of CM with respect to: (a) pre-qualification of potential contractors; (b) combination of two or more of the Projects for design, bidding and/or construction purposes; and (c) alternative construction delivery approaches for the Project, including consideration of a single general contractor and/or Lease Leaseback approach to construction for each Project.

5. BIDDING PHASE

- 5.1 To the extent requested by District or Program Manager, assist with pre-qualification process for the selection of prime and/or sub-contractors based on the detailed definition of Project scope, budget, schedule, and programming support. Develop a list of pre-qualified prime and sub-contractors, as required.
- 5.2 Develop bidders' interest in the Project. Coordinate all bid phase activities with District departments. Conduct pre-bid conferences to familiarize bidders with the bidding

documents, and any special systems, materials or methods and with Project procedures. Conduct job walks and bidders' conferences, maintain and prepare minutes of job walks or bidder's conferences. Field questions from bidders, referring questions to Design Team and District as required. Coordinate with Design Team to respond to bidder questions by addenda.

- 5.3 Prepare public solicitation notices for District approval. Review, coordinate, and estimate cost of bid phase addenda.
- 5.4 Review bid proposals for responsiveness to bid requirements, evaluate bidder responsibility, and conduct reference checks. Prepare bid analyses and advise the District on compliance of bidders with District requirements and bid requirements. Report and recommend to the District after review and evaluation. Make recommendations to the District for prequalification of bidders and award of contracts or rejection of bids.
- 5.5 Conduct post-bid conferences as required. Assist and advise regarding bid protests.
- 5.6 If appropriate, coordinate contracting with Contractor awarded the contract, including evaluating bonds and insurance, and negotiate final terms of construction contractor's contract(s), if applicable.
- 5.7 Conduct pre-award conferences with successful bidders.
- 5.8 Schedule and conduct preconstruction meetings. Maintain, prepare, and distribute minutes.
- 5.9 Assist with the preparation of agenda items for Board approval. Coordinate submittals required by governing agencies.

6. CONSTRUCTION PHASE

- 6.1 Administer the construction Contract.
- 6.2 Develop detailed construction schedules or review Contractor's submitted schedules, as needed. Administer and coordinate the work of Contractor on a daily basis. Enforce performance, scheduling, and notice requirements. Review Contractor's schedule submittals and make recommendations to the District.
- 6.3 Monitor schedule and cost information for Contractor. Document the progress and costs of the Project. Report and advise proactively on potential schedule and budget variances and impacts. Recommend potential solutions to schedule and cost problems. Work cooperatively with the District, Architect, and Contractor to ensure that Project is delivered on time and within budget. Review construction progress and prepare reports.
- 6.4 Verify permits, approvals, bonds, insurances, and schedules of values. Coordinate with DSA Project Inspector, and ensure compliance with all DSA reporting and closeout requirements. Submit necessary reports to state and local authorities.
- 6.5 Monitor the construction Contractor to verify that tools, equipment, and labor are furnished and work performed and completed within the time required or indicated by the plans and specifications, under the direction and to the satisfaction of the District. The CM expressly

agrees to verify that the specifications are met, observed, performed, and followed in accordance with the professional standards of care for construction management.

- 6.6 Coordinate work of the construction Contractor and effectively manage the Project to achieve the District's objectives in relation to cost, time and quality.
- 6.7 Provide continuous on-site construction management personnel, as needed. Conduct construction meetings for the Project to discuss and resolve such matters as progress, quality and scheduling. Said meetings shall be weekly unless Project conditions do not require that frequency. Prepare and promptly distribute minutes. When required by field or other conditions, construction progress, or the quality of workmanship, conduct special construction meetings; record, prepare, and distribute minutes of these meetings to the District, the affected construction Contractor, and Design Team.
- 6.8 Establish and implement team communication procedures.
- 6.9 Ensure that construction Contractor provides construction schedules as required by the construction Contracts, including activity sequences and durations, submittal schedule, or procurement schedule for products that require long lead time. The CM shall review construction Contractor's construction schedules for conformity with the requirements of the construction Contract and conformity with the overall schedule for the Project. Where construction Contractor's construction schedules do not so conform, the CM will take appropriate measures to secure compliance, subject to District approval.
- 6.10 Ensure construction Contractor's compliance with the requirements of the respective construction Contract for updating, revising, and other obligations relative to their respective construction schedules.
- 6.11 Cost Control. CM shall develop and monitor an effective system of construction cost control for the Project. CM shall identify variances between actual and budgeted or estimated costs and advise District and design professional(s) whenever a Project cost exceeds budgets or estimates. CM shall manage the construction bids and contracts in accordance with the Construction Budget.
- 6.12 Continually monitor whether construction contract requirements are being fulfilled and recommend courses of action to the District when Contractor fails to fulfill contractual requirements.
- 6.13 The CM may authorize minor variations in the work from the requirements of the contract documents that do not involve an adjustment in the contract price or the contract time or design and which are consistent with the overall intent of the contract documents. The CM shall provide to the design professional(s) and the District copies of these authorizations.
- 6.14 Evaluate and process payment applications and verify progress.
- 6.15 Verify that safety programs are developed and submitted by the construction Contractor as required by the Contract. Neither CM, Project Manager nor District shall be responsible for or have any liability for Contractor's failure to provide, comply with, or enforce said safety programs.

- 6.16 Implement quality control program, including As-Built Drawings accuracy. Coordinate and evaluate Contractor's recovery schedules.
- 6.17 Record the progress of the Project by a log.
- 6.18 Monitor ongoing Project costs to verify that projected costs do not exceed approved budget and provide the District timely notice of any potential increase in costs in excess of approved budgets provided to CM.
- 6.19 Negotiate Contractor's proposals and review change orders prepared by Design Team, with Design Team's input as needed, for approval by the District.
- 6.20 Evaluate and process change order requests. Make recommendations to the District. Determine cost and schedule effects of change orders. Prepare change order reports and maintain a change order log for the Project and implement procedures to expedite processing of change orders.
- 6.21 Assist the District in coordinating the services of special consultants and testing laboratories on the Project.
- 6.22 In conjunction with the Design Team, monitor work of the construction Contractor to determine that the work is being performed in accordance with the requirements of the respective construction documents for the Project, including but not limited to the plans, specifications, addenda, and all other contract documents, as well as all applicable laws, regulations and directives of agencies with jurisdiction over any of the Project. As appropriate, with assistance of Design Team, make recommendations to the District and Program Manager regarding special inspection or testing of work that is not in accordance with the provisions of the contract documents.
- 6.23 To guard District against defects in the work of the construction Contractor, the CM shall implement a quality control program to monitor the quality and workmanship of construction for conformity with:
 - 6.23.1 Accepted industry standards;
 - 6.23.2 Applicable laws, rules, or ordinances; and
 - 6.23.3 The design documents and contract documents.
- 6.24 Where the work of a construction Contractor does not conform as set forth above, the CM shall, with the input of Design Team:
 - 6.24.1 Notify the District of any non-conforming work observed by the CM;
 - 6.24.2 Reject the non-conforming work; and
 - 6.24.3 Take any and all action(s) necessary to compel the construction Contractor to correct the work.
- 6.25 Evaluate, track, and maintain logs of requests for information ("RFI") from construction Contractor and responses, shop drawings, samples, and other submittals, based, in part, on

information obtained from the design professional(s). Advise District and Program Manager as to status and criticality of RFIs.

- 6.26 Implement procedures, in collaboration with the District, Program Manager and Design Team, for expediting the processing and approval of shop drawings, product data, samples, and other submittals for each contract. Receive and transmit all submittals from the construction Contractor to the Design Team for review and approval. Maintain submittal and shop drawing logs.
- 6.27 Record the progress of work at the Project. When present, prepare daily reports for the Project containing a record of weather, construction Contractor(s) present and their number of workers, work accomplished, problems encountered, and other relevant data.
- 6.28 Prepare and distribute monthly project status reports for the Project including updates on project activities, progress of work, outstanding issues, potential problems, schedule, and status of RFIs, change orders, and submittals.
- 6.29 Coordinate, assist, and support Architect during construction administration phase as required.
- 6.30 CM shall maintain records of principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations as provided by the construction Contractor. At the completion of the Project, deliver all such records to District. Construction Contractor and design professional(s) share responsibility to prepare Record Drawings and As-Built Drawings.
- 6.31 Coordinate the move into the Projects.
- 6.32 Work with District team to develop lists of incomplete or unsatisfactory work ("punch lists").
- 6.33 Fully document and prepare deductive change orders for extra services of consultants that are the responsibility of a Contractor or another consultant. Present such a change order for signature by the Contractor or consultant.
- 6.34 Determine final completion and payment. Determine completion dates, final payments, and release of retention. Coordinate procurement and installation of Furniture, Fixtures, and Equipment ("FF&E").

7. PROJECT COMPLETION

- 7.1 The CM shall observe the construction Contractor's check-outs of utilities, operational systems and equipment, and start-up and testing. The CM shall maintain records of start-up and testing as provided by the construction Contractor and shall ensure the District of compliance with applicable provisions of the Contract, that all work has been performed and accepted, and that all systems are complete and operative.
- 7.2 At the punch list phase of the Project or designated portions thereof, CM, in consultation with the Architect, shall ensure the preparation of a list of incomplete or unsatisfactory work or work which does not conform to the requirements of the contract documents ("punch list work") and a schedule for the completion of the punch list work. CM shall provide this list to the construction Contractor. CM shall coordinate construction

Contractor's performance and completion of punch list work. CM shall review, with the Architect and District, the completed punch list work. CM shall ensure that, with input of the Architect, the completed punch list work complies with applicable provisions of the construction Contract.

- 7.3 CM shall determine, with the Architect and District, when the Project or designated portions thereof are complete.
- 7.4 CM shall conduct, with the Architect and District, final inspections of the Project or designated portions thereof. CM shall notify the District of final completion.
- 7.5 CM shall consult with the Architect and District and shall determine when the Project and the construction Contractor's work are finally completed. CM shall assist with the issuance of a Certificate of Final Completion, and shall provide to the District a written recommendation regarding payment to the Contractor.
- 7.6 CM shall coordinate close-out procedures, including personnel training. Advise District staff on systems operations, training and close-out of Project.
- 7.7 CM shall coordinate and expedite Contractor close-out requirements, including guarantees/warranties, certificates, keys, manuals, As-Built Drawings, Record Drawings, specifications, daily logs, and verified reports. Ensure that all other project participants submit necessary close-out documentation.
- 7.8 CM shall coordinate operational safety reviews with District post occupancy and manage corrective work as necessary.
- 7.9 CM shall ensure that all building commissioning requirements have been fulfilled in a timely manner through District commissioning agents.
- 7.10 CM shall obtain occupancy permits (where required), coordinate final testing, documentation, and regulatory inspections. Prepare occupancy plan report.
- 7.11 CM shall prepare final accounting reports.

8. FINAL DOCUMENTS

The Construction Manager shall review and monitor all As-Built Drawings, maintenance and operations manuals, and other closeout documents to be sure that all required documents meeting contract requirements are provided, and shall secure and transmit to the District and Program Manager those documents and all required guarantees, keys, manuals, record drawings, and daily logs. The Construction Manager shall also forward all documents and plans to the District upon completion of the project and ensure all such plans and documents are well organized for any appropriate audit or review of the Project.

9. WARRANTY

The Construction Manager shall assist Program Manager as necessary to implement a Warranty Inspection and Warranty Work procedure for the Project that Contractor must follow. The procedure shall include a twelve (12) month call back period and a final warranty inspection eleven

(11) months after Project completion to inspect the Project and identify any outstanding warranty work.

10. PROJECT CLOSEOUT

To the extent requested by District or Program Manager, the Construction Manager shall assist District, Architect, and Program Manager as necessary to ensure all information and documentation necessary for Project closeout with the DSA is complete and the Project is timely closed out with DSA. This includes but is not limited to reports from independent consultants, inspectors, testing laboratories, and corresponding or required DSA forms.

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EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to this Agreement shall be performed by CM if needed and requested by District:

1. Providing services required because of significant documented changes in the Project initiated by the District, including but not limited to size, quality, complexity, or the District's schedule.
2. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of such work.
3. Providing services made necessary by the default of Contractor, or by major defects or deficiencies in the work of the Contractor, or by failure of performance of the District's consultants.
4. Seeking variances or changes to agency guidelines on behalf of the District when so directed by the District.
5. Preparing to serve or serving as a witness in connection with any public hearing, dispute resolution proceeding or legal proceeding, other than that necessitated by the negligent acts, errors or omissions of CM or where the CM is a party thereto, except for a Contractor's hearing necessitated by a bid protest or by a Contractor's request to substitute a subcontractor, or by handling of any stop payment notices.
6. Performing technical inspection and testing.
7. Providing other services not otherwise included in this Agreement and not customarily furnished in accordance with the generally accepted scope of construction management practice.

Format and Content of Invoices

CM acknowledges that the District requires CM's invoices to include detailed explanations of the Services performed. For example, a six hour charge for the entire day is unacceptable and will not be payable. A more detailed explanation describing specific tasks is required.

Hourly Rates for Extra Services

1. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement. CM shall bill in quarter-hour increments for all Extra Services.

<u>Job Title</u>	<u>Hourly Rate</u>
Project Director	\$215
Sr. Project Manager	\$195
Project Mgr II/CM	\$160
Field Engineer/Project Engineer II	\$105

Estimator Manager	\$195
Estimator	\$140
Scheduler	\$160

2. The mark-up on any approved item of Extra Services performed by sub-consultant(s) or subcontractor(s) shall not exceed five percent (5%).

EXHIBIT "C"

SCHEDULE OF WORK

[To be completed/inserted]

EXHIBIT C

Sacramento City Unified School District - McClatchy - Field

Schedule / Phase	2023							2024							Total Hours	Rates	Total		
	S	O	N	D	J	F	M	A	M	J	J	A	S	O				N	D
Design/Approvals	160	200	160	160	200	160	160	200	160	160	200	160	160	200	160	200			
Procurement of DBB	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16			
Precon Services	Procurement of DBB																		
Construction	Precon Services																		
Move in and Closeout	Construction																		
Milestones	Move in and Closeout																		
CONSTRUCTION MANAGEMENT SERVICES																			
Position / Classification	Name																		
Project Director	2	4	4	4	4	8	8	8	8	8	8	8	8	8	4	4	66.0	\$ 215.00	\$ 14,190
Project Manager				40	50	80	120	140	160	160	200	160	160	200	160	200	1110.0	\$ 160.00	\$ 177,600
Project Engineer					16	24	32	32	32	32	32	16	16	16	16	16	256.0	\$ 105.00	\$ 26,880
Total (FTEs / Month)	2	4	4	52	70	112	160	180	200	200	236	180	16	16	16	0	1,432		\$ 218,670

Scope of Services: Provide Construction management services from Design through DSA Closeout

Architect: Lionakis
 Project Budget: \$7,500,000
 Fee %: 2.9%

Note: Timeline is based on preliminary schedules. If the contractors schedule pushes out past this timeline the hours will need to be adjusted.

EXHIBIT "D"

FEE SCHEDULE

Compensation

1. The CM's fee set forth in this Agreement shall be full compensation for all of CM's Services incurred in its performance, including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location (travel reimbursements must be approved by District prior to travel), offices, per diem expenses, office supplies, printing, providing, or shipping of deliverables in the quantities set forth in **Exhibit "A."**
2. The amount of compensation shall be the amount set forth in the Agreement, including all billed expenses. No compensation will be paid or due, without advance written approval of the District.

Method of Payment of Basic Services

1. CM shall submit monthly invoices for the portion of the overall fee reflecting the services performed and costs incurred for each respective month. In no event shall the total payments exceed the CM's fee set forth in Article 7 this Agreement except as authorized under **Exhibit "B."**
2. CM shall submit these invoices in duplicate to the District via the District's authorized representative.
3. CM shall submit to District on a monthly basis documentation showing proof that payments were made to his/her sub-consultants.
4. Upon receipt and approval of CM's invoices, the District agrees to make payments on all undisputed amounts no later than thirty (30) days from receipt of the invoice.
5. The District may withhold or deduct from amounts otherwise due CM hereunder if CM fails to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after CM has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting therefrom.

EXHIBIT "E"

CRIMINAL BACKGROUND INVESTIGATION/FINGERPRINTING CERTIFICATION

PROJECT/CONTRACT NO.: 0510-470 between the Sacramento City Unified School District ("District") and Kitchell/CEM Inc. ("CM") for construction management services for the C.K. McClatchy High School New Softball/Baseball Field Improvements Project ("Contract" or "Project").

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the CM currently under contract with the District; that I am familiar with the facts herein certified; and that I am authorized and qualified to execute this certificate on behalf of CM.

CM certifies that it has taken at least one of the following actions with respect to the Project that are the subject of the Contract (check all that apply):

- Pursuant to Education Code section 45125.2, CM has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between CM's employees and District pupils at all times; and/or
- Pursuant to Education Code section 45125.2, CM certifies that all employees will be under the continual supervision of, and monitored by, an employee of the CM who the California Department of Justice ("DOJ") has ascertained, or as described below, will ascertain, has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising CM's and its subcontractors' employees is:

Name: Jeff Dees

Title: Project Director

NOTE: If the CM is a sole proprietor, and elects the above option, CM must have the above-named employee's fingerprints prepared and submitted by the District, in accordance with Education Code section 45125.1(h). No work shall commence until such determination by the DOJ has been made.

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District and undertake to prepare and submit CM's fingerprints as if he or she was an employee of the District.

Date: _____

District Representative's Name and Title: Jesse Castillo, Assistant Superintendent of Business Services

District Representative's Signature: _____

- The Work on the Contract is either (i) at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of the Contract shall come in contact with the District pupils or (ii) CM's employees or any subcontractor or supplier of any tier of the Contract will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees, subcontractors or suppliers so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to CM under the Contract.

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District.

Date: _____

District Representative's Name and Title: _____

District Representative's Signature: _____

- The CM, who is not a sole proprietor, has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all CM's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the DOJ has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of CM's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or
- The CM is a sole proprietor and intends to comply with the fingerprinting requirements of Education Code section 45125.1(h) with respect to all CM's employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and hereby agrees to the District's preparation and submission of fingerprints such that the DOJ may determine that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. No work shall commence until such determination by the DOJ has been made.

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District and undertake to prepare and submit CM's fingerprints as if he or she was an employee of the District.

Date: _____

District Representative's Name and Title: _____

District Representative's Signature: _____

CM's responsibility for background clearance extends to all of its employees, subcontractors or suppliers, and employees of subcontractors or suppliers coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the CM.

KITCHELL/CEM INC.

By: _____

Wendy Cohen
President

Date: 9/16/2023



United College Action Network, Inc.

Sacramento City Unified School District
5735 47th Ave.
Sacramento, CA 95824

July 15, 2023

Proposal to:
SCUSD College & Career Readiness Department
5735 47th Avenue Sacramento, CA 95824
Office: 916.643.9197

Founded in 1988, the United College Action Network (U-CAN), Inc. has successfully assisted thousands of high school students, especially underserved, underrepresented, economically and culturally disadvantaged youth, in the Sacramento City Unified School District, Twin Rivers Unified School District, Natomas Unified School District, San Juan Unified School District, and other school districts in Northern and Southern California, the Central Valley, East Bay Area and Las Vegas NV in matriculating at four-year Historically Black Colleges and Universities (HBCUs). In 2000, U-CAN expanded its program to include college preparation assistance any program participant who wanted to attend any public or private two or four-year college or university. To date, more than 30 million dollars have been awarded for academic and athletic scholarships and several thousand students have received full admissions to our partner HBCUs.

U-CAN's Mission

U-CAN's successful programs are based in the belief that every child is capable of learning and succeeding in a nurturing environment, and the deep commitment to making college a reality for all economically and culturally disadvantaged youth. U-CAN fulfills its mission through strong relationships with local schools and school districts, parents and community leaders, and its long partnerships with the 103 HBCUs in the United States which, while overall providing excellent educations in every field and profession to well prepared students, as well as being more open to accepting promising students with below average GPAs. U-CAN's HBCU partners also offer smaller classes, more financial assistance, and critical direct support from staff and administrators. Additionally, U-CAN's wrap-around approach intentionally targets the many challenges faced by students and their parents, from financial aid and cultural issues to family dynamics, including the lack of knowledge about eligibility criteria for mainstream and historically black colleges and universities. **While U-CAN serves primarily African Americans (89%), any student population that is underserved and underrepresented may participate in U-CAN's on-campus programs and receive assistance in attaining admissions to colleges of their choice. No student is turned away who wishes to participate in any U-CAN program.**

U-CAN proposes to re-instate an expanded service contract to provide services with a targeted intentional focus on continuing re-engaging students while closely monitoring and providing interventions and support of the opportunity gaps acquired during the pandemic crisis school closings. The monitored areas will be the following: college readiness/preparation, college admissions preparation, grades/credit recovery, attendance, behavior, social-emotional readiness/support, and diversity awareness.

U-CAN staff works with students who are recommended by counselors and teachers, recruited through U-CAN program outreach orientations, or attend U-CAN's Annual Historically Black College/University (HBCU) Recruitment Fair scheduled to be held *September 13, 2023* at Luther Burbank High School in Sacramento, CA. Our annual college fair brings to the Sacramento area admissions directors and counselors from over 25 HBCUs, some who will be prepared to offer "on the spot" preliminary admissions and scholarship awards to seniors who will graduate in 2024, if students present copies of required admissions documents (scanned copy of transcripts, essays, SAT/ACT scores, etc.). U-CAN will assist students prepare their application packages.

All U-CAN staff serving students are holders of Bachelor's Degrees, advanced degrees, and/or State Department of Education certifications. All staff have received COVID-19 vaccination.

The Service Contract

United College Action Network, Inc. (U-CAN) is pleased to provide the following 2023-2024 strategically designed proposal for implementation of intentionally targeted direct college and career support services to interested and/or referred high school students in the Sacramento City Unified School District (six (6) comprehensive to assist with mitigating the lost and results of valuable preparation, implementation of steps, and procedures that are required to successfully plan for post-secondary options (2 or 4 year college including commissioned military options/ROTC, etc.)

As a result of the COVID-19 Pandemic, since March 2020, many of our underserved and underrepresented high school students have not had access to in-person instruction, therefore rendering a host of critical opportunity gaps that need to be addressed in order to ensure students meet a-g requirements, be prepared to graduate on time, as well as being prepared to begin their post-secondary plans in a timely matter, including college matriculation in the fall of 2024 for the 2024 graduating class.

College Admissions Preparation (CAP) Program Goals:

This proposal reflects services designed to support high school students on a successful path to career and college attainment and graduation by assisting students individually and in small groups to meet the following program goals:

- Encourage students to see themselves as college bound and instill the belief that college is accessible to everyone,
- Encourage students to assess where they are in their college search and application process and what steps to take to reach their goals of choosing the college that best suits their needs,
- Help students assess their career interests and aspirations and begin researching colleges to pursue those goals,
- Assist students in deeply analyzing their transcripts quarterly, including mandatory and suggestive next steps,
- Assist students and their families to clearly understand the process of college admissions and financial aid, and
- Ensure that students program goals and activities are aligned with District/Departmental Career and College Readiness Goals.

Program Quantifiable Objectives:

1. One hundred per cent (100%) of students enrolled in the UCAN CAP Program will received case-managed services and support, including college application preparation, career interest assessments, college financial aid information/literacy and monthly parental/guardian contacts and updates.
2. Eighty per cent (80%) of program students will be introduced and guided through the process of evaluating three (3) or more colleges, as well as completing and submitting a minimum of three (3) applications for admissions to colleges of their choice.
3. Eighty per cent (80%) of program 12th grade students will be introduced and guided through the financial aid process, including the successful completion and submission of their Free Application for Federal Student Aid (FAFSA). Eleventh grade students will be introduced to and take the online mock FAFSA.
4. One hundred per cent (100%) of program students receiving case management services will be supported to complete the College and Career Guidance Initiative Program (CCGI), including the completion of the CCGI Portfolio (career interest inventory and post-secondary plans) or an alternative approved career assessment inventory.
5. Eighty percent (80%) of program students will received quarterly transcript reviews, including how to calculate grade point average, review of the A-G requirements, quarterly grade checks, and recommendations support interventions. Each session will be followed by both mandatory and suggestive next steps, e.g. better study habits, time management, change classes, request different teacher, tutoring, alternative high school, credit recovery program, etc. Staff will work closely with counselors to accomplish this objective.
6. Eighty percent (80%) of program students will participate in our monthly Social-Emotional Learning (SEL) Activities and Equity and Inclusion Activities.
7. One hundred percent (100%) of monthly updates will be shared with designated site staff member to ensure that students program goals and activities are aligned with District/Departmental Career and College Readiness Goals
8. One hundred per cent (100%) of program students will be required to complete a Request for U-CAN Program Services Form which will also service as both an (an Opt-in Program Form and a Program Pre-Survey Form). If students decide to opt-out of program services, a Program Opt-Out Form will require a student and parent signature.

All student progress will be documented on U-CAN Student Data Accountability System, which will be discussed and shared with site designated staff during quarterly/semester update program meetings.

Direct services will include:

- **participation in college fairs, including U-CAN's Annual Historically Black College/University Fair,**
- **college fairs follow up sessions (including an implementation plan for "next steps" ,**
- **college/career prep coaching,**
- **family engagement sessions,**
- **social-emotional check-ins,**
- **Equity and Inclusion Outreach Activities (survey/question responses/podcasts/webinars/zoom sessions, etc.)**
- **a case management accountability model will be employed to document all program interactions and to monitor all measurable program outcomes, and**
- **monthly site meetings with designated administrative and/or counseling program contact person to share student updates.**

Modes for Delivery of Program Related Services (synchronous and/or asynchronous):

- **bi-weekly large group, class sessions, and small group sessions/meetings,**
- **bi-weekly posted office hours (3 hours x 2) for student follow-up appointments,**
- **scheduled zoom/webinar sessions**

- outreach via text, phone calls, and emails

District/Site Level Program Support:

To provide all services related to the stated CAP Program goals and activities, SCUSD will:

1. Co-host with U-CAN staff/counselor’s meeting for all sites during August-September 2023. *This opportunity will allow U-CAN staff to begin making initial contacts, as well as scheduling future administrative/counselors’ team meetings to share program updates.*
2. Provide designated classroom space for class-size program presentations/meetings and individual sessions conducted during scheduled office hours.
3. Provide a designated CAP Program site administrator or counselor. Schedule monthly meetings/communication opportunity to share program updates and proposed program adjustments.
4. Provide a system for student notifications for scheduled U-CAN program activities, via school announcements, passes, website, etc.
5. Provide copies of student transcripts, attendance, behavior records, and test score for scheduled student progress/update meetings.
6. Provide Professional Development trainings for U-CAN staff to assist staff with the information required to meet specific Districts goals (California Guidance Initiative).

Impact of Services

United College Action Network program/session activities/curriculum provides a comprehensive foundation to accomplish the program goals.

Planned Services	Description (see more detail in Exhibit A and Exhibit B)	Participants
45-50 days of guided engagement/ college planning activities, discussions, assistance, and support in researching career plan and colleges and completing and submitting college admissions packets. (110 days of associated prep/case management activities/mentoring and coaching support/ assistance)	<ul style="list-style-type: none"> • 45-50 days for large group, small group, individual, and family sessions involving successful high school mentoring and coaching targeted interventions that prepare students for success in careers-based post-secondary options: selection of a-g classes, how to get additional support when needed, career to college selections (how career options support choice of college majors), understanding and preparing for financial support in college, resumes, understanding the FAFSA process and reflecting on options/choices selected, and monitoring student attendance and grades. California College Guidance Initiative goals and activities will serve as a model for many of the student career engagement activities of the U-CAN College Admissions Program (CAP) Program. • SEL and Equity and Diversity sessions, outreach surveys, activities, and follow-ups to support any re-engagements issues students may identify or exhibit. • 110+ days of on/off-site support and follow-up with students, counselors, teachers, families, and college officials, etc. (case management). • Parent/Guardian monthly updates, outreach, and referrals to support and assistance, if requested/needed. 	U-CAN will serve: <ul style="list-style-type: none"> • Up to 300 9th to 12th grade students for group and individual sessions/ presentations • case manage a minimum of 125 seniors. (Official case management will begin after the 3rd student meeting.) 9th-11th graders engagement activities will be profile an spreadsheet.

Activities are delineated in the attached Exhibit A: **SCUSD** will be responsible for providing appropriate student meeting space. United College Action Network, Inc. (U-CAN) does provide program participants snacks and required materials needed to complete program projects but does not provide meals. U-CAN will provide copies of all student program materials.

Payment Schedule

The specific amount of fees for the services offered by U-CAN for the 2023-2024 school year in this proposal with the SCUSD is one hundred sixty thousand dollars (\$160,000.00).

United College Action Network, Inc. will invoice **SCUSD** in ten equal installments of Sixteen Thousand Dollars (\$16,000.00) monthly beginning October 1, 2023 for services beginning August 16, 2023 – June 30, 2024. (U-CAN will schedule outreach to school sites from August 16-27, 2023 to begin advertising, registering, and scheduling students to attend the Annual U-CAN Historically Black College and Universities Recruitment Fair, which is tentatively scheduled for September 13, 2023, with no extra cost to the district.)

Monthly Services Provided	Monthly Invoice Submitted	Request Payment on/before Date
August 2023	September 27, 2023	October 15, 2023
October 2023	October 25, 2023	November 15, 2023
November 2023	November 22, 2023	December 17, 2023
December 2023	December 17, 2023	January 17, 2024
January 2024	January 26, 2024	February 15, 2024
February 2024	February 23, 2024	March 15, 2024
March 2024	March 28, 2024	April 15, 2024
April 2024	April 26, 2024	May 16, 2024
May 2024	May 24, 2024	June 15, 2024
June 2024	June 22, 2024	July 15, 2024

All payments should be sent to:

United College Action Network, Inc.
 PO Box 5249
 Fair Oaks, CA 95628
 Cell: 916-591-8558 Office: 916-896-3000

Key Contacts (to be completed by Sacramento City Unified Scholl District

Contract/ Billing Contact

Name	Email	Phone

Professional Development Liaison

Name	Email	Phone

Reservation of Intellectual Property

All materials developed or provided by U-CAN (dba United College Action Network, Inc.) or its agents pursuant to this Agreement, and any know-how, methodologies, equipment, or processes used by United College Action Network, Inc. to provide the Services to **SCUSD** including, without limitation, all copyrights, trademarks, trade secrets, and other proprietary rights are and will remain the sole and exclusive property of United College Action

Network, Inc. Unauthorized copying, reverse engineering, and creating unauthorized derivative works based on such materials are expressly forbidden except as outlined in this Agreement.

Agreement

United College Action Network, Inc. (dba U-CAN) and Sacramento City Unified Scholl District agree to the above scope of services. This scope of services may only be changed in writing and must be signed by both parties. By signing this agreement, you attest that you are authorized to sign on behalf of **Sacramento City Unified Scholl District**.



United College Action Network, Inc.

SCUSD Representative: Jesse Castillo

President/CEO

Assistant Superintendent of Business Services

Title

Title

July 15, 2023

Date

Date

Please return a **signed copy of this agreement** and a **Purchase Order** (if applicable) to Barbara Evans, U-CAN Deputy Director, via email/scan at bevans@ucangtc.org or via fax at (916) 591-8558.

Attachment: **Exhibit A** – Proposal Activity Details

Month of Service	Activity (Re-engagement presentation/mentoring/coaching Activities, Discussions, College/Financial Aid (FAFSA/SAR) Research, Preparing and Submitting College Application Packets, Student Program Assessments, Transcript reviews, SEL and Equity and Inclusion checks and discussions)	Schools and # of Participants Rosemont, Kennedy, Johnson, Burbank, McClatchy, and W. Campus	Minimum # of Facilitator Days	Total Cost
August-October 2023	5 days campus recruitment/online registration/field trip forms/prep for U-CAN Annual College Fair 2 days Follow-up college fair activities 4 days of group/individual support completing/submitting new FAFSA (1-day PD for FAFSA (Date TBA)	Serve up to 300 students	20	\$32,000.00
November 2023 - January 2024	Monthly: 1 day of on-site group support/presentations 1 day of off-site support, Nov.-Jan. transcript review w/feedback 2 days individual /family case management activities 1 day of prep/follow-up): Adjust schedules to meet needs of specific school population. Jan.-May 9 th , 10 th , and 11 th graders begin college prep activities	Serve up to 300 students	30	\$48,000.00
February-April 2024	Seniors-Begin to review instructions on how to read and analyze the FAFSA Student Aid Report (SAR) as seniors begin to receive reports. April transcript review w/feedback Continue-juniors college prep activities: ACT Info/prep/waivers, college evaluations, CCGI Career Assessments/transcript analysis/mock FAFSA and letters of recommendations	Serve up to 300 students	30	\$48,000.00
May - June 2024	Follow up Feb.-April prep activities. June-Finalize post-secondary plans. Produce and submit EOY Reports	Serve up to 300 students	20	\$32,000.00
Program/Contract Total:			100	\$160,000.00

Attachment: **Exhibit B** Sample Monthly Activities

	October	November
Main Focus	<ul style="list-style-type: none"> • Transcript Review • FAFSA • HS College Planning Guide • UCAN Orientation/Activities (new students) • School Attendance 	<ul style="list-style-type: none"> • Scholarship Search and Prioritizing • UCAN Orientation/Activities (new students) • Understanding Transcripts, GPA, and Course Selections
Student Re-engagement Activities	<p>Discussion and Review Topics</p> <ul style="list-style-type: none"> • FAFSA/Financial Aid-Register online and submit • College Application • Review FA Checklist • Repaying Federal Loans • Introduction/Registration for Career Assessments • School Attendance and Responsibility for Make-up work 	<ul style="list-style-type: none"> • Discuss the importance of Letters of Recommendation and How and Who to Ask to Write for You (HO) • Discuss the Importance of Good Character (HO) • Introduction/Registration for Career Assessments • Understanding A-G and NCAA course requirements
SEL/Equity and Inclusion	<ul style="list-style-type: none"> • See Appendix C for suggested topics and questions for surveys, webinars, zoom/discussion sessions 	<ul style="list-style-type: none"> • See Appendix C for suggested topics and questions for surveys, webinars, zoom/discussion sessions
Out of School Tasks	<ul style="list-style-type: none"> • Complete College Search Worksheet • Begin Formal Scholarship Search 	<ul style="list-style-type: none"> • Continue Working on College Search Worksheet • Continue Formal Scholarship Search
UCAN Follow-up Activities	<ul style="list-style-type: none"> • Plan to meet with Admission Officers schedule visits/conference calls • Plan additional time to meet with students individually and/or families regarding college plans • Track, document and monitor students' college acceptance data 	<ul style="list-style-type: none"> • Plan to meet with Admission Officers schedule visits/conference calls • College Planning Timeline Check • Register for SAT/ACT • Document and tabulate college acceptances and scholarship awards
Other Information Handouts (HO)	<ul style="list-style-type: none"> • How and Who to Ask to Write for You...Letters of Recommendation (HO) • Discuss the "The Importance of Good Character" (HO) 	<ul style="list-style-type: none"> • College Prep Websites
Parent Connections	<ul style="list-style-type: none"> • Share "Elevator Introduction Speech with family 	<ul style="list-style-type: none"> • Contact parents to encourage attendance at site Financial Aid Workshops

Attachment: **Exhibit C** – Proposal Social-Emotional, Equity, Diversity, and Inclusion Activity Topics

Weekly Social-Emotional, Equity, and Inclusion Activity Topics	
Skills and Competencies	
<i>Month of</i>	How well students are able to persevere through setbacks to achieve important long-term goals (not limited to academics) taking into account their experiences and identities.
October	Student perceptions of whether students have the potential to change those factors that are central to their performance.
	How well students manage their emotions, thoughts, and behavior in different situations.
	How well students consider the perspectives of other and empathize with them.
November	How much students believe they can succeed in achieving academic outcomes.
	How well students deliberately use strategies to manage their own learning processes generally.
	How much effort students put into school and learning?
December	How well students regulate their emotions.
Supports and Environment	
December	Perceptions of the overall social and learning climate of the school.
January	How strong the social connection is between teachers and students within and beyond the school.
	How much students feel that they are valued members of the school community.
	Perceptions of student physical and psychological safety while at school.
	How diversity, integrated, and fair school is for students from different races, with ethnicities, or cultures.
February	How often students learn about, discuss, and confront issues of race, ethnicity, and culture in school.
	How attentive and invested students are in school.
	How much students feel their teachers hold them to high expectations around effort, understanding, persistence, and performance in class.
March	How much students feel that an academic subject is interesting, important, and useful.
	How much students feel that school is interesting, important, and useful.
Student Well-Being	
March	How frequently students feel positive emotions.
April	How frequently students feel challenging emotions.
May	How supported students feel through their relationships with friends, family, and adults at school.
Sample Questions	<ol style="list-style-type: none"> 1. What is the biggest challenge you have faced in your life? 2. What is one thing you wish your teacher knew about you? 3. What accomplishments are you most proud of? 4. What do you wish your teacher would know about your experiences of race, ethnicity, or culture at school? 5. What is the most important thing your school can keep doing to support students of different races, ethnicities, and cultures? 6. Thinking about everything in your life right now, what makes you feel the happiest? 7. Thinking about everything in your life right now, what feels the hardest for you? 8. How can teachers or other adult at the school do to better support you?



Quote

Bluum USA, Inc. (f.k.a. Troxell Communications Inc.)
4675 E. Cotton Center Blvd
Suite 155
Phoenix AZ 85040
www.bluum.com

#281841

07/13/2023

Bill To
Sacramento City Unified School District
5735 47TH AVE
SACRAMENTO CA 95824-4528

Ship To
P23-04467
PURCHASING SERVICES & WAREHOUSE
3051 REDDING AVE
SACRAMENTO CA 95820

Memo:
Epson PL 119W & Screen quote (200)

Expires	Sales Rep	Contract	Terms
10/11/2023	848 Bill Pitzner	01-150 Omnia (NCPA)	Net 30

Qty	Item	MFG	Price	Ext. Price
200	V11H985020 EPSON PowerLite 119W Projector, WXGA, 4000 Lumens	Epson	\$542.00	\$108,400.00
200	V12H002S3Y ES3000 Ultraportable Projector Screen (Up To 80in Diagonal)	Epson	\$193.00	\$38,600.00

Subtotal	\$147,000.00
Tax Total (8.75%)	\$12,862.50
Shipping Cost	\$0.00
Total	\$159,862.50

This document is subject to the terms and conditions found here: www.bluum.com/terms-conditions. For quotes over \$25,000 a Purchase Order is required, please reference this quote number on your PO. If purchasing via credit card a 2.5% surcharge fee will apply. For questions please contact your Bluum Account Representative.

Please inspect product upon delivery. All claims for defective merchandise or errors in shipping must be made within five days after receipt of goods. Returns require an authorization number and must be made within 30 days. A minimum 25% restocking fee may apply with the exception of out of box failures and replacements under warranty.



281841

SERVICES AGREEMENT

Date: August 2, 2023 **Place:** Sacramento, California

Parties: Sacramento City Unified School District, a political subdivision of the State of California, (hereinafter referred to as the "District"); and Vision 20000 (hereinafter referred to as "Contractor").

Recitals:

A. The District is a public school district in the County of Sacramento, State of California, and has its administrative offices located at the Serna Center, 5735 47th Avenue, Sacramento, CA 95824.

B. The District desires to engage the services of the Contractor and to have said Contractor render services on the terms and conditions provided in this Agreement.

C. California Government Code Section 53060 authorizes a public school district to contract with and employ any persons to furnish to the District, services and advice in financial, economic, accounting, engineering, legal, or administrative matters if such persons are specially trained, experienced and competent to perform the required services, provided such contract is approved or ratified by the governing board of the school district. Said section further authorizes the District to pay from any available funds such compensation to such persons as it deems proper for the services rendered, as set forth in the contract.

D. The Contractor is specially trained, experienced and competent to perform the services required by the District, and such services are needed on a limited basis.

In consideration of the mutual promises contained herein, the parties agree as follows:

ARTICLE 1. SERVICES.

The Contractor hereby agrees to provide to the District the services as described below ("Services"):

Develop, administer, maintain and sustain the tutoring/intervention program under ESSA/ESEA to eligible private school students during the 2023-24 school year. The primary purpose of the Vision 2000 Programming is to enhance academic skills and provide services to eligible students in private non-profit schools that are equitable to those provided district-wide.

Contractor will work collaboratively with the District to develop, support, coordinate, and implement the Vision 2000 Student Support Program. This collaboration is designed to assist academically low performing, eligible students who live in District Title I funded school attendance areas with literacy and numeracy development services designed to support increased academic achievement and provide opportunities for parents to actively participate in their children's education.

Roles and responsibilities:

- i. Contractor shall adhere to scope of the services outlined in this agreement.

- ii. Contractor shall employ, compensate, supervise and provide training as necessary to all personnel required including teachers, tutors, academic coaches, counselors, and social workers.
- iii. Contractor supervision will include at least two (2) monthly site visits (or online visits, during the COVID-19 pandemic) with each tutor where evaluative data can be collected and strategies to maximize efficacy can be shared.
- iv. Contractor shall provide and coordinate space and location of all sponsored professional development, meetings, and trainings. Contractor shall coordinate the convening of all necessary parties to facilitate program planning and modifications.
- v. Contractor agrees that all services will be non-sectarian, non-religious and non-ideological in nature and will only be provided in private schools that maintain non-profit status and have provided all student data to the District.
- vi. Contractor will be responsible for either collecting student standardized assessment data that verifies low performance status or administer a standardized pre-assessment to all students who participate in the program. Contractor will also collect or administer post tutoring assessments. Pre and post assessment data for each served student will be made available to the district upon request.
- vii. Contractor will only bill for those services for students who are identified by the district as eligible to participate in the program.

ARTICLE 2. TERM.

This Agreement shall commence on July 1, 2023, and continue through July 30, 2024, unless sooner terminated, as set forth in Article 10 of this Agreement, provided all services under this Agreement are performed in a manner that satisfies both the needs and reasonable expectations of the District. The determination of a satisfactory performance shall be in the sole judgment and discretion of the District in light of applicable industry standards, if applicable. The term may be extended by mutual consent of the parties on the same terms and conditions by a mutually executed addendum.

ARTICLE 3. PAYMENT.

District agrees to pay Contractor for services satisfactorily rendered pursuant to this Agreement as follows:

Fee Rate: \$65.00 per hour of services as may be requested by District. Additionally, District will compensate Contractor at the rate of 3% for administrative costs. District shall not pay travel and other expenses. Total fee shall not exceed One Hundred Ninety-Four Thousand Dollars (\$194,000).

Payment shall be made within 30 days upon submission of monthly invoices (with hours delineated by school site), which will include all required documentary backup including Student Sign-In/Attendance Verification Sheets, to the attention of Dr. Kelley Odipo, State & Federal Programs, Sacramento City Unified School District, 5735 47th Avenue, Sacramento, California 95824.

ARTICLE 4. EQUIPMENT AND FACILITIES.

District will provide Contractor with access to all needed records and materials during normal business hours upon reasonable notice. However, District shall not be responsible for nor will it be required to provide personnel to accomplish the duties and obligations of Contractor under

this Agreement. Contractor will provide all other necessary equipment and facilities to render the services pursuant to this Agreement.

ARTICLE 5. WORKS FOR HIRE/COPYRIGHT/TRADEMARK/PATENT

The Contractor understands and agrees that all matters specifically produced under this Agreement that contain no intellectual property or other protected works owned by Contractor shall be works for hire and shall become the sole property of the District and cannot be used without the District's express written permission. The District shall have the right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. The Contractor consents to the use of the Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose in any medium.

As to those matters specifically produced under this Agreement that are composed of intellectual property or other protected works, Contractor must clearly identify to the District those protected elements included in the completed work. The remainder of the intellectual property of such completed works shall be deemed the sole property of the District. The completed works that include both elements of Contractor's protected works and the District's protected works, shall be subject to a mutual non-exclusive license agreement that permits either party to utilize the completed work in a manner consistent with this Agreement including the sale, use, performance and distribution of the matters, for any purpose in any medium.

ARTICLE 6. INDEPENDENT CONTRACTOR.

Contractor's relationship to the District under this Agreement shall be one of an independent contractor. The Contractor and all of their employees shall not be employees or agents of the District and are not entitled to participate in any District pension plans, retirement, health and welfare programs, or any similar programs or benefits, as a result of this Agreement.

The Contractor and their employees or agents rendering services under this agreement shall not be employees of the District for federal or state tax purposes, or for any other purpose. The Contractor acknowledges and agrees that it is the sole responsibility of the Contractor to report as income its compensation from the District and to make the requisite tax filings and payments to the appropriate federal, state, and/or local tax authorities. No part of the Contractor's compensation shall be subject to withholding by the District for the payment of social security, unemployment, or disability insurance, or any other similar state or federal tax obligation.

The Contractor agrees to defend, indemnify and hold the District harmless from any and all claims, losses, liabilities, or damages arising from any contention by a third party that an employer-employee relationship exists by reason of this Agreement.

The District assumes no liability for workers' compensation or liability for loss, damage or injury to persons or property during or relating to the performance of services under this Agreement.

ARTICLE 7. FINGERPRINTING REQUIREMENTS.

Contractor agrees that any employee it provides to the District shall be subject to the fingerprinting and TB requirements set forth in the California Education Code. Pursuant to Education Code §45125.1, Contractor shall certify in writing to the District that neither the employer nor any of its employees who are required to have their fingerprints submitted to the

Department of Justice (DOJ), and who may come in contact with pupils, have been convicted of a felony as defined in §45122.1.

Contractor will provide a complete list to the District of all employees cleared by the DOJ who will provide services under this Agreement (or MOU). Contractor shall obtain subsequent arrest service from DOJ for ongoing notification regarding an individual whose fingerprints were submitted pursuant to §45125.1. Upon receipt of such a subsequent arrest notification from DOJ, Contractor shall, within 24 hours, notify the District of such a subsequent arrest notification. If an employee is disqualified from working for the District pursuant to the requirements of the California Education Code, Contractor agrees to provide a replacement employee within 15 days of receiving notification that the previous employee has been disqualified. Failure to adhere to the terms of this provision is grounds for termination of the Agreement.

ARTICLE 8. MUTUAL INDEMNIFICATION.

Each of the Parties shall defend, indemnify and hold harmless the other Party, its officers, agents and employees from any and all claims, liabilities and costs, for any damages, sickness, death, or injury to person(s) or property, including payment of reasonable attorney's fees, and including without limitation all consequential damages, from any cause whatsoever, arising directly or indirectly from or connected with the operations or services performed under this Agreement, caused in whole or in part by the negligent or intentional acts or omissions of the Parties or its agents, employees or subcontractors.

It is the intention of the Parties, where fault is determined to have been contributory, principles of comparative fault will be followed and each Party shall bear the proportionate cost of any damage attributable to fault of that Party. It is further understood and agreed that such indemnification will survive the termination of this Agreement.

ARTICLE 9. INSURANCE.

Prior to commencement of services and during the life of this Agreement, Contractor shall provide the District with a certificate of insurance reflecting its comprehensive general liability insurance coverage in a sum not less than \$2,000,000 per occurrence naming District as an additional insured. Such insurance as is afforded by this policy shall be primary, and any insurance carried by District shall be excess and noncontributory. If insurance is not kept in force during the entire term of the Agreement, District may procure the necessary insurance and pay the premium therefore, and the premium shall be paid by the Contractor to the District.

Sexual Abuse and Molestation Insurance. A) Sexual Abuse and Molestation Insurance is required with limits not less than five million dollars (**\$5,000,000**) per occurrence. This insurance shall cover potential claims of sexual abuse or molestation. B) The Sexual Abuse and Molestation coverage must either be included under a General Liability policy or obtained in a separate policy. An policy inception date, continuity date, or retroactive date must be before the effective date of this agreement, and Contractor agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

ARTICLE 10. TERMINATION.

The District may terminate this Agreement without cause upon giving the Contractor thirty days written notice. Notice shall be deemed given when received by Contractor, or no later than three days after the day of mailing, whichever is sooner.

The District may terminate this Agreement with cause upon written notice of intention to terminate for cause. A Termination for Cause shall include: (a) material violation of this Agreement by the Contractor; (b) any act by the Contractor exposing the District to liability to others for personal injury or property damage; or (c) the Contractor confirms its insolvency or is adjudged a bankrupt; Contractor makes a general assignment for the benefit of creditors, or a receiver is appointed on account of the Contractor's insolvency.

Ten (10) calendar days after service of such notice, the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, or this Agreement shall cease and terminate. In the event of such termination, the District may secure the required services from another contractor. If the cost to the District exceeds the cost of providing the service pursuant to this Agreement, the excess cost shall be charged to and collected from the Contractor. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to the District. Written notice by the District shall be deemed given when received by the other party or no later than three days after the day of mailing, whichever is sooner.

ARTICLE 11. ASSIGNMENT.

This Agreement is for personal services to be performed by the Contractor. Neither this Agreement nor any duties or obligations to be performed under this Agreement shall be assigned without the prior written consent of the District, which shall not be unreasonably withheld. In the event of an assignment to which the District has consented, the assignee or his/her or its legal representative shall agree in writing with the District to personally assume, perform, and be bound by the covenants, obligations, and agreements contained in this Agreement.

ARTICLE 12. NOTICES.

Any notices, requests, demand or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, or on the day after dispatching by Federal Express or another overnight delivery service, and properly addressed as follows:

District:
Sacramento City Unified School District
PO Box 246870
Sacramento CA 95824-6870
Attn: Contracts Dept.

Contractor:
Vision 2000
2816 Robinson Creek Ln
Elk Grove, CA 95758
Attn: Dr. Hazel Mahone, President

ARTICLE 13. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties and supersedes all prior understanding between them with respect to the subject matter of this Agreement. There are no promises, terms, conditions or obligations, oral or written, between or among the parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations

under this Agreement be waived, except by written instrument signed by the party to be otherwise expressly permitted in this Agreement.

ARTICLE 14. CONFLICT OF INTEREST.

The Contractor shall abide by and be subject to all applicable District policies, regulations, statutes or other laws regarding conflict of interest. Contractor shall not hire any officer or employee of the District to perform any service covered by this Agreement. If the work is to be performed in connection with a Federal contract or grant, Contractor shall not hire any employee of the United States government to perform any service covered by this Agreement.

Contractor affirms to the best of their knowledge, there exists no actual or potential conflict of interest between Contractor's family, business or financial interest and the services provided under this Agreement. In the event of a change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to the District's attention in writing.

ARTICLE 15. NONDISCRIMINATION.

It is the policy of the District that in connection with all services performed under contract, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, handicap, religious creed, sex, age or marital status. Contractor agrees to comply with applicable federal and California laws including, but not limited to, the California Fair Employment and Housing Act.

ARTICLE 16. SEVERABILITY.

Should any term or provision of this Agreement be determined to be illegal or in conflict with any law of the State of California, the validity of the remaining portions or provisions shall not be affected thereby. Each term or provision of this Agreement shall be valid and be enforced as written to the full extent permitted by law.

ARTICLE 17. RULES AND REGULATIONS.

All rules and regulations of the District's Board of Education and all federal, state and local laws, ordinance and regulations are to be strictly observed by the Contractor pursuant to this Agreement. Any rule, regulation or law required to be contained in this Agreement shall be deemed to be incorporated herein.

ARTICLE 18. APPLICABLE LAW/VENUE.

This Agreement shall be governed by and construed in accordance with the laws of the State of California. If any action is instituted to enforce or interpret this Agreement, venue shall only be in the appropriate state or federal court having venue over matters arising in Sacramento County, California, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by the District.

ARTICLE 19. RATIFICATION BY BOARD OF EDUCATION.

This Agreement is not enforceable and is invalid unless and until it is approved and/or ratified by the governing board of the Sacramento City Unified School District, as evidenced by a motion of said board duly passed and adopted.

Executed at Sacramento, California, on the day and year first above written.



**SACRAMENTO CITY
UNIFIED SCHOOL DISTRICT**

VISION 2000

By: _____
Jesse Castillo
Assistant Superintendent of Business Services

By: Hazel W. Mahone
Hazel Mahone
President

Date

9/18/23
Date

EXHIBIT A

CONTRACTOR CERTIFICATION of COMPLIANCE

Fingerprinting: Education Code section 45125.1 provides that any contractor providing school site administrative or similar services to a school district must certify that employees who may come into contact with pupils have not been convicted of a serious or violent felony as defined by law. Those employees must be fingerprinted and the Department of Justice (DOJ) must report to the Contractor if they have been convicted of such felonies. No person convicted may be assigned to work under the contract. Depending on the totality of circumstances including (1) the length of time the employees will be on school grounds, (2) whether pupils will be in proximity of the site where the employees will be working and (3) whether the contractors will be working alone or with others, the District may determine that the employees will have only limited contact with pupils and neither fingerprinting nor certification is required.

The District has determined that section 45125.1 is applicable to this Agreement, and that the employees assigned to work at a school site under this Agreement will have only limited contact with pupils, provided the following conditions are met at all times:

1. Employees shall not come into contact with pupils or work in the proximity of pupils at any time except under the direct supervision of school district employees.
2. Employees shall use only restroom facilities reserved for District employees and shall not use student restrooms at any time.
3. Contractor will inform all employees who perform work at any school or District site of these conditions and require its employees, as a condition of employment, to adhere to them.
4. Contractor will immediately report to District any apparent violation of these conditions.
5. Contractor shall assume responsibility for enforcement of these conditions at all times during the term of this Agreement.

If, for any reason, the Contractor cannot adhere to the conditions stated above, the Contractor shall immediately so inform the District and shall assign only employees who have been fingerprinted and cleared for employment by the Department of Justice. In that case, the Contractor shall provide to the District the names of all employees assigned to perform work under this Agreement. Compliance with these conditions, or with the fingerprinting requirements, is a condition of this Agreement, and the District reserves the right to suspend or terminate the Agreement at any time for noncompliance.

Hazel W. Mahone
Authorized Signature of Contractor

9/18/23
Date

President
Printed Name/Title
Hazel W. Mahone

Amendment No. 1

Supplemental 504 Accommodation Nursing Staff Service Agreement

BETWEEN

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT HEALTH SERVICES DEPARTMENT
AND
MAXIM HEALTHCARE STAFFING SERVICES, INC.

Agreement between the Sacramento City Unified School District (DISTRICT) and Maxim Healthcare Staffing Services, Inc. (PROVIDER) is hereby amended as follows:

2.4 Scope of Work

J) Contracted staff at the Medical Assistant level will assist with testing and contact tracing of DISTRICT staff and students and other related duties pertaining to COVID-19 mitigation measures. Duties include but are not limited to:

- Travel to multiple sites to perform PCR and rapid antigen COVID testing
- Register and document testing and results in online application
- Use appropriate PPE as directed for testing tasks
- Maintain testing area and enforce mitigation measures at all times
- Observe and direct staff and students in self swabbing anterior nasal samples
- Perform testing procedures, applying drops, handling specimens package, packaging as directed
- Contact via phone, email, text staff and parents for contact tracing follow up.
- Monitoring and documenting person’s quarantine, testing status and return to work/school per district guidelines
- Documenting contacts and activities
- Communicate with SCUSD school nurses for oversight and training
- Other duties as assigned related to all COVID mitigation measures, testing and contact tracing of staff and students
- Staff must successfully complete the Johns Hopkins Contact Tracing training
- Staff will undergo other trainings as needed that support the testing protocols, contact tracing, or other public health measures

All other clauses and conditions between DISTRICT and PROVIDER as defined by the Agreement remain unchanged.


IN WITNESS WHEREOF, the parties hereby intending to be legally bound have caused this Agreement to be executed by their duly authorized representatives.

Sacramento City Unified School District

Maxim Healthcare Staffing Services, Inc.

Signature

Signature

DocuSigned by:

 242E424B81E34AB...

Printed Name and Title

Florence Ugokwe ~~Assistant Controller~~

Printed Name and Title

Date

Date

Amendment No. 1

Supplemental 504 Accommodation Nursing Staff Service Agreement

BETWEEN

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT HEALTH SERVICES DEPARTMENT

AND

ACTION SUPPORTIVE CARE SERVICES, INC.

Agreement between the Sacramento City Unified School District (DISTRICT) and Action Supportive Care Services, Inc. (PROVIDER) is hereby amended as follows:

2.4 Scope of Work

J) Contracted staff at the Medical Assistant level will assist with testing and contact tracing of DISTRICT staff and students and other related duties pertaining to COVID-19 mitigation measures. Duties include but are not limited to:

- Travel to multiple sites to perform PCR and rapid antigen COVID testing
- Register and document testing and results in online application
- Use appropriate PPE as directed for testing tasks
- Maintain testing area and enforce mitigation measures at all times
- Observe and direct staff and students in self swabbing anterior nasal samples
- Perform testing procedures, applying drops, handling specimens package, packaging as directed
- Contact via phone, email, text staff and parents for contact tracing follow up.
- Monitoring and documenting person's quarantine, testing status and return to work/school per district guidelines
- Documenting contacts and activities
- Communicate with SCUSD school nurses for oversight and training
- Other duties as assigned related to all COVID mitigation measures, testing and contact tracing of staff and students
- Staff must successfully complete the Johns Hopkins Contact Tracing training
- Staff will undergo other trainings as needed that support the testing protocols, contact tracing, or other public health measures

All other clauses and conditions between DISTRICT and PROVIDER as defined by the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereby intending to be legally bound have caused this Agreement to be executed by their duly authorized representatives.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

ACTION SUPPORT CARE SERVICES, INC

Signature



Signature

Printed Name and Title

Drew Brusaseletti Assistant Administrator

Printed Name and Title

Date

8/8/23

Date

Supplemental 504 Accommodation Nursing Staff Service Agreement

AGREEMENT BETWEEN

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT'S HEALTH SERVICES DEPARTMENT

AND

ACTION SUPPORTIVE CARE SERVICES, INC.

This Agreement is entered into on this day of 2023, by and between SACRAMENTO CITY UNIFIED SCHOOL DISTRICT'S HEALTH SERVICES DEPARTMENT located at 5735 47th Avenue, Box 764, Sacramento, CA 95824, hereinafter referred to as **DISTRICT**, and ACTION SUPPORTIVE CARE SERVICES, INC. located at 7777 Greenback Lane, Suite 208, Citrus Heights, CA 95610, hereinafter referred to as **PROVIDER**.

Recitals

WHEREAS, DISTRICT operates schools, as defined by State Law located in California and wishes to engage PROVIDER to provide trained healthcare PERSONNEL to supplement DISTRICT staff for 504 Accommodation Nursing needs and:

WHEREAS, PROVIDER operates a supplemental staffing agency and employs licensed health care PERSONNEL to provide health care services to DISTRICT.

NOW, THEREFORE, in consideration of the premises, the covenants, and agreements set out below, PROVIDER and DISTRICT agree as follows:

1. Term of Agreement

1.1 **Term.** This is a one (1) year agreement for July 1, 2023 through June 30, 2024 with the option to renew annually for up to two (2) additional years, at the sole discretion of DISTRICT. No services are to be rendered until PROVIDER has received a signed, valid Purchase Order from DISTRICT.

1.2 **Termination.** This Agreement may be terminated at any time by either party, with or without cause, by giving 30 days' written notice of such termination. Such termination will have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination.

In the event of a termination for cause, DISTRICT may secure the required services from another PROVIDER. If the cost to DISTRICT exceeds the cost of providing the service pursuant to this Agreement, PROVIDER shall pay the additional cost.

2. Responsibility of PROVIDER

2.1 **Compliance with Laws, Statutes, Regulations.** During the term of this Agreement, unless otherwise agreed, PROVIDER shall comply with all applicable Federal, state, and local statutes, laws, ordinances, rules, policies, and regulations. PROVIDER shall also comply with all applicable DISTRICT policies and procedures unless PROVIDER and DISTRICT specifically agree, in writing, that a policy or policies, or a portion of a policy, does/do not reasonably apply to PROVIDER. PROVIDER hereby acknowledges and agrees that it accepts all risks and responsibilities for its failure to comply with DISTRICT policies and shall indemnify DISTRICT under the provisions of Sections 2.9, 5 and 6 of this Agreement for all liability, loss, damage and expense (including reasonable attorneys' fees) resulting from or arising out of PROVIDER'S failure to comply with applicable DISTRICT policies (e.g., those policies relating to the provision of 504

Accommodations and/or related services, facilities for individuals with exceptional needs, DISTRICT student enrollment and transfer, DISTRICT student inactive status, corporal punishment, student discipline, and positive behavior interventions).

2.2 **Services.** PROVIDER will, upon request of DISTRICT, one or more appropriately licensed or certified healthcare professionals (i.e. Medical Assistants, LVNs, RNs, and other various health and related services staff, hereinafter referred to as PERSONNEL) as specified by DISTRICT to supplement DISTRICT staff for 504 Accommodation Nursing needs, subject to availability of qualified PERSONNEL. Subject to the terms of Section 5.9 of this Agreement, to the extent that PROVIDER is unable to provide the type of healthcare provider requested by DISTRICT, PROVIDER will supply DISTRICT with a higher skilled healthcare provider. PROVIDER must, however, bill that higher skilled provider at that provider's hourly rate as defined in this Agreement. Assignment of Students is at the sole discretion of DISTRICT, and DISTRICT reserves the right to assign a student to another contracted agency at any time for any reason.

2.3 **Scope of Work.** PROVIDER will:

- A) Adhere to all guidelines outlined in DISTRICT's "*AGENCY HEALTHCARE PROFESSIONAL EXPECTATIONS*" document (EXHIBIT A).
- B) Provide direct healthcare services as prescribed by a "licensed authorized healthcare provider" (hereinafter referred to as HCP) to DISTRICT students with 504 Accommodation(s) who require such services at student's school of attendance, or in certain circumstances, at agreed field trip locations.
- C) Coordinate with the School Nurse assigned to the school site regarding all direct care services being provided to the student with 504 Accommodation(s). School Nurse will function as the case manager and facilitate all communications with HCP, parent/guardian, teachers, and DISTRICT.
- D) Immediately route all forms received by PERSONNEL to DISTRICT. Upon request, assist DISTRICT with obtaining necessary signatures from parent/guardian when DISTRICT receives incomplete form.
- E) Follow the most recent signed written orders from HCP after verifying presence of signed authorization from the parent or guardian of the student, indicating consent for the student to receive the HCP-prescribed direct care services at school.
- F) Minimize classroom disruptions in providing care per the written orders.
- G) Review current HCP orders and recent direct care logs; maintain daily documentation records in accordance with the requirements of confidentiality of student records. Records including HCP orders and parent requests, are to be considered mandatory interim student records that must remain on campus.
- H) Provide for the safety and direct care services for the student with 504 Accommodation(s), assuring personal privacy and dignity of the student.
- I) Assume responsibility for following emergency procedures, according to DISTRICT policy, should the need arise. DISTRICT Registered Certificated School Nurse may train PROVIDER PERSONNEL to administer emergency medications for diabetes, seizures, anaphylaxis, and opioid overdose. The DISTRICT will provide documentation of indicated training to the PROVIDER.

2.4 **Amendment of Scope of Work.** Scope of Work as defined in section 2.3 may be amended with written approval of both PROVIDER and DISTRICT.

2.5 **PERSONNEL.** PROVIDER will supply DISTRICT with PERSONNEL who meet the following criteria and will

provide evidence of any or all of the following to DISTRICT upon written request:

- A) **Professional Licenses.** Possess current state license(s), certification(s) and/or credential(s), as applicable and appropriate for the services provided to DISTRICT, including cardiopulmonary resuscitation certification, all documentation of which will be kept in the PROVIDER employee file. PROVIDER shall monitor the status of licenses, credentials, certifications, permits and/or other documents for all individuals employed, contracted, and/or otherwise hired by PROVIDER.
- B) **Clearances.** Completed state-specific background checks and health assessment requirements, as defined by California education code, including but not limited to obtaining clearances from both the California Department of Justice (CDOJ) and clearance from the Federal Bureau of Investigation (FBI) and Tuberculosis clearances.
- C) **Transportation.** Possess a valid California driver's license and have access to a reliable vehicle.
- D) **Compliance Training.** Complete annual training within the past 12 months for current Cal-OSHA, HIPAA, FERPA, California Minor Consent and Confidentiality, Child Abuse Mandated Reporter, and medication administration and basic first aid laws and regulations to be approved by DISTRICT and provided by PROVIDER.
- E) **Procedural Training and Skills Check.** Complete training within the past 12 months on all standard and individualized care procedures applicable and appropriate for the services provided to DISTRICT (such as counting carbohydrates and calculating insulin dosage. Administering medications including insulin and emergency medications for diabetes, seizures, and anaphylaxis, proper body mechanics for transfers, clean intermittent catheterization, g-tube feedings and replacing a g-tube), to be provided by PROVIDER, and passed competency skills checks for those procedures, to be administered by a PROVIDER supervising clinician.
- F) **Acknowledgement of Expectations.** Sign an acknowledgement of understanding and commitment to adhere to all guidelines outlined in DISTRICT's "AGENCY HEALTHCARE PROFESSIONAL EXPECTATIONS" document (EXHIBIT A).

2.6 **PERSONNEL Absences.** When PROVIDER PERSONNEL are unable to provide services for their scheduled shift due to illness, transportation challenges, or any other reason, PROVIDER will make every effort to send alternate qualified PERSONNEL to cover the shift. In the event that PROVIDER is able to fill the shift with alternate PERSONNEL, PROVIDER will notify DISTRICT via email by end of day documenting the alternate coverage. In the event that PROVIDER is unable to fill the shift, PROVIDER will contact DISTRICT in the sequence and manner outlined in DISTRICT's "Agency Healthcare Professional Expectations" document (EXHIBIT A).

2.7 Student Absences

- A) **Single Student Caseload.** When PERSONNEL's caseload includes services for only a single student and PROVIDER receives at least 2 hours advance notification of the student's absence from DISTRICT or student's guardian, PERSONNEL is not expected to report for shift.
- B) **Multiple Student Caseload.** When PERSONNEL's caseload includes services for multiple students and PROVIDER receives at least 2 hours advance notification of a student's absence from DISTRICT or student's guardian, PERSONNEL will still report to provide services for the remaining student(s) on caseload, at the level and duration ordered for the remaining student(s), not to be less than 4 hours.
- C) Sometimes PERSONNEL's caseload contains students receiving services under their IEP and ordered by SCUSD's Special Education department as well as students receiving services under their 504

Accommodations and ordered by DISTRICT. In this situation, services rendered at that school site are billed to SCUSD's Special Education department because the student requiring the largest duration or complexity of services at that school site receives those services under their IEP. In the event that the absent student receives services ordered by SCUSD's Special Education department, and the remaining student(s) receive services ordered by DISTRICT, PROVIDER will bill DISTRICT for services provided on that day.

2.8 Field Trip Coverage.

- A) **Single Student Caseload.** When PERSONNEL's caseload includes services for only a single student and that student has a scheduled field trip, PROVIDER will provide services for the duration of time needed, not to be less than 4 hours.
- B) **Multiple Student Caseload.** When PERSONNEL's caseload includes services for multiple students and one of them have a scheduled field trip, original PERSONNEL will attend the field trip with the student leaving campus and provide services for the duration of time needed, not to be less than 4 hours. PROVIDER will supply additional PERSONNEL to provide services for the remaining student(s) on caseload, at the level and duration ordered for the remaining student(s), not to be less than 4 hours.
- C. Overnight Field Trip Coverage - When PERSONNEL's assignment includes overnight services PERSONNEL and DISTRICT agrees to terms of School District Out of Town Agreement. (Appendix B)

2.9 **Insurance.** PROVIDER shall, at their sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed and/or admitted insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with PROVIDER's fulfillment of any of its obligations under this Agreement or either party's use of the work or any component or part thereof:

- A) Commercial General Liability Insurance, including both bodily injury and property damage, with limits as follows:
- \$2,000,000 per occurrence
 - \$ 500,000 fire damage
 - \$ 5,000 medical expenses
 - \$1,000,000 personal & adv. injury
 - \$3,000,000 general aggregate
 - \$2,000,000 products/completed operations aggregate

The policy may not contain an exclusion for coverage of claims arising from claims for sexual molestation or abuse. In the event that PROVIDER's policy should have an exclusion for sexual molestation or abuse claims, then PROVIDER shall be required to procure a supplemental policy providing such coverage.

- B) Business Auto Liability Insurance for all owned scheduled, non-owned or hired automobiles with a \$1 million combined single limit.

If no owned automobiles, then only hired and non-owned is required.

If PROVIDER uses a vehicle to travel to/from school sites, between schools and/or to/from students' homes or other locations as approved service locations by the DISTRICT, PROVIDER must comply with State of California auto insurance requirements.

- C) Workers' Compensation and Employers Liability Insurance in a form and amount covering PROVIDER's full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and Federal laws.

Part A – Statutory Limits

Part B – \$1,000,000/\$1,000,000/\$1,000,000 Employers Liability

D) Errors & Omissions (E & O)/Malpractice (Professional Liability) Insurance, including sexual molestation and abuse coverage, unless that coverage is afforded elsewhere in the Commercial General Liability policy by endorsement or separate policy, with the following limits:

\$1,000,000 per occurrence
\$2,000,000 general aggregate

E) PROVIDER, upon execution of this Agreement and periodically thereafter upon request, shall furnish the DISTRICT with certificates of insurance evidencing such coverage. The certificate of insurance shall include a ten (10) day non-renewal notice provision. The Commercial General Liability and Automobile Liability policy shall name the DISTRICT as additional insured and shall be endorsed on all policies. Certificate of Insurance, additional insured endorsement and declaration of insurance coverages shall be provided to DISTRICT. All premiums on all insurance policies shall be paid by PROVIDER and shall be deemed included in PROVIDER's obligations under this contract at no additional charge.

F) Any deductibles or self-insured retentions above \$100,000 must be disclosed to and approved by the DISTRICT. At its option, DISTRICT may require the PROVIDER, at the PROVIDER's sole cost, to: (a) cause its insurer to reduce to levels specified by the DISTRICT or eliminate such deductibles or self-insured retentions with respect to the DISTRICT, its officials and employees, or (b) procure a bond guaranteeing payment of losses and related investigation.

G) For any claims related to the services contracted for under this Agreement, the PROVIDER's insurance coverage shall be primary insurance as respects to the DISTRICT, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by the DISTRICT, its subsidiaries, officials and employees shall be excess of the PROVIDER's insurance and shall not contribute with it.

H) All Certificates of Insurance may reference the contract number, name of the school or agency submitting the certificate, and the location of the school or agency submitting the certificate on the certificate.

2.10 Data Reporting. PROVIDER agrees to provide to DISTRICT, all data (including billing information) related to students who are served by the PROVIDER. PROVIDER agrees to provide all data related to or referenced in any and all sections of this Agreement if requested by DISTRICT. PROVIDER agrees to provide all requested information in the format required by DISTRICT.

PROVIDER shall use only DISTRICT provided care logs and/or format for such data, including but not limited to Diabetes Medical Management Plans, Medication Authorization forms, and care logs. Documentation shall remain at school in the student's care binder.

2.11 Use of Independent Contractors and Subcontractor. PERSONNEL provided to DISTRICT are employees of PROVIDER and are subject to PROVIDER's standard screening process, as well as additional qualifications as required in this Agreement. If PROVIDER deems it necessary to obtain the services of a subcontractor to fulfill its requirements under this Agreement, PROVIDER will notify DISTRICT in writing of its intent to use subcontractors and will obtain written approval from DISTRICT. PROVIDER will ensure that any subcontractor will comply with all applicable terms of this Agreement. PROVIDER will provide written notification to DISTRICT if it becomes necessary for PROVIDER to utilize independent contractors to fulfill its staffing obligations to DISTRICT. Any PERSONNEL provided to DISTRICT by and independent contractor will be subject to the same qualifications as PROVIDER employees.

2.12 Employment and Taxes. PROVIDER will follow its standard employment policies and procedures to verify that all PERSONNEL meet applicable licensing requirements. PROVIDER, or its subcontractor if applicable, maintain direct responsibility as employer for the payment of wages and other compensation, and for any

applicable mandatory withholdings and contributions such as federal, state, and local income taxes, social security taxes, worker's compensation, and unemployment insurance. DISTRICT shall be responsible for any sales tax, gross receipts tax, excise tax, or other state taxes applicable to the Services provided by PROVIDER.

- 2.13 **Incident Reports.** PROVIDER shall report to DISTRICT any unexpected incident known to involve any PERSONNEL (such as PERSONNEL errors, unanticipated deaths or other unanticipated student-related events or injuries known to be attributable to PERSONNEL, and any safety hazards known to be related to the services provided by PERSONNEL) if the incident may have an adverse impact on the DISTRICT and/or PROVIDER in order to comply with DISTRICT'S incident tracking program. An Incident Report on the DISTRICT form shall be promptly completed and provided to both DISTRICT and the school site administrator, along with any witness statements.

3. Responsibility of DISTRICT

- 3.1 **Orientation.** DISTRICT will promptly provide PROVIDER PERSONNEL with orientation to the caseload assignment including medication, procedures, activities of daily living needs, emergency plans and site specific procedures.
- 3.2 **Requests for PERSONNEL.** DISTRICT will use its best efforts to request PERSONNEL at least twenty-four (24) hours prior to reporting time in order to assure prompt arrival of assigned PERSONNEL. All information regarding reporting time, location, duration of approved hours and additional assignment details will be provided by DISTRICT at the time of the initial call. Those authorized to request PERSONNEL on behalf of DISTRICT, and/or authorize hours beyond the original quantity ordered, are as follows:
- A) Director III, Student Support & Health Services (Jacqueline Garner)
 - B) Coordinator II, Health Services (Lisa Musser)
 - C) Lead School Nurse (Paula Kuhlman)
- 3.3 **Short-Notice Requests.** PROVIDER will bill DISTRICT for the entire shift if an order for staff is made less than two (2) hour(s) prior to the start of the shift, as long as PERSONNEL report for work within a reasonable prompt period of time under existing conditions after receiving notice of the assignment.
- 3.4 **Staff Order Cancellation.** If DISTRICT changes or cancels an order less than two (2) hours prior to the start of a shift, PROVIDER will bill DISTRICT for two (2) hours at the established fee for each scheduled PERSONNEL. PROVIDER will be responsible for contacting PROVIDER PERSONNEL prior to reporting time.
- 3.5 **Responsibility for Student Care.** DISTRICT retains full authority and responsibility for professional and medical management of care for each of its students, for developing and providing Individualized Healthcare Plans (IHP's) for its students, and for ensuring that services provided by PROVIDER PERSONNEL under this agreement are furnished in a safe and effective manner and in accordance with applicable standards.
- 3.6 **Placement Fee.** For a period of twelve (12) months following that date on which PROVIDER PERSONNEL last worked a shift at DISTRICT, DISTRICT agrees that it will take no steps to recruit, hire or employ as its own employees or as a contractor those PERSONNEL provided by PROVIDER during the term of this Agreement. DISTRICT understands and agrees that PROVIDER is not an employment agency and that PERSONNEL are assigned to the DISTRICT to render temporary service(s) and are not assigned to become employed by the DISTRICT. The DISTRICT further acknowledges and agrees that there is a substantial investment in business related costs incurred by PROVIDER in recruiting, training and employing PERSONNEL, to include advertisement, recruitment, interviewing, evaluation, reference checks, training, and supervising PERSONNEL. In the event that DISTRICT, or any affiliate, subsidiary, department, or division of DISTRICT hires, employs or solicits PROVIDER PERSONNEL, DISTRICT will be in breach of this Agreement. DISTRICT agrees to give PROVIDER either (a) one hundred and eighty (180) days prior written notice of its intent to hire, or employ, continuing to staff PERSONNEL through PROVIDER for a minimum of thirty-six (36) hours per week through the one hundred and eighty (180) days notice period; OR (b) to pay PROVIDER a placement fee equal to the

greater of: five thousand dollars (\$5,000) or the sum of thirty percent (20%) of such PERSONNEL's annualized salary (calculated as Weekday Hourly Bill Rate x 2080 Hours x 20%) unless PROVIDER extends documentation to DISTRICT waiving this right for the individual in question.

3.7 Per Diem or Short-Term Staff Non-Performance. If DISTRICT concludes, in its sole discretion, that any PERSONNEL provided by PROVIDER have engaged in misconduct, or have been negligent, had excessive absenteeism, DISTRICT may require the PERSONNEL to leave the premises and will notify PROVIDER immediately, providing in reasonable detail the reason(s) for such dismissal. DISTRICT'S obligation to compensate PROVIDER for such PERSONNEL services will be limited to the number of hours actually worked. PROVIDER will not reassign the individual to DISTRICT without prior approval of the DISTRICT.

3.8 Insurance. DISTRICT will maintain at its sole expense valid policies of general and professional liability insurance with minimum limits of \$2,000,000 per occurrence and \$3,000,000 annual aggregate covering the acts or omissions of its employees, contractors and agents which may give rise to liability in connection with the Services under this Agreement. DISTRICT will provide prompt written notice of any material change in DISTRICT coverage.

3.9 Incident Reports. DISTRICT shall report to PROVIDER any unexpected incident known to involve any PERSONNEL (such as PERSONNEL errors, unanticipated deaths or other unanticipated student-related events or injuries known to be attributable to PERSONNEL, and any safety hazards known to be related to the services provided by PERSONNEL) if the incident may have an adverse impact on the DISTRICT and/or PROVIDER in order to comply with PROVIDER'S incident tracking program. Complaints and grievances regarding PROVIDER PERSONNEL may be reported to the local PROVIDER representative at any time.

4. Compensation

4.1 Invoicing. PROVIDER will supply PERSONNEL under this Agreement at the rates listed in the Attachment(s).

A) Billing Cycle. Monthly - PROVIDER will submit invoices to DISTRICT every month for PERSONNEL provided to DISTRICT during the preceding month.

B) Contents. Invoices will include the following:

- Name(s) of PERSONNEL
- Name(s) of School Site(s)
- Name of Student(s) served by PERSONNEL
- Individual Service Dates
- Hours of Service provided (separated by School Site if serving at Multiple School Sites on the same day)
- Charges (subtotaled by School Site whenever possible)
 - Individual timesheet data that includes time start, lunch period, time end and comments.

C) Submission. Invoices shall be submitted to the following address:

Sacramento City Unified School District
ATTN: Health Services
Health Services - Box 764
5735 47th Avenue

Sacramento, CA 95824
HealthServices@SCUSD.edu
or to specific department personnel

4.2 **Payment.** The DISTRICT agrees to pay to the PROVIDER the hourly sum itemized in SCHEDULE A for services performed, billed by PROVIDER'S employees during the term of the Agreement. PROVIDER agrees that said sum shall be full compensation for all services in performing this Agreement. Compensation will be in accordance with all applicable laws.

Compensation is based on the student(s) school day hours as ordered by a DISTRICT as outlined in section 3.2 and, if previously approved by a DISTRICT as outlined in section 3.2 and required, before and/or after school programs, and/or field trips. Extended time reimbursement is allowed only for recognized school activities authorized by a DISTRICT approver as outlined in section 3.2 or emergencies which have been reported and documented according to the guidelines in DISTRICT'S "AGENCY HEALTHCARE PROFESSIONAL EXPECTATIONS" document (EXHIBIT A) and in accordance with section 2.13 Incident Reports.

PROVIDER shall submit invoices to the DISTRICT on a monthly basis. All amounts due to PROVIDER are due and payable within thirty (30) days from date of invoice. DISTRICT will send all payments to the address set forth on the invoice.

4.3 **Right to Withhold Payment.** DISTRICT may withhold payment to PROVIDER when: (a) PROVIDER has failed to perform, in whole or in part, under the terms of this Contract; (b) PROVIDER has billed for services rendered on days other than billable days of attendance or for days when student was not in attendance and/or did not receive services; (c) PROVIDER was overpaid by DISTRICT as determined by inspection, review, and/or audit of its program, work, and/or records; (d) PROVIDER has failed to provide supporting documentation with an invoice; (e) services are provided to DISTRICT students by PERSONNEL who are not appropriately credentialed, licensed, or otherwise qualified; (g) PROVIDER receives payment from Medi-Cal or from any other agency or funding source for a service provided to a DISTRICT student; or (h) PROVIDER fails to provide the required liability/insurance documentation as outlined in Section 2.5 of this Agreement. It is understood that no payments shall be made for any invoices that are not received by three (3) months following the close of the prior fiscal year, for services provided in that year.

Rev. [DATE]

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4.4 **Rate Change.** PROVIDER will provide DISTRICT at least thirty (30) days advance written notice of any change in rates.

5. General Terms

5.1 **Non-discrimination.** Neither PROVIDER nor DISTRICT will discriminate on the basis of age, race, color, national origin, religion, sex, disability, being a qualified disabled veteran, being a qualified veteran of the Vietnam era, or any other category protected by law.

5.2 **Independent Contractors.** PROVIDER and DISTRICT are independent legal entities. Nothing in this Agreement shall be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither PROVIDER nor DISTRICT nor any of their respective agents or employees shall control or have any right to control the activities of the other party in carrying out the terms of this Agreement. All services rendered by PROVIDER shall be rendered in a competent, efficient, and satisfactory manner and in strict accordance with the currently approved methods and practices in the Consultant's professional specialty.

5.3 **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party, and

such consent will not be unreasonably withheld. No such consent will be required for assignment to an entity owned by or under common control with assignor or in connection with any acquisition of all of the assets or capital stock of a party; provided however, the assigning party will provide notice of such transaction to the other party and remain fully responsible for compliance with all of the terms of this Agreement.

5.4 Indemnification. PROVIDER agrees to indemnify and hold harmless DISTRICT, and its directors, officers, and agents from and against any and all claims, actions, or liabilities which may be asserted against them by third parties in connection with the sole negligent performance of PROVIDER, its directors, officers, employees or agents under this Agreement only. DISTRICT agrees to indemnify and hold harmless PROVIDER, its directors, officers, shareholders, employees and agents from and against any and all claims, actions, or liabilities which may be asserted against them by third parties in connection with the negligent performance of DISTRICT, its directors, officers, employees, contractors or agents under this Agreement.

5.5 Attorneys' Fees. In the event either party is required to obtain legal assistance (including in-house counsel) to enforce its rights under this Agreement, or to collect any monies due to such party for services provided, the prevailing party shall be entitled to receive from the other party, in addition to all other sums due, reasonable attorney's fees, court costs and expenses, if any, incurred enforcing its rights and/or collecting its monies.

5.6 Notices. Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

Sacramento City Unified School District Health Services - Box 764 Rev. [DATE]

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5735 47th Avenue Sacramento, CA 95824 [PROVIDER NAME]

5.7 Headings. The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

5.8 Entire Contract; Counterparts. This Agreement constitutes the entire contract between DISTRICT and PROVIDER regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile and electronic signatures shall also constitute original signatures for the purpose of this Agreement. No amendments to this Agreement will be effective unless made in writing and signed by duly authorized representatives of both parties.

5.9 Availability of PERSONNEL. The parties agree that PROVIDER's duty to supply PERSONNEL on request of DISTRICT is subject to the availability of qualified PROVIDER PERSONNEL. The failure of PROVIDER to provide PERSONNEL or the failure of DISTRICT to request PERSONNEL shall result in no penalty to DISTRICT or any party claiming by or through it and shall not constitute a breach of this Agreement. In instances where PROVIDER is providing individual care for a student(s), PROVIDER will make commercially reasonable efforts to ensure that student(s) care remains consistent.

5.10 Compliance with Laws. PROVIDER agrees that all services provided pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified,

PROVIDER reserves the right to notify DISTRICT in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.

- 5.11 **Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.
- 5.12 **Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of California, without regard to its principles of conflict of laws. Any dispute or claim from this Agreement shall be resolved exclusively in the federal and state courts of the State of Maryland and the parties hereby irrevocably submit to the personal jurisdiction of said courts and waive all defenses thereto.
- 5.13 **Limitation on Liability.** Neither PROVIDER nor DISTRICT will be responsible for special, indirect, incidental, consequential, or other similar damages, including but not limited to lost profits, that the other party may incur or experience in connection with this Agreement or the services provided, however caused, even if such party has been advised of the possibility of such damages.
- 5.14 **Conflict of Interest.** By entering into this Agreement, the Parties agree that all conflicts of interest shall be disclosed to the other Party for review in accordance with that Party's policies and procedures. A conflict of interest occurs when an employee or Contractor has professional or personal interests that compete with his/her services to or on behalf of PROVIDER or the DISTRICT, or the best interests of students. Such competing interests may make it difficult for an employee or Contractor to fulfill his or her duties impartially.

6. Confidentiality of Protected Health Information

6.1 Confidentiality.

A) **Student/Customer Information:** Neither party nor its employees shall disclose any financial or medical information regarding students/customers treated hereunder to any third-party, except where permitted or required by law or where such disclosure is expressly approved by DISTRICT, PROVIDER and student/customer in writing. Further, each party and its employees shall comply with the other party's rules, regulations and policies regarding the confidentiality of such information as well as all federal and state laws and regulations including, without limitation, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH").

B) **Permanence.** The obligations set forth in this Section shall survive the termination of this Agreement.

6.2 **HIPAA/HITECH Obligations.** Each party and its respective staff shall comply with all federal and state laws and regulations, and all rules, regulations, and policies of the other party, regarding the confidentiality of student information, to include, without limitation, HIPAA, HITECH and FERPA. In addition, if necessary, the parties agree to resist any effort to obtain access to such records or information in judicial proceedings, except such access as is expressly permitted by federal/state regulations.

To the extent that DISTRICT may be a "Covered Entity" as defined by HIPAA, and would therefore be subject to applicable requirements, including, but not limited to, requirements to enter into certain contracts with their "business associates," by HIPAA, the parties acknowledge that a business associate agreement is not needed due to the nature of services provided by PROVIDER. Specifically, the parties acknowledge that under HIPAA, PERSONNEL provided hereunder are considered part of DISTRICT's workforce and to that end, all Protected Health Information ("PHI") is created, viewed, used, maintained and otherwise stored and safeguarded in

DISTRICT's work environment. The parties further acknowledge that PHI is not exchanged between the parties in order for PROVIDER to provide PERSONNEL as part of DISTRICT's temporary workforce.

Notwithstanding the foregoing, PROVIDER and all staff provided to DISTRICT hereunder shall comply with confidentiality, medical records and/or other applicable laws and regulations with regard to any and all information directly or indirectly accessed or used by PROVIDER and their PERSONNEL, including without limitation HIPAA, HITECH and FERPA.

DISTRICT and PROVIDER have acknowledged their understanding of and agreement to the mutual promises written above by executing and delivering this Agreement as of the date set forth above.
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT:

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

Signature

Date

Jesse Castillo, Interim Chief Business Officer

Printed Name & Title

ACTION SUPPORTIVE CARE SERVICES, INC.



Signature

8/8/23

Date

Drew Bruschetti Assistant Administrator
Printed Name & Title

EXHIBIT A

Sacramento City Unified School District - Health Services Department AGENCY HEALTHCARE PROFESSIONAL EXPECTATIONS

Agency healthcare PERSONNEL are expected to:

- Arrive at assigned SCUSD site *15 minutes before the scheduled shift*
 - Sign in at the front office noting the arrival time.
- Depart at the end of shift.
 - Sign out at the front office noting departure time.
 - Do not allow hours to exceed those hours previously approved without prior authorization from SCUSD Health Services Department (the only approvers are Lead School Nurse, Coordinator, or Director). The only exception to this would [be] for medical emergencies.
- Always wear an agency identification badge with a photo.
- Communicate promptly with your agency clinical supervisor and SCUSD Health Services Department staff regarding any changes to your scheduled shift such as being late or absent OR if the student is absent. If the assigned student is absent, PERSONNEL may be reassigned to another school or student until the assigned student returns.

Contact the following for any PERSONNEL or student absences:

- 1. Agency Supervisor:(Action or Maxim)
AND
- 2. Send an email message to directcare@scusd.edu and text 916-306-9294
- Coordinate with the School Nurse assigned to the school site regarding all direct care services being provided to the student. School Nurse will function as the case manager and facilitate all communications with doctors, parent/guardian, teachers, and Health Services.
- The School Nurse will create the Individualized Healthcare Plan (IHP) outlining where equipment and medications are kept, as well as, when and where the care is to take place.
- Read student's IHP and Emergency Care Plan and medical authorization upon arrival.
- Communicate with the agency supervisor and school nurse if new health concerns arise
- Immediately route all forms received from families to the teacher or school nurse assigned to the site. Upon request, assist the school nurse with obtaining necessary signatures from parent/guardian if the form is incomplete.
- Follow the most recent signed authorization from a licensed healthcare provider (HCP). Authorizations must also be signed by parent/guardian.
- **Primary role** may include the following (depending on licensure):
 - Observe health related concerns, such as seizure activity or blood glucose monitoring.
 - Administer feeding/medication per physician authorization and at the direction of the school nurse's IHP
 - Document data on assigned students as determined by their healthcare plan on district provided logs kept in the district provided binder. Document all communications with parent/guardian on care log.

- Assist student with mobility, toileting, diapering and/or feeding as needed.

If assigned to a student, all day in a classroom:

- Assist with social skills and behavior management during recess and leisure times.
- Assist with academic accommodations made by the classroom teacher or other Individualized Education Program team members such as Physical Therapist, Speech Language Pathologist or Occupational Therapist
- Assist student in performing activities initiated by the teacher.
- Supervise the student in the hallway, cafeteria, and on the playground as needed.
- Assist with instructional materials for assigned student as appropriate.
- Help student develop self-care skills to gain a greater level of independence.
- Help in any way needed, while still providing needed support to the assigned student
- Assist the teacher with crisis problems and behavior management with peers as needed.
- Support the teacher’s classroom management and rules.
- In order to promote independence and protect privacy, PROVIDER should refer to themselves as a “classroom assistant”, not as the assigned student’s Health Aide.
- The full duration of your shift should be spent **actively engaged** in supporting the health and learning of your assigned student(s). Personal tasks such as grooming, reading a book, and listening to music are not acceptable.
- Follow all emergency procedures according to SCUSD policy, should the need arise.
- Communicate effectively and professionally during all encounters. Report any negative interactions to your agency **and** SCUSD Health Services Department as soon as time and safety allow.
- ALWAYS remain POLITE, OBJECTIVE, and HELPFUL.
- **PERSONNEL** must **AVOID** doing the following:
 - May not use any cell phone while working in the classroom except for the following situations:
 - Using a district device to monitor blood glucose*
 - In case of emergency 911 call
 - Contacting clinical supervisor or SCUSD Health Services for urgent questions
 - Accepting an urgent call from home or child’s school or daycare
 - May not download continuous glucose monitoring applications onto personal phones to monitor a student’s blood glucose.
 - May not take photos of students.
 - May not providing information to the parent regarding the student’s academics, behaviors, or social skills (refer the parent/guardian to the teacher for all communications)
 - May not have conversations with the student while the teacher is giving direct instruction.

- May not stay after school with the student when caregivers are late picking up. this is the role of the teacher.
- May not provide “coverage” in the classroom, at recess, or during library in place of the teacher.
- All SCUSD buildings are drug, alcohol and smoke free facilities, this includes vaping.

Questions or concerns regarding PERSONNEL duties related to the student, classroom, or the campus, can be addressed to the personnel listed below:

- Agency Supervisor
- The student’s Case Manager on your campus (usually the teacher)
- The site principal and/or site school nurse
- Lead School Nurse, Paula Kuhlman at Paula-kuhlman@scusd.edu or 916.320.1538
- Coordinator II, Health Services, Lisa Musser at Lisa-Musser@scusd.edu or 916.643.9152

EXHIBIT B



SCHOOL DISTRICT OUT OF TOWN WORK AGREEMENT

It is understood that, _____ (“Nurse”) has requested to accompany _____ (“Student”) on an out of town field trip, and that _____ School District (the “District”) has requested for Nurse to accompany them. The District understands that Action Supportive Care Services (“ASCS”) has made no request for Nurse to accept this assignment, and that Nurse’s participation in the trip is voluntary. However, ASCS has approved Nurse to provide care to Student for a maximum of ___ hours per day, for shifts of ___ to ___ hours from _____ to _____. The District understands that Nurse will only be acting as an employee during the hours in which they are providing care to Student.

The District understands and agrees that except as set forth above and at all other times on the trip, Nurse is not working on behalf of ASCS. The District further understands and agrees that ASCS shall not be responsible for costs associated with Nurse’s travel or any other expenses Nurse shall incur on the trip. All expenses associated with Nurse’s travel and participation in the trip shall be arranged between Nurse and the District.

By voluntarily requesting that Nurse participate in the trip, the District on behalf of itself (and its directors, board members, officers, agents, independent contractors and employees) holds harmless, releases and forever discharges ASCS (and its directors, officers, agents, independent contractors, heirs, personal representatives, or employees) from any and all actions, causes of actions, claims and demands for damages, loss or injury, resulting from or arising out of Nurse’s participation in the trip, and covenants not to sue any of the persons or entities mentioned above for the claims for which the District has hereby provided this waiver and release. The District will also indemnify and hold harmless ASCS from any and all actions, causes of actions, demands, expenses, or losses whatsoever which Nurse or Student may bear as a result of their participation in the trip, by reason of damage to any and all property and all personal injuries, including death of others or themselves.

BY SIGNING BELOW, I REPRESENT THAT I HAVE HAD SUFFICIENT OPPORTUNITY TO CAREFULLY READ THIS ENTIRE DOCUMENT. I HAVE READ AND UNDERSTAND IT, AND I VOLUNTARILY AGREE TO BE BOUND BY ITS TERMS. I FURTHER UNDERSTAND THAT IF ANY PORTION OF THIS AGREEMENT IS FOUND TO BE VOID OR UNENFORCEABLE, THE REMAINING PORTIONS SHALL REMAIN IN EFFECT.

Print Name

Signature

Title

Date



**COLLEGE BOARD'S
COLLEGE READINESS AND SUCCESS AGREEMENT #: CB-00035347**

THIS AGREEMENT, including all appendices, exhibits, and schedules attached hereto (this "Agreement"), is effective upon fully execution ("Effective Date"), by and between Sacramento City Unified School District ("Client") and College Board ("College Board").

WHEREAS, College Board shall make available, and Client may order the following College Board exams, products, and services related to College Board's College Readiness and Success System.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and undertakings contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree to the following:

1.0 Services. College Board shall furnish Client with the exams, products, licenses, services and/or materials (collectively, "Services") in accordance with the applicable schedules, which outline the Services hereunder, attached hereto and incorporated herein by this reference ("Schedule"). If Client has additional orders after the Effective Date of this Agreement, and during the Term (as defined in Section 2.1), the parties agree such Services shall be added by an addendum signed by both parties.

2.0 Term & Termination.

2.1 Term. This Agreement shall be for a term beginning as of this July 1, 2023 and, unless sooner terminated as provided herein, will expire on June 30, 2024 ("Initial Term"). Client may renew this Agreement in twelve (12) month increments ("Renewal Term"), upon notice to College Board of its intent to renew within thirty (30) days prior to the expiration date of this Agreement. During any Renewal Term, this Agreement shall be subject to College Board's then-current fees and policies at the time of renewal. The Initial Term and each subsequent Renewal Term shall be collectively referred to as the "Term." If, during the Term, Client decides to change to the administration of a digital College Board assessment, College Board reserves the right to attach an additional schedule specific to such administration, containing operational policies and any additional terms and conditions.

2.2 Termination. If either party breaches any of the provisions of this Agreement (including but not limited to Client's failure to make any payment when due), either party shall have the right to give the other party written notice to cure such breach within thirty (30) days and, if such breach is not cured within a thirty (30) day period, either party shall have the right to terminate this Agreement, without waiver of any other remedy, whether legal or equitable; provided, however, if Client breaches the Representations and Warranties or Ownership of Intellectual Property, or both, then College Board shall have the right to terminate this Agreement immediately.

2.2.1 Rights After Termination. If any Schedule is terminated for any reason, all rights granted to Client hereunder with respect to the Services under that Schedule shall cease, and Client shall; (a) immediately cease all use of the applicable Services and purge any and all software, content, and materials from Client's computer systems, storage media and files, and all copies thereof, as applicable, and (b) promptly return or destroy, at College Board's direction, content and materials, and all copies thereof, and all other confidential information of College Board then in Client's possession or under Client's control. Upon termination of this Agreement, College Board shall terminate Client's access to any systems to which Client has access under this Agreement.

2.2.2 Partial Payment Upon Termination. Client will compensate College Board for all Services, including any costs associated with the initial deployment of resources in preparation for providing the Services under this Agreement, through the effective date of any termination in accordance with invoices issued or to be issued by College Board.

2.2.3 Availability of Services. In addition to its other rights hereunder, College Board may cease making certain Services commercially available at any time by providing Client sixty (60) days written notice. In such event, College Board will cease furnishing such Services under this Agreement and this Agreement shall continue in full force and effect, except for provisions specifically affecting such Services. College Board will refund Client any fees paid for the unused portion of such Services.

3.0 Fees and Payment. Client shall pay those fees set forth in each Schedule for the Services furnished during the 2023-2024 implementation year. Unless otherwise indicated in a Schedule, payment terms are Net 30.

4.0 Taxes. Client agrees to pay any sales, use, value added or other taxes or import duties (other than College Board's corporate income taxes) based on, or due as a result of, any fees paid to College Board under this Agreement, unless Client is exempt from such taxes as the result of Client's corporate or government status and Client has furnished College Board with a valid tax exemption certificate.

5.0 Representations and Warranties.

5.1 Authority. Client represents and warrants that it is empowered under applicable state laws to enter into and perform this Agreement and it has caused this Agreement to be duly authorized, executed, and delivered.

5.2 College Board Services Warranty. College Board represents and warrants that it shall perform its obligations under this Agreement in a professional, workmanlike manner.

5.3 College Board Disclaimer of Implied Warranties. EXCEPT AS PROVIDED ABOVE, COLLEGE BOARD MAKES NO WARRANTIES WHATSOEVER AND PROVIDES THE SERVICES, AS APPLICABLE, ON AN “AS IS” AND “AS AVAILABLE” BASIS. COLLEGE BOARD HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. COLLEGE BOARD DOES NOT WARRANT THE OPERATION OF THE DELIVERABLES TO BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL DEFICIENCIES OR ERRORS ARE CAPABLE OF BEING CORRECTED. FURTHERMORE, COLLEGE BOARD DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF THE SERVICES OR THE RESULTS OBTAINED THEREFROM OR THAT THE SERVICES WILL SATISFY CLIENT’S REQUIREMENTS.

6.0 Limitation of Liability. TO THE EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL LIABILITY, IN THE AGGREGATE, OF COLLEGE BOARD AND ITS OFFICERS, TRUSTEES, PARTNERS, EMPLOYEES, AGENTS AND COLLEGE BOARD’S SUBCONTRACTORS AND CONSULTANTS, AND ANY OF THEM, TO CLIENT AND ANYONE CLAIMING BY, THROUGH OR UNDER CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS, OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE WORK PERFORMED BY COLLEGE BOARD PURSUANT TO THIS AGREEMENT FROM ANY CAUSE OR CAUSES, INCLUDED BUT NOT LIMITED TO THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY OR BREACH OF CONTRACT OR WARRANTY EXPRESS OR IMPLIED OF COLLEGE BOARD OR COLLEGE BOARD’S OFFICERS, TRUSTEES, PARTNERS, EMPLOYEES, AGENTS, SUBCONTRACTORS OR CONSULTANTS OR ANY OF THEM, SHALL NOT EXCEED THE ACTUAL AMOUNT PAID TO COLLEGE BOARD UNDER THIS AGREEMENT FOR THE SPECIFIC SERVICE SUBJECT TO THE DAMAGES CLAIM.

IN NO EVENT SHALL EITHER PARTY, THEIR AFFILIATES OR THEIR SUBCONTRACTORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES FOR LOSS OF PROFITS OR SAVINGS, LOSS OF USE, BUSINESS INTERRUPTION OR THE LIKE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.0 Indemnification. To the extent permitted by law and notwithstanding any other provision of this Agreement, Client agrees to indemnify, hold harmless, and defend College Board from and against any and all liabilities, demands, claims, fines, penalties, damages, forfeitures, and suits, together with reasonable attorneys’ and witnesses’ fees and other costs and expenses of defense and settlement, which College Board may incur, become responsible for or pay out as a result of death or bodily injury or threat thereof to any person, destruction of or damage to any property, any violation of local state or federal laws, regulations, or orders, or any other damages claimed by third parties (collectively, “Damages”) provided, however, that Client shall not be obligated to indemnify College Board to the extent such Damages are caused directly by the gross negligence or willful misconduct of College Board.

8.0 Ownership of Intellectual Property. Client agrees and acknowledges that all intellectual property provided under or pertaining to this Agreement, including, but not limited to, any College Board publications, College Board website(s), CD-ROMs, videos, examinations, and all items contained therein, including all copies thereof, all data and score reports and any parts thereof, all copyrights, trademarks, trade secrets, patents, and other similar proprietary rights are the sole and exclusive property of College Board. Nothing in this Agreement should be interpreted to indicate that College Board is passing its proprietary rights in and to College Board Intellectual Property to the Client except as specifically provided under a particular Schedule.

9.0 Miscellaneous.

9.1 Cooperation. Client shall cooperate fully with College Board, its agents, consultants, and subcontractors and provide all assistance as reasonably necessary for College Board to furnish the Services as applicable, including but not limited to: (a) fulfilling its obligations under the applicable Schedule and (b) other assistance reasonably required by College Board to fulfill its obligations under this Agreement.

9.2 Force Majeure. Neither party shall be considered in default in the performance of its obligations under this Agreement to the extent that performance of its obligations is prevented or delayed in whole or in part by any cause beyond its



reasonable control, whether foreseeable or not, including, without limitation, acts of God, acts or omissions of governmental authorities, strikes, lockouts or other industrial disturbances, acts of public enemies, terrorism, wars, blockades, riots, civil disturbances, curtailment of transportation, Client's failure to cooperate as described in Section 9.1 (Cooperation), pandemics or epidemics including without limitation COVID-19 virus or new strains of the COVID-19 virus, floods, hurricanes, tornadoes, environmental or nuclear contamination, and any other similar acts, events, or omissions (each a "Force Majeure Event") that make it illegal, impracticable, inadvisable, unsafe, or impossible for a party to perform its obligations under this Agreement, provided that College Board shall have a duty to reasonably mitigate, or cause to be mitigated, any such disruptions (or parts thereof). College Board's obligation to furnish the Services shall be suspended (or reduced, as applicable) during the period and to the extent that provision of the Services is disrupted by the Force Majeure Event, without such suspension or disruption constituting a material breach of its obligations under this Agreement.

9.3 Governing Law and Choice of Forum. This Agreement shall be construed in accordance with the terms and conditions set forth in this Agreement and the law of the State of California without regard to choice or conflict of laws principles that would cause the application of any other laws. Any dispute or controversy arising out of or relating to this Agreement or otherwise shall be determined by a court of competent jurisdiction in California State (or the Federal Court otherwise having territorial jurisdiction over such County and subject matter jurisdiction over the dispute), and not elsewhere, subject only to the authority of the Court in question to order changes of venue; provided, however, that prior to the instigation of any such action (other than an action for equitable relief) a meeting shall be held at a mutually agreed upon location, attended by individuals with decision-making authority to attempt in good faith to negotiate a resolution of the dispute. If within forty-five (45) days after such meeting the parties have not succeeded in resolving the dispute, either party may proceed at law, or in equity, in a court of competent jurisdiction. Client agrees not to demand a trial by jury in any action, proceeding or counterclaim.

9.4 Notices. All notices or other communications hereunder shall be deemed to have been duly given and made if in writing and if served by personal delivery upon the party for whom it is intended on the day so delivered, if delivered by registered or certified mail, return receipt requested, or by courier service on the date of its receipt by the intended party (as indicated by the records of such of the U.S. Postal Service or the courier service), or if sent by e-mail, or if not a business day, the next succeeding business day, provided that the email sender retains confirmation of a "read-receipt" which acknowledges recipient's opening of such email, or if not available, promptly confirms by telephone confirmation thereof, to the person at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such person:

To College Board: K-12 Contract Management	With a copy to Legal Department	To Client: Jesse Castillo Asst. Superintendent of Business Services
College Board	College Board	Sacramento City Unified School District
250 Vesey Street New York, NY 10281 Tel: (212) 713-8000 Contractsmangement@collegeboard.org	250 Vesey Street New York, NY 10281 Tel: (212) 713-8000 Legalnotice@collegeboard.org	5735 47th Ave Sacramento, CA 95824-4528 Tel: 916-643-9405 jesse-m-castillo@scusd.edu

9.5 Publicity. Each party agrees to promptly inform the other party of all media inquiries prior to responding thereto and to permit the other party to review and approve prior to release any press releases regarding the Services provided for under this Agreement.

9.6 Relationship of the Parties. The relationship of the Client and College Board is that of independent contractors. Neither party nor their employees are partners, agents, employees, or joint ventures of the other party. Neither party shall have any authority to bind the other party to any obligation by contract or otherwise. College Board, its employees, and agents shall not be considered employees of the Client while performing these Services and will not be entitled to fringe benefits normally accruing to employees of the Client. Client and College Board recognize and agree that College Board is an independent contractor.

If the Client is using federal funds to pay for all or a portion of the Services furnished by College Board under this Agreement, Client acknowledges and agrees that College Board shall not be categorized as a "subrecipient" receiving a federal award as defined by OMB Circular Subpart A.210(c) of Circular No. A-133. College Board shall be defined as a "vendor" that provides good and services within normal business operations, provides similar goods or services to other purchasers and operates in a competitive environment. Client acknowledges and agrees that the substance of the relationship with College Board is that of a vendor not a subrecipient.

9.7 Third-Party Rights. Nothing contained in this Agreement, express or implied, establishes or creates, or is intended or will be construed to establish or create, any right in or remedy of, or any duty or obligation to, any third party.

9.8 Survival. It is agreed that certain obligations of the parties under this Agreement, which, by their nature would continue beyond the termination, cancellation, or expiration of this Agreement, shall survive termination, cancellation, or expiration of this Agreement, including without limitation, payment, ownership of intellectual property, representations and warranties, limitation of liability, confidential and proprietary information, indemnification, term and termination, and Section 9 (Miscellaneous) herein.

9.9 Amendment; Waiver. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by the parties, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof or the exercise of any other right, power, or privilege. Except as otherwise provided herein, the rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

9.10 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any person or entity or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out so far as may be valid and enforceable provision and (b) the remainder of this Agreement and the application of such provision to other persons, entities, or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

9.11 Order of Precedence. In the event of conflict between the terms and conditions of any Schedule and this Agreement the terms and conditions of the Schedule shall prevail. The parties acknowledge and agree that each shall construe the terms, covenants, and conditions set forth in this Agreement, including each Schedule, as consistent with one another insofar as possible, so as to give effect to the fullest extent possible to each particular clause. Client shall remit any required Client-issued purchasing documents such as a contract or purchase order prior to the scheduled delivery of any Services to ensure prompt payment for Services received under this Agreement (“Client Purchase Order”). Notwithstanding anything to the contrary, the parties hereby acknowledge and agree that the Client Purchase Order shall be subject to the terms and conditions of this Agreement and this Agreement shall supersede any terms and conditions included in the Client Purchase Order; and further, Client understands that College Board is accepting the Client Purchase Order solely to effectuate payment but does not agree to accept any terms and conditions included in the Client Purchase Order. Client acknowledges and agrees that if Client is required to provide a Client Purchase Order, College Board may delay and/or withhold furnishing Services if Client fails to issue the Client Purchase Order for such Services, as applicable, prior to the scheduled delivery date for such Services.

9.12 Headings. Headings contained in this Agreement are for reference purposes only. They shall not affect in any way the meaning or interpretation of this Agreement.

9.13 Integration, Execution and Delivery. This Agreement includes the Schedules attached hereto and constitutes the entire agreement between College Board and Client and supersedes all prior written or oral understandings, bids, offers, negotiations, or communications of every kind concerning the subject matter of this Agreement, including any Client Purchase Order. No course of dealing between parties and no usage of trade shall be relevant to supplement any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement and no waiver by a party of any right under this Agreement shall prejudice that party's exercise of that right in the future. This Agreement may be executed through signatures to any number of counterparts, each of which shall be deemed an original, which together will constitute one Agreement. Delivery of an executed counterpart of this Agreement by electronic transmission, including through DocuSign, shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by electronic transmission also shall deliver an original executed counterpart of this Agreement (except if the parties are using DocuSign), but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing execution and delivery shall apply to this Agreement.



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

COLLEGE BOARD

Signature

[Jesse Castillo](#)

Name

[Assistant Superintendent](#)

Title

Date

DocuSigned by:

Jeremy Singer
Signature

Jeremy Singer

Name

President

Title

08/28/2023

Date

**PSAT™ 8/9
SHELF SCHEDULE**

I. BACKGROUND

College Board owns and delivers its national standardized tests to students. This Schedule outlines how a Client sponsors a PSAT™ 8/9 administration at its schools ('Participating Schools') for students and what data and reports may be provided to Client through our online data portal (the 'Program').

II. PROGRAM MATERIALS AND INFORMATION

College Board shall furnish PSAT 8/9 materials and information as follows:

1. Materials for Students:

- a. Link to the Student Guide
- b. PSAT 8/9 test materials delivered via College Board's Digital Testing Platform, BlueBook™, Assessment score report delivered as a PDF to Client via College Board's K-12 Reporting Portal.
- c. Information about recognition programs College Board.
- d. Access to SAT Practice Tools and Support as set forth below.
- e. Access to Bluebook and the test at school (Client will have access to a digital test preview to demonstrate the navigation and tools available to students in Bluebook).

2. Materials for Participating Schools:

- a. Materials to support test administration.
- b. Client will receive online access to test day toolkit (TDTK), College Board's digital test administration tool, and a downloadable PDF of the PSAT 8/9 Test Coordinator Guide.
- c. Access to a digital test preview to demonstrate the navigation and tools available to students in the digital testing platform.
- d. Materials to support students receiving accommodations which require a paper test, including applicable instructions and the paper testing materials.
- e. Access to individual student score reports and aggregate score reports, and downloadable student data file delivered via College Board's K-12 Reporting Portal.
- f. Access to AP Potential™ via College Board website.

3. Reports for District:

- a. Access to individual student score reports and aggregate score reports, and downloadable student data file, delivered via College Board's K-12 Reporting Portal.
- b. Access to AP Potential via College Board website.

- 4. Delivering SAT Practice Tools and Support.** In addition to the free practice tools available at <http://sat.collegeboard.org/practice>, all students will have access to a) full-length practice tests in Bluebook and b) focused practice resources through College Board's collaboration with Khan Academy. Practice materials for the SAT exam are available at the Khan Academy website (<http://satpractice.org>). Client and Participants shall use the Khan Academy practice tool and materials in accordance with Khan Academy's guidelines.

III. CLIENT RESPONSIBILITIES

- 1.** In connection with PSAT 8/9, Client agrees that it will, or will ensure each participating school will:

- a. Comply with the Legal Terms for Educators and Institutions at <https://privacy.collegeboard.org/educator-legal-terms?navId=gf-edterms>
- b. Review the information in Annex 1 below and incorporated herein about College Board's mobile application available for students.
- c. Place orders by the ordering deadline. Orders cannot be decreased after the ordering deadline for PSAT 8/9.
- d. Designate personnel to act as a Test Coordinator, SSD Coordinator, Technology Coordinator, Proctors and Monitors (collectively, 'Designated Personnel').
- e. Ensure compliance with the requirements for training and other guidelines in the Guides shared with you.
- f. Verify and update, if necessary, the Test Coordinator name and contact information.
- g. Submit Eligibility Forms for students with disabilities who do not already have a College Board SSD Eligibility Code (see calendar for deadlines).
- h. Ensure that registered students are provided a link to the online PSAT 8/9 Student Guide (<https://satsuite.collegeboard.org/media/pdf/psat-8-9-student-guide.pdf>) **at least two weeks before the anticipated start of testing.**

- i. Administer the test to students under standard College Board national test administration and security policies, procedures and protocols as specified in training and/or instructional material shared with Client and in compliance with Designated Personnel Guide directions.
- j. Administer the test only during the authorized Testing Window for which the school is registered.
- k. Receive emails from College Board regarding the tests and their related offerings and share emails and coordinate communications with other staff at your schools as necessary.
- l. There is always a risk of disruption during paper or digital testing, including, without limitation, computer issues. College Board has endeavored to put in place procedures to allow administrators and students to recover from such disruption and complete testing. Despite such efforts, Client understands that there are situations where College Board's only option is to complete testing on the other days during the testing window. This is Client's sole remedy in relation to such disruption.
 - 1. Testing may not be available in the case of severe weather or other disruptions, including without limitation epidemics, that require lengthy closures at your school that extend beyond the end of the Testing Window.
 - 2. For more information on what to do in the event of extended closure due to a weather or disruptions including without limitation epidemics, see our <https://sat.org/COVID19>.

IV. PAPER AND DIGITAL TESTING REQUIREMENTS; ACCOMMODATIONS

1. Digital Testing Requirements

- a. The Technology Coordinator at each Participating School will complete all required College Board Technology Coordinator Training and provide training access to other supporting staff. Client will ensure compliance with training requirements for all testing staff.
- b. The Technology Coordinator at each Participating School will ensure the successful and accurate completion of all digital readiness and technology setup activities. These include: a dedicated device for Test Coordinator(s) to monitor test activities, a proctor device to administer the digital test in each testing room, and devices for each test-taking student with College Board's Digital Testing Platform, Bluebook™, installed. Additional information on the devices required for test day, including recommendations on battery and power source, supported operating systems, supported web browsers, and network configuration can be found at <https://satsuite.collegeboard.org/digital>. Client must ensure that each Participating School can meet College Board Digital Testing Requirements as outlined on the referenced website.
- c. Client will ensure that Participating School(s) consult College Board guides and training and adhere to the most up-to-date Digital Testing room seating policies.
- d. Client shall complete College Board's Registration process for each student scheduled to test by the registration deadline.
- e. If you are administering the test with accommodations requiring the use of an approved assistive technology device, students should pre-test the device in the Student Digital Test Preview prior to test day to ensure operational functionality. If the digital accommodation supports within the Digital Test preview do not meet students' testing needs, Client should arrange for alternate accommodation supports.

2. Paper Tests

- a. College Board may provide a limited number of paper test books for students requiring accommodations that cannot be delivered as a digital test or otherwise as approved by College Board.
- b. Client, or Participating Schools, as applicable, will keep all test books in locked storage until test date.
- c. Participating Schools will collect all test books at the end of the test.
- d. Participating Schools will promptly complete the process for submitting responses for students that test using paper materials in accordance with the policies and processes provided by College Board to Test Coordinators.
- e. Participating Schools will promptly return all paper test materials in accordance with the policies and processes provided by College Board to Test Coordinators.

3. ACCOMMODATIONS

Client will be responsible for ensuring that an appropriate accommodations coordinator ('SSD Coordinator') is designated for each Participating School to facilitate the application for and administration of approved accommodations. SSD Coordinators are responsible for notifying students when and where to report on test day. Early testing or testing at times other than those published by College Board is not permitted under any circumstances. The 'SSD Coordinator Form' (used to establish an SSD Coordinator) is available at <https://accommodations.collegeboard.org/media/pdf/ssd-coordinator.pdf>. English Learner (EL) Supports (<https://satsuite.collegeboard.org/k12-educators/administration/sat-school-day/ordering/english-learner-supports>) like translated directions and the use of word-to-word glossaries do not require approval or special test format.

V. REQUIRED INFORMATION AND TRAINING

1. Client shall furnish College Board with: (a) a list of Participating Schools with their respective College Board school code online in College Board's SAT Suite Ordering and Registration system located at the following location ordering.collegeboard.org ('SSOR'), (b) a list of all students registered for the exam are submitted online using the registration template in the College Board registration system located at the following location ordering.collegeboard.org and (c) the Client's contacts entered online in SSOR.

- a. **Changes to Participating Schools.** Changes to the list of Participating Schools must be made online in the SSOR no later than **two weeks prior to the beginning of the testing window.**

If any of Client's schools are omitted from the List of Participating Schools, then such schools shall not be covered under this Schedule.

2. **Training of Designated Personnel at the Participating Schools.** College Board will make available online all necessary training and/or instructional materials to Designated Personnel. The required training and/or instructional materials will be made available online by College Board to Client and **must be completed two weeks before the test administration date.**

Designated Personnel are required to utilize College Board's test day tool kit ('TDTK') application in connection with the administration of the PSAT 8/9. Designated Personnel are required to adhere to all of College Board's procedures, policies, and protocols related to national test administrations as specified in the PSAT 8/9 Coordinator training and instructional materials. College Board reserves the right to cancel the administration of the Program at any Participating School where any Designated Personnel fails to complete such training prior to the scheduled test administration.

VI. TESTING

1. **PSAT 8/9 Testing Window.** Client has agreed to administer the PSAT 8/9 C to registered students during the Testing Window(s) selected by Client in College Board's SSOR. In order to test, Client, or Participants, as applicable, will be required to install Bluebook on school owned devices that meet College Board technical specifications. Participants using personal devices will be required to install Bluebook on compatible devices. Client shall provide internet access to each testing device.
2. **Administering the PSAT 8/9.** The PSAT 8/9 will be administered to Participating Students under standard College Board national test administration and security protocols as specified in the PSAT 8/9 Test Coordinator Guide and PSAT 8/9 Test Coordinator training and instructional materials, unless otherwise stated in this Schedule. In accordance with College Board policies, any test irregularity, including mis-administrations or security breaches, will be thoroughly investigated and may result in score cancellations. Client is responsible for making all necessary arrangements to ensure that the testing environment and the security of all test materials satisfy College Board requirements as specified in the PSAT 8/9 Coordinator training and instructional materials. The test will be administered by Client-employed personnel, who will not receive additional remuneration from College Board. Client personnel must use TDTK in connection with the administration of the PSAT 8/9. This Agreement does not guarantee that all Students registered by Client for the Program will actually test. It is the responsibility of Client to encourage Participants to complete the program. Participants will follow the guidelines in applicable College Board digital student materials.
3. **Client Testing Delays.** Should an event occur that would require Participating School(s) to close for reasons beyond the reasonable control of such Participating School(s) (for example, including, but not limited to, severe weather, extended power outages, or a teacher's strike) (a 'Delay Event'), the Participating School(s) should adjust testing until later in their Testing Window.

Client understands that by selecting the last week of a Testing Window as their main administration date, if there is a Delay Event, there may be no additional PSAT 8/9 test dates. In such cases, this Agreement remains in full force and effect.

In a Delay Event occurs, College Board will use its best reasonable efforts to support the change of a testing date for paper testing. College Board will assume any additional costs associated with rescheduling and delivering paper tests to participating schools impacted by a Delay Event. College Board reserves the right to deny the delivery of additional paper materials if, in its sole opinion, the additional work will endanger its vendors or its employees, agents, consultants, or if Client has failed to promptly inform College Board of the need for new materials in time to allow delivery of applicable paper test materials. No additional administration of the assessment will be made available after the testing dates.

VII. COLLEGE BOARD COLLECTION AND USE OF DATA.

1. Client acknowledges and agrees that the data collected from the administration of the assessment ordered under this Agreement is subject to College Board's privacy policies, available at <https://privacy.collegeboard.org>.

College Board shall collect from Client, or Participating School, as applicable, the following student data in connection with the registration of the assessments you are ordering under this Agreement, with those asterisked required for registration. Client and College Board agree to comply with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and its implementing regulations, 34 C.F.R. pt. 99 ('FERPA'), as applicable. Client will obtain any and all consents necessary for students to participate in the assessment(s), if any.

- *First and last name
- Middle initial
- *Date of Birth
- *Attending institution (AI Code)
- *Grade
- *Gender
- *Test administration indicator (that is, which assessment)
- *Season for testing
- Student identifier

For digital testing, College Board will receive certain information about the device to ensure the device is compatible and monitor the actions taken in Bluebook for test security purposes, as well as to develop and improve College Board products and services.

2. College Board may also collect, retain, use and share students' personally identifiable information to perform this Agreement and for the purposes outlined below.
 - a. For SAT, State Scholarship Organizations: State affiliated scholarship organizations may receive student data for the purposes of eligibility for a scholarship or recognition program.
 - b. For SAT, National Presidential Scholars: Eligible students are shared with the US Department of Education for purposes of the U.S. Presidential Scholars Programs.
 - c. For PSAT/NMSQT and PSAT 10, National Recognition Programs: College Board uses student data to determine eligibility and administer its National Recognition Programs and share information with the students' high school and district, about the students' recognition status.
 - d. For PSAT/NMSQT, College Board will share scores and other information provided by students during testing with the National Merit Scholarship Corporation (NMSC) in order for NMSC to determine whether students are eligible for its National Merit Scholarship Program in accordance with the PSAT/NMSQT Student Guide (<https://satsuite.collegeboard.org/media/pdf/psat-nmsqt-student-guide.pdf>) and www.nationalmerit.org.
 - e. Score Reporting to Students.
 - f. SAT Score Sends: Students may identify institutions to receive their SAT scores. Student scores and basic demographic information sufficient for identity matching are only provided to higher education institutions and scholarship organizations when authorized by students.
 - g. Score Report to Schools, Districts and State. Schools, Districts and the State will have access to students' assessments score(s) and data derived from the score(s).
 - h. Accommodations: College Board uses student data to process applications for testing accommodations and to communicate with the SSD coordinator and students regarding accommodations.
 - i. Test Security: College Board may use student data to identify and investigate potential test security incidents, and protect and enhance test security, and disclose the results of test security investigations with third parties, including to the student's school, any score recipient, college, higher education institution or agency, scholarship organization, potential score recipient government agency in the U.S or abroad, parents, legal guardians, or law enforcement.
 - j. Research: College Board may use de-identified data obtained from student test-takers for psychometric and educational research purposes to evaluate the validity of our assessments and ensure that tests are unbiased in terms of race, gender, and culture. College Board may also use data to maintain, develop, support, improve and diagnose our services and applications.
 - k. Other: College Board may disclose student data as required by law, when we believe in good faith that it's necessary to protect our rights, protect an individual's safety or the safety of others, investigate fraud, or respond to a government request.

Client acknowledges that students may desire to continue and further develop a direct relationship beyond the administration of SAT Suite of Assessments for the purposes of students' college and career readiness by utilizing College Board's services available to all students. The terms and conditions of this Agreement related to the collection,

maintenance, use, and disclosure of data shall only apply to the data College Board receives in connection with this Agreement. Nothing in this Agreement is intended to diminish or interfere with student rights in their assessment data, and no provisions in this Agreement are intended to address or cover data that College Board has, or may receive, for services which are outside the scope of this Agreement.

College Board agrees to adhere to the Data Protection, Security Measures and Notice provisions set forth below.

VIII. DATA PROTECTION, SECURITY MEASURES AND NOTICE

1. **Data Protection.** College Board shall take actions to protect the security and confidentiality of personally identifiable information that may be obtained pursuant to this Agreement in a manner consistent with industry standards. College Board will maintain a SOC 2 Type II report.

College Board has security measures in place designed to help protect against loss, misuse and alteration of the data under College Board's control. College Board shall develop, implement, maintain and use reasonably appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of personally identifiable information that may be obtained pursuant to this Agreement, as determined by College Board. College Board shall host content in a secure environment that uses Web Application Firewalls/security groups and other advanced technologies designed to prevent interference or access from outside intruders.

College Board encrypts personally identifiable information that may be obtained pursuant to this Agreement in transmission and storage where technically feasible and when designed as being appropriate by College Board. If not, other security controls may be implemented to reduce risk, mitigate risk, or otherwise protect the data as determined solely by College Board. When College Board's platforms are accessed using a supported web browser, Transport Layer Security ("TLS") or equivalent technology protects information while in transit, using both server authentication and data encryption to help secure the data and limit availability to only authorized users.

Client shall be responsible for removing access to College Board's platforms for any personnel who no longer should have access, or promptly notifying College Board to request removal of any such access.

2. **Security Measures.** College Board will extend the confidentiality requirements and security measures identified in this Agreement by contract to subcontractors used by College Board, if any, to provide services related to this Agreement. College Board will use appropriate and reliable storage media, regularly backup data and retain such backup copies for the duration of this Agreement, as defined by College Board. You acknowledge that College Board utilizes cloud hosting service providers throughout its infrastructure. College Board will store personally identifiable information that may be obtained pursuant to this Agreement in the United States where technically feasible and reasonable, as determined solely by College Board.

IX. COLLEGE BOARD SCHOOL DAY CUSTOMER SERVICE

1. **Dedicated PSAT 8/9 Customer Service for Educators:** College Board will provide Client with telephone customer service support for educators. Specifically, College Board will provide:
 - a) Step-by-step assistance with College Board online tools including the SSD System, SSOR and TDTK;
 - b) Assistance with completing required forms such as AI Request Form;
 - c) Assistance with technical complications for Bluebook Installation and Registration login, for example; and
 - d) Feedback mechanism for counselors.

Dates and Times of Service: **Available three months prior to primary test date.** Standard hours of operation: Monday through Friday 9:00 a.m. to 6:00 p.m. Eastern Standard Time. Customer service for the PSAT 8/9 Program can also be accessed online at the following web address: <https://collegereadiness.collegeboard.org/contact-us>.

X. ADDITIONAL PSAT 8/9 TERMS AND CONDITIONS

1. **Ownership of Intellectual Property.** College Board is the exclusive owner of all rights in and to the digital Testing Platform, Bluebook, Test Day Toolkit (TDTK), K-12 Reporting Portal, AP Potential, guidebooks for students and Designated Personnel, SAT exam, SAT with Essay exam, PSAT/NMSQT, PSAT 10, and PSAT 8/9 examinations, all individual test items (questions) contained therein, including all copies thereof, test booklets, all examination materials and all data collected therefrom, including but not limited to student scores derived from the exam, are at all times exclusively owned by College Board. In addition, College Board is the exclusive owner of AP Potential, College Board's mobile app described below, and all publications and reports associated with SAT exam, SAT with Essay exam, PSAT/NMSQT, PSAT 10 and PSAT 8/9 described in this Agreement including all copyrights, trademarks, trade secrets,



patents, and other similar proprietary rights, and all renewals and extensions thereof (all platforms, exams and related material referenced in this provision are collectively referred to as ‘College Board Intellectual Property’). Client acknowledges and agrees that nothing in this Agreement shall be interpreted to indicate that College Board is passing its proprietary rights in and to College Board Intellectual Property to Client.

Except as expressly provided herein, Client is prohibited from copying, disseminating, publishing, displaying or distributing in any form, or reproducing any questions from the assessments including from digital testing or paper test booklets (if used) in whole or in part, without the prior written consent of College Board.

2. **Student Score Report License.** College Board hereby grants Client a limited, nonexclusive, nontransferable, non-assignable right to access and use the student score reports provided for the assessment(s) pursuant to this Agreement for the legitimate educational purposes of internal analysis, which includes your internal training sessions, as long as the data used during training preserves the confidentiality of students. Client may not use or distribute the score reports or the data derived from them externally or to third parties other than the student without the express written consent of College Board.

XI. FEE CALCULATION

1. **Fees.** The fee calculation for this Schedule is based on the Client selections in SSOR. Pricing adjustments that reduce the fee per test for an amount less than the retail price are provided at the sole discretion of College Board.

Clients will be charged the fee in the attached Budget Schedule based on the number of students registered via the College Board registration system located at <https://ordering.collegeboard.org/>, regardless of how many students take the PSAT 8/9 assessment. The test volumes and total cost indicated in the Budget Schedule are estimates.

2. **Restrictions.** No student participating under this Schedule will be assessed an individual fee for taking the PSAT 8/9 exam.

XII. CLIENT CONTACT INFORMATION

	Primary ¹	Procurement ²
Name:	Suzanne McKelvey	Robert Aldama
Title:	Assessment Coordinator III	Purchasing Manager II
Address:	5735 47th Ave	5735 47th Ave
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Fax:		
Email:	suzanne-mckelvey@scusd.edu	robert-aldama@scusd.edu

¹ This is the person to whom College Board should direct primary communications.

² This is the person to whom College Board should send the contract for review and approval within the district procurement/contract department.

**PSAT/NMSQT®
SHELF SCHEDULE**

I. BACKGROUND

College Board owns and delivers its national standardized tests to students. Taking the PSAT/NMSQT^{®3} provides students with the opportunity to receive national recognition and scholarships through National Merit Scholarship Corporation. This Schedule outlines how a Client sponsors the PSAT/NMSQT administration at its schools ('Participating Schools') for students and what data and reports may be provided to Client through our online data portal (the 'Program').

II. PROGRAM MATERIALS AND INFORMATION

College Board shall furnish PSAT/NMSQT materials and information as follows:

1. Materials for Students:

- a. Link to the Student Guide
- b. PSAT/NMSAT test materials delivered via College Board's Digital Testing Platform, BlueBook™. Assessment score report delivered as a PDF to Client via College Board's K-12 Reporting Portal.
- c. Information about scholarship and recognition programs, offered by each of National Merit Scholarship Corporation and College Board, as applicable.
- d. Information from College Board to help students understand and navigate post-secondary and career pathways and opportunities through a College Board mobile application, as described in Annex 1 attached.
- e. Access to SAT Practice Tools and Support as set forth below.
- f. Access to Bluebook and the test at school (Client will have access to a digital test preview to demonstrate the navigation and tools available to students in Bluebook).

2. Materials for Participating Schools:

- a. Materials to support test administration.
- b. Client will receive online access to test day toolkit (TDTK), College Board's digital test administration tool, and a downloadable PDF of the PSAT/NMSQT Test Coordinator Guide.
- c. Access to a digital test preview to demonstrate the navigation and tools available to students in the digital testing platform.
- d. Materials to support students receiving accommodations which require a paper test, including applicable instructions and the paper testing materials.
- e. Access to individual student score reports and aggregate score reports, and downloadable student data file delivered via College Board's K-12 Reporting Portal.
- f. Access to AP Potential™ via College Board website.
- g. Insights and reporting on students' participation in the College Board mobile application and insights to support student engagement in exploring college and career information and opportunities, as further described in Annex 1.

3. Reports for District:

- a. Access to individual student score reports and aggregate score reports, and downloadable student data file, delivered via College Board's K-12 Reporting Portal.
- b. Access to AP Potential via College Board website.

4. **Delivering SAT Practice Tools and Support.** In addition to the free practice tools available at <http://sat.collegeboard.org/practice>, all students will have access to a) full-length practice tests in Bluebook and b) focused practice resources through College Board's collaboration with Khan Academy. Practice materials for the SAT exam are available at the Khan Academy website (<http://satpractice.org>). Client and Participants shall use the Khan Academy practice tool and materials in accordance with Khan Academy's guidelines.

III. CLIENT RESPONSIBILITIES

1. In connection with PSAT/NMSQT, Client agrees that it will, or will ensure each participating school will:
 - a. Comply with the Legal Terms for Educators and Institutions at <https://privacy.collegeboard.org/educator-legal-terms?navId=gf-edterms>.
 - b. Review the information in Annex 1 below and incorporated herein about College Board's mobile application available for students.
 - c. Place orders by the ordering deadline. Orders cannot be decreased after the ordering deadline for PSAT/NMSQT.

³ PSAT/NMSQT is a registered trademark of College Board and National Merit Scholarship Corporation.

- d. Designate personnel to act as a Test Coordinator, SSD Coordinator, Technology Coordinator, Proctors and Monitors (collectively, 'Designated Personnel').
- e. Ensure compliance with the requirements for training and other guidelines in the Guides shared with you.
- f. Verify and update, if necessary, the Test Coordinator name and contact information.
- g. Submit Eligibility Forms for students with disabilities who do not already have a College Board SSD Eligibility Code (see calendar for deadlines).
- h. Ensure that registered students are provided a link to the online PSAT/NMSQT Student Guide (<https://satsuite.collegeboard.org/media/pdf/psat-nmsqt-student-guide.pdf>) **at least two weeks before the anticipated start of testing.**
- i. Administer the test to students under standard College Board national test administration and security policies, procedures and protocols as specified in training and/or instructional material shared with Client and in compliance with Designated Personnel Guide directions.
- j. Administer the test only during the authorized Testing Window for which the school is registered.
- k. Receive emails from College Board regarding the tests and their related offerings and share emails and coordinate communications with other staff at your schools as necessary.
- l. There is always a risk of disruption during paper or digital testing, including, without limitation, computer issues. College Board has endeavored to put in place procedures to allow administrators and students to recover from such disruption and complete testing. Despite such efforts, Client understands that there are situations where College Board's only option is to complete testing on the other days during the testing window. This is Client's sole remedy in relation to such disruption.
 1. Testing may not be available in the case of severe weather or other disruptions, including without limitation epidemics, that require lengthy closures at your school that extend beyond the end of the Testing Window.
 2. For more information on what to do in the event of extended closure due to a weather or disruptions including without limitation epidemics, see our <http://sat.org/COVID19>.

IV. PAPER AND DIGITAL TESTING REQUIREMENTS; ACCOMMODATIONS

1. Digital Testing Requirements

- a. The Technology Coordinator at each Participating School will complete all required College Board Technology Coordinator Training and provide training access to other supporting staff. Client will ensure compliance with training requirements for all testing staff.
- b. The Technology Coordinator at each Participating School will ensure the successful and accurate completion of all digital readiness and technology setup activities. These include: a dedicated device for Test Coordinator(s) to monitor test activities, a proctor device to administer the digital test in each testing room, and devices for each test-taking student with College Board's Digital Testing Platform, Bluebook™, installed. Additional information on the devices required for test day, including recommendations on battery and power source, supported operating systems, supported web browsers, and network configuration can be found at <https://satsuite.collegeboard.org/digital>. Client must ensure that each Participating School can meet College Board Digital Testing Requirements as outlined on the referenced website.
- c. Client will ensure that Participating School(s) consult College Board guides and training and adhere to the most up-to-date Digital Testing room seating policies.
- d. Client shall complete College Board's Registration process for each student scheduled to test by the registration deadline.
- e. If you are administering the test with accommodations requiring the use of an approved assistive technology device, students should pre-test the device in the Student Digital Test Preview prior to test day to ensure operational functionality. If the digital accommodation supports within the Digital Test preview do not meet students' testing needs, Client should arrange for alternate accommodation supports.

2. Paper Tests

- a. College Board may provide a limited number of paper test books for students requiring accommodations that cannot be delivered as a digital test or otherwise as approved by College Board.
- b. Client, or Participating Schools, as applicable, will keep all test books in locked storage until test date.
- c. Participating Schools will collect all test books at the end of the test.
- d. Participating Schools will promptly complete the process for submitting responses for students that test using paper materials in accordance with the policies and processes provided by College Board to Test Coordinators.
- e. Participating Schools will promptly return all paper test materials in accordance with the policies and processes provided by College Board to Test Coordinators.

3. ACCOMMODATIONS

Accommodations for Participants with disabilities will be granted and administered according to College Board's standard eligibility and administration procedures. Participants must apply for accommodations under College Board's

Services for Students with Disabilities (SSD) program and must follow the SSD program's published procedures, which can be found at <https://www.collegeboard.org/students-with-disabilities>. Only College Board-approved accommodations are permitted. Students who use accommodated test materials without the College Board's prior approval may not receive scores or may otherwise have their scores cancelled or invalidated, and that cannot be reported to colleges, scholarship programs and other designated score recipients. Client will be responsible for ensuring that an appropriate accommodations coordinator ('SSD Coordinator') is designated for each Participating School to facilitate the application for and administration of approved accommodations. SSD Coordinators are responsible for notifying students when and where to report on test day. Early testing or testing at times other than those published by College Board is not permitted under any circumstances. The 'SSD Coordinator Form' (used to establish an SSD Coordinator) is available at <https://accommodations.collegeboard.org/media/pdf/ssd-coordinator.pdf>. Participants with accommodations previously approved by College Board, and who have a College Board-issued SSD code, do not need to reapply for accommodations under this Program.

V. REQUIRED INFORMATION AND TRAINING

1. Client shall furnish College Board with: (a) a list of Participating Schools with their respective College Board school code online in College Board's SAT Suite Ordering and Registration system located at the following location ordering.collegeboard.org ('SSOR'), (b) a list of all students registered for the exam are submitted online using the registration template in the College Board registration system located at the following location ordering.collegeboard.org and (c) the Client's contacts entered online in SSOR.
 - a. **Changes to Participating Schools.** Changes to the list of Participating Schools must be made online in the SSOR no later than **two weeks prior to the beginning of the testing window**.

If any of Client's schools are omitted from the List of Participating Schools, then such schools shall not be covered under this Schedule.

1. **Training of Designated Personnel at the Participating Schools.** College Board will make available online all necessary training and/or instructional materials to Designated Personnel. The required training and/or instructional materials will be made available online by College Board to Client and **must be completed two weeks before the test administration date**.

Designated Personnel are required to utilize College Board's test day tool kit ('TDTK') application in connection with the administration of the PSAT/NMSQT. Designated Personnel are required to adhere to all of College Board's procedures, policies, and protocols related to national test administrations as specified in the PSAT/NMSQT Coordinator training and instructional materials. College Board reserves the right to cancel the administration of the Program at any Participating School where any Designated Personnel fails to complete such training prior to the scheduled test administration.

VI. TESTING

1. **PSAT/NMSQT Testing.** Client has agreed to administer the PSAT/NMSQT to registered students selected by Client in College Board's SSOR. In order to test, Client, or Participants, as applicable, will be required to install Bluebook on school owned devices that meet College Board technical specifications. Participants using personal devices will be required to install Bluebook on compatible devices. Client shall provide internet access to each testing device.
2. **Administering the PSAT/NMSQT.** The PSAT/NMSQT will be administered to Participating Students under standard College Board national test administration and security protocols as specified in the PSAT/NMSQT Test Coordinator Guide and PSAT/NMSQT Test Coordinator training and instructional materials, unless otherwise stated in this Schedule. In accordance with College Board policies, any test irregularity, including mis-administrations or security breaches, will be thoroughly investigated and may result in score cancellations. Client is responsible for making all necessary arrangements to ensure that the testing environment and the security of all test materials satisfy College Board requirements as specified in the PSAT/NMSQT Coordinator training and instructional materials. The test will be administered by Client-employed personnel, who will not receive additional remuneration from College Board. Client personnel must use TDTK in connection with the administration of the PSAT/NMSQT. This Agreement does not guarantee that all Students registered by Client for the Program will actually test. It is the responsibility of Client to encourage Participants to complete the program. Participants will follow the guidelines in applicable College Board digital student materials.
3. **Client Testing Delays.** Should an event occur that would require Participating School(s) to close for reasons beyond the reasonable control of such Participating School(s) (for example, including, but not limited to, severe weather, extended

power outages, or a teacher's strike) (a 'Delay Event'), the Participating School(s) should immediately notify College Board.

In a Delay Event occurs, College Board will use its best reasonable efforts to support the change of a testing date for testing. College Board will assume any additional costs associated with rescheduling and delivering paper tests to participating schools impacted by a Delay Event. College Board reserves the right to deny the delivery of additional paper materials if, in its sole opinion, the additional work will endanger its vendors or its employees, agents, consultants, or if Client has failed to promptly inform College Board of the need for new materials in time to allow delivery of applicable paper test materials. No additional administration of the assessment will be made available after the testing window.

VII. COLLEGE BOARD COLLECTION AND USE OF DATA

1. Client acknowledges and agrees that the data collected from the administration of the assessment ordered under this Agreement is subject to College Board's privacy policies, available at <https://privacy.collegeboard.org>.

College Board shall collect from Client, or Participating School, as applicable, the following student data in connection with the registration of the assessments you are ordering under this Agreement, with those asterisked required for registration. Client and College Board agree to comply with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and its implementing regulations, 34 C.F.R. pt. 99 ('FERPA'), as applicable. Client will obtain any and all consents necessary for students to participate in the assessment(s), if any.

- *First and last name
- Middle initial
- *Date of Birth
- *Attending institution (AI Code)
- *Grade
- *Gender
- *Test administration indicator (that is, which assessment)
- *Season for testing
- Student identifier

College Board may collect additional data and information from students in connection with the assessments, all of which is optional and subject to College Board's privacy policies. *See Annex 1 for more information.*

For digital testing, College Board will receive certain information about the device to ensure the device is compatible and monitor the actions taken in Bluebook for test security purposes, as well as to develop and improve College Board products and services.

2. College Board may also collect, retain, use and share students' personally identifiable information to perform this Agreement and for the purposes outlined below.
 - a. For SAT, State Scholarship Organizations: State affiliated scholarship organizations may receive student data for the purposes of eligibility for a scholarship or recognition program.
 - b. For SAT, National Presidential Scholars: Eligible students are shared with the US Department of Education for purposes of the U.S. Presidential Scholars Programs.
 - c. For PSAT 10 and PSAT/NMSQT, National Recognition Programs: College Board uses student data to determine eligibility and administer its National Recognition Programs and share information with the students' high school and district about the students' recognition status.
 - d. For PSAT/NMSQT, College Board will share scores and other information provided by students during testing with the National Merit Scholarship Corporation (NMSC) in order for NMSC to determine whether students are eligible for its National Merit Scholarship Program in accordance with the PSAT/NMSQT Student Guide (<https://satsuite.collegeboard.org/media/pdf/psat-nmsqt-student-guide.pdf>) and www.nationalmerit.org.
 - e. Score Reporting to Students.
 - f. SAT Score Sends: Students may identify institutions to receive their SAT scores. Student scores and basic demographic information sufficient for identity matching are only provided to higher education institutions and scholarship organizations when authorized by students.
 - g. Score Report to Schools, Districts and State. Schools, Districts and the State will have access to students' assessments score(s) and data derived from the score(s).
 - h. Accommodations: College Board uses student data to process applications for testing accommodations and to communicate with the SSD coordinator and students regarding accommodations.
 - i. Test Security: College Board may use student data to identify and investigate potential test security incidents, and protect and enhance test security, and disclose the results of test security investigations with third parties, including



- to the student's school, any score recipient, college, higher education institution or agency, scholarship organization, potential score recipient government agency in the U.S or abroad, parents, legal guardians, or law enforcement.
- j. **Research:** College Board may use de-identified data obtained from student test-takers for psychometric and educational research purposes to evaluate the validity of our assessments and ensure that tests are unbiased in terms of race, gender, and culture. College Board may also use data to maintain, develop, support, improve and diagnose our services and applications.
 - k. **Other:** College Board may disclose student data as required by law, when we believe in good faith that it's necessary to protect our rights, protect an individual's safety or the safety of others, investigate fraud, or respond to a government request.

Client acknowledges that students may desire to continue and further develop a direct relationship beyond the administration of SAT Suite of Assessments for the purposes of students' college and career readiness by utilizing College Board's services available to all students. The terms and conditions of this Agreement related to the collection, maintenance, use, and disclosure of data shall only apply to the data College Board receives in connection with this Agreement. Nothing in this Agreement is intended to diminish or interfere with student rights in their assessment data, and no provisions in this Agreement are intended to address or cover data that College Board has, or may receive, for services which are outside the scope of this Agreement.

College Board agrees to adhere to the Data Protection, Security Measures and Notice provisions set forth below.

VIII. DATA PROTECTION, SECURITY MEASURES AND NOTICE

1. **Data Protection.** College Board shall take actions to protect the security and confidentiality of personally identifiable information that may be obtained pursuant to this Agreement in a manner consistent with industry standards. College Board will maintain a SOC 2 Type II report.

College Board has security measures in place designed to help protect against loss, misuse and alteration of the data under College Board's control. College Board shall develop, implement, maintain and use reasonably appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of personally identifiable information that may be obtained pursuant to this Agreement, as determined by College Board. College Board shall host content in a secure environment that uses Web Application Firewalls/security groups and other advanced technologies designed to prevent interference or access from outside intruders.

College Board encrypts personally identifiable information that may be obtained pursuant to this Agreement in transmission and storage where technically feasible and when designed as being appropriate by College Board. If not, other security controls may be implemented to reduce risk, mitigate risk, or otherwise protect the data as determined solely by College Board. When College Board's platforms are accessed using a supported web browser, Transport Layer Security ('TLS') or equivalent technology protects information while in transit, using both server authentication and data encryption to help secure the data and limit availability to only authorized users.

Client shall be responsible for removing access to College Board's platforms for any personnel who no longer should have access, or promptly notifying College Board to request removal of any such access.

2. **Security Measures.** College Board will extend the confidentiality requirements and security measures identified in this Agreement by contract to subcontractors used by College Board, if any, to provide services related to this Agreement. College Board will use appropriate and reliable storage media, regularly backup data and retain such backup copies for the duration of this Agreement, as defined by College Board. You acknowledge that College Board utilizes cloud hosting service providers throughout its infrastructure. College Board will store personally identifiable information that may be obtained pursuant to this Agreement in the United States where technically feasible and reasonable, as determined solely by College Board.

IX. COLLEGE BOARD SCHOOL DAY CUSTOMER SERVICE

1. **Dedicated PSAT/NMSQT Customer Service for Educators:** College Board will provide Client with telephone customer service support for educators. Specifically, College Board will provide:
 - a. Step-by-step assistance with College Board online tools including SSD System, SSOR and TDTK;
 - b. Assistance with completing required forms such as AI Request Form;
 - c. Assistance with technical complications for Bluebook Installation and Registration login, for example; and
 - d. Feedback mechanism for counselors.



Dates and Times of Service: **Available three months prior to primary test date.** Standard hours of operation: Monday through Friday 9:00 a.m. to 6:00 p.m. Eastern Standard Time. Customer service for the PSAT/NMSQT Program can also be accessed online at the following web address: <https://collegereadiness.collegeboard.org/contact-us>.

X. ADDITIONAL PSAT/NMSQT TERMS AND CONDITIONS

- Ownership of Intellectual Property.** College Board is the exclusive owner of all rights in and to the digital Testing Platform, Bluebook, Test Day Toolkit (TDTK), K-12 Reporting Portal, AP Potential, guidebooks for students and Designated Personnel, SAT exam, SAT with Essay exam, PSAT/NMSQT, PSAT 10, and PSAT 8/9 examinations, all individual test items (questions) contained therein, including all copies thereof, test booklets, all examination materials and all data collected therefrom, including but not limited to student scores derived from the exam, are at all times exclusively owned by College Board. In addition, College Board is the exclusive owner of AP Potential, College Board's mobile app described below, and all publications and reports associated with SAT exam, SAT with Essay exam, PSAT/NMSQT, PSAT 10 and PSAT 8/9 described in this Agreement including all copyrights, trademarks, trade secrets, patents, and other similar proprietary rights, and all renewals and extensions thereof (all platforms, exams and related material referenced in this provision are collectively referred to as 'College Board Intellectual Property'). Client acknowledges and agrees that nothing in this Agreement shall be interpreted to indicate that College Board is passing its proprietary rights in and to College Board Intellectual Property to Client.

Except as expressly provided herein, Client is prohibited from copying, disseminating, publishing, displaying or distributing in any form, or reproducing any questions from the assessments including from digital testing or paper test booklets (if used) in whole or in part, without the prior written consent of College Board.

- Student Score Report License.** College Board hereby grants Client a limited, nonexclusive, nontransferable, non-assignable right to access and use the student score reports provided for the assessment(s) pursuant to this Agreement for the legitimate educational purposes of internal analysis, which includes your internal training sessions, as long as the data used during training preserves the confidentiality of students. Client may not use or distribute the score reports or the data derived from them externally or to third parties other than the student without the express written consent of College Board.

XI. FEE CALCULATION

- Fees.** The fee calculation for this Schedule is based on the Client selections in SSOR. Pricing adjustment that reduce the fee per test for an amount less than the retail price are provided at the sole discretion of College Board.

Clients will be charged the fee in the attached Budget Schedule based on the number of students registered via the College Board registration system located at <https://ordering.collegeboard.org/>, regardless of how many students take the PSAT/NMSQT assessment. The test volumes and total cost indicated in the Budget Schedule are estimates.

- Restrictions.** No student participating under this Schedule will be assessed an individual fee for taking the PSAT/NMSQT exam.

XII. CLIENT CONTACT INFORMATION

	Primary ⁴	Procurement ⁵
Name:	Suzanne McKelvey	Robert Aldama
Title:	Assessment Coordinator III	Purchasing Manager II
Address:	5735 47th Ave	5735 47th Ave
City/State/Zip:	Sacramento, CA 95824-4528	Sacramento, CA 95824-4528
Phone:	916-643-9280	916-643-9465
Fax:		
Email:	suzanne-mckelvey@scusd.edu	robert-aldama@scusd.edu

⁴ This is the person to whom College Board should direct primary communications.

⁵ This is the person to whom College Board should send the contract for review and approval within the district procurement/contract department.



SAT[®] SCHOOL DAY PROGRAM SHELF SCHEDULE

I. BACKGROUND

College Board owns and delivers its national standardized SAT test to students. This Schedule outlines how Client sponsors a SAT School Day administration at its schools ('Participating Schools') for students during a certain designated period ('Testing Window') and what SAT data and reports may be provided to Client through our online data portal (the 'Program'). Students who take the SAT exam in accordance with the provisions of this Schedule are herein referred to as 'Participants.'

II. PROGRAM MATERIALS AND INFORMATION

College Board shall furnish SAT School Day materials and information as follows:

1. Materials for Students:

- a. Link to the Student Guide
- b. SAT test materials delivered via College Board's Digital Testing Platform, BlueBook™. Assessment score report delivered as a PDF to Client via College Board's K-12 Reporting Portal.
- c. The ability to send SAT scores to colleges, scholarship programs and other designated score recipients via College Board website, collegeboard.org in the SAT section.
- d. For SAT (starting Spring 2024), information from College Board to help students understand and navigate post-secondary and career pathways and opportunities through a College Board mobile application, as described in Annex 1 attached.
- e. Access to SAT Practice Tools and Support as set forth below.
- f. Access to Bluebook and the test at school (Client will have access to a digital test preview to demonstrate the navigation and tools available to students in Bluebook).

2. Materials for Participating Schools:

- a. Materials to support test administration.
- b. Client will receive online access to test day toolkit (TDTK), College Board's digital test administration tool, and a downloadable PDF of the School Day Testing Coordinator Guide.
- c. Access to a digital test preview to demonstrate the navigation and tools available to students in the digital testing platform.
- d. Materials to support students receiving accommodations which require a paper test, including applicable instructions and the paper testing materials.
- e. Access to individual student score reports and aggregate score reports, and downloadable student data file delivered via College Board's K-12 Reporting Portal.
- f. Access to AP Potential™ via College Board website.
- g. Insights and reporting on students' participation in the College Board mobile application and insights to support student engagement in exploring college and career information and opportunities, as further described in Annex 1.

3. Reports for District:

- a. Access to individual student score reports and aggregate score reports, and downloadable student data file, delivered via College Board's K-12 Reporting Portal.
- b. Access to AP Potential via College Board website.

4. Delivering SAT Practice Tools and Support.

In addition to the free practice tools available at <http://sat.collegeboard.org/practice>, all students will have access to a) full-length practice tests in Bluebook and b) focused practice resources through College Board's collaboration with Khan Academy. Practice materials for the SAT exam are available at the Khan Academy website (<http://satpractice.org>). Client and Participants shall use the Khan Academy practice tool and materials in accordance with Khan Academy's guidelines.

Additional SAT Readiness products (e.g., publications) and services (e.g., Professional Development Workshops) are not included as part of the Program. Client may purchase these products and services separately.

III. CLIENT RESPONSIBILITIES

1. In connection with SAT School Day, Client agrees that it will, or will ensure each participating school will:
 - a. Comply with the Legal Terms for Educators and Institutions at <https://privacy.collegeboard.org/educator-legal-terms?navId=gf-edterms>.

- b. Review the information in Annex 1 below and incorporated herein about College Board's mobile application available for students.
- c. Place orders by the ordering deadline. Orders cannot be decreased after the ordering deadline for SAT School Day.
- d. Designate personnel to act as a Test Coordinator, SSD Coordinator, Technology Coordinator, Proctors and Monitors (collectively, 'Designated Personnel').
- e. Ensure compliance with the requirements for training and other guidelines in the Guides shared with you.
- f. Verify and update, if necessary, the Test Coordinator name and contact information.
- g. Submit Eligibility Forms for students with disabilities who do not already have a College Board SSD Eligibility Code (see calendar for deadlines).
- h. Ensure that registered students are provided a link to the online SAT Student Guide (<https://satsuite.collegeboard.org/media/pdf/sat-student-guide.pdf>) **at least two weeks before the anticipated start of testing.**
- i. Administer the test to students under standard College Board national test administration and security policies, procedures and protocols as specified in training and/or instructional material shared with Client and in compliance with Designated Personnel Guide directions.
- j. Administer the test only during the authorized Testing Window for which the school is registered.
- k. Receive emails from College Board regarding the tests and their related offerings and share emails and coordinate communications with other staff at your schools as necessary.
- l. There is always a risk of disruption during paper or digital testing, including, without limitation, computer issues. College Board has endeavored to put in place procedures to allow administrators and students to recover from such disruption and complete testing. Despite such efforts, Client understands that there are situations where College Board's only option is to complete testing on the other days during the testing window. This is Client's sole remedy in relation to such disruption.
 1. Testing may not be available in the case of severe weather or other disruptions, including without limitation epidemics, that require lengthy closures at your school that extend beyond the end of the Testing Window.
 2. For more information on what to do in the event of extended closure due to a weather or disruptions including without limitation epidemics, see our <https://sat.org/COVID19>.

IV. PAPER AND DIGITAL TESTING REQUIREMENTS; ACCOMMODATIONS

1. Digital Testing Requirements.

- a. The Technology Coordinator at each Participating School will complete all required College Board Technology Coordinator Training and provide training access to other supporting staff. Client will ensure compliance with training requirements for all testing staff.
- b. The Technology Coordinator at each Participating School will ensure the successful and accurate completion of all digital readiness and technology setup activities. These include: a dedicated device for Test Coordinator(s) to monitor test activities, a proctor device to administer the digital test in each testing room, and devices for each test-taking student with College Board's Digital Testing Platform, Bluebook™, installed. Additional information on the devices required for test day, including recommendations on battery and power source, supported operating systems, supported web browsers, and network configuration can be found at <https://satsuite.collegeboard.org/digital>. Client must ensure that each Participating School can meet College Board Digital Testing Requirements as outlined on the referenced website.
- c. Client will ensure that Participating School(s) consult College Board guides and training and adhere to the most up-to-date Digital Testing room seating policies.
- d. Client shall complete College Board's Registration process for each student scheduled to test by the registration deadline.
- e. If you are administering the test with accommodations requiring the use of an approved assistive technology device, students should pre-test the device in the Student Digital Test Preview prior to test day to ensure operational functionality. If the digital accommodation supports within the Digital Test preview do not meet students' testing needs, Client should arrange for alternate accommodation supports.

2. Paper Tests

- a. College Board may provide a limited number of paper test books for students requiring accommodations that cannot be delivered as a digital test or otherwise as approved by College Board.
- b. Client, or Participating Schools, as applicable, will keep all test books in locked storage until test date.
- c. Participating Schools will collect all test books at the end of the test.
- d. Participating Schools will promptly complete the process for submitting responses for students that test using paper materials in accordance with the policies and processes provided by College Board to Test Coordinators.
- e. Participating Schools will promptly return all paper test materials in accordance with the policies and processes provided by College Board to Test Coordinators.

3. ACCOMMODATIONS

Accommodations for Participants with disabilities will be granted and administered according to College Board's standard eligibility and administration procedures. Participants must apply for accommodations under College Board's Services for Students with Disabilities (SSD) program and must follow the SSD program's published procedures, which can be found at <https://www.collegeboard.org/students-with-disabilities>. Only College Board-approved accommodations are permitted. Students who use accommodated test materials without the College Board's prior approval may not receive scores or may otherwise have their scores cancelled or invalidated, and that cannot be reported to colleges, scholarship programs and other designated score recipients. Client will be responsible for ensuring that an appropriate accommodations coordinator ('SSD Coordinator') is designated for each Participating School to facilitate the application for and administration of approved accommodations. SSD Coordinators are responsible for notifying students when and where to report on test day. Early testing or testing at times other than those published by College Board is not permitted under any circumstances. The 'SSD Coordinator Form' (used to establish an SSD Coordinator) is available at <https://accommodations.collegeboard.org/media/pdf/ssd-coordinator.pdf>. Participants with accommodations previously approved by College Board, and who have a College Board-issued SSD code, do not need to reapply for accommodations under this Program. <https://satsuite.collegeboard.org/k12-educators/administration/sat-school-day/ordering/english-learner-supports> like translated directions and the use of word-to-word glossaries do not require approval or special test format.

V. REQUIRED INFORMATION AND TRAINING

1. Client shall furnish College Board with: (a) a list of Participating Schools with their respective College Board school code online in College Board's SAT Suite Ordering and Registration system located at the following location ordering.collegeboard.org. ('SSOR'), (b) a list of all students registered for the exam are submitted online using the registration template in the College Board registration system located at the following location ordering.collegeboard.org and (c) the Client's contacts entered online in SSOR.
 - a. **Changes to Participating Schools.** Changes to the list of Participating Schools must be made online in the SSOR no later than **two weeks prior to the beginning of the testing window.**

If any of Client's schools are omitted from the List of Participating Schools, then such schools shall not be covered under this Schedule.

2. **Training of Designated Personnel at the Participating Schools.** College Board will make available online all necessary training and/or instructional materials to Designated Personnel. The required training and/or instructional materials will be made available online by College Board to Client and **must be completed two weeks before the test administration date.**

Designated Personnel are required to utilize College Board's test day tool kit ('TDTK') application in connection with the administration of the SAT. Designated Personnel are required to adhere to all of College Board's procedures, policies, and protocols related to national test administrations as specified in the SAT School Day Coordinator training and instructional materials. College Board reserves the right to cancel the administration of the Program at any Participating School where any Designated Personnel fails to complete such training prior to the scheduled test administration.

VI. TESTING

1. **SAT Testing Windows.** Client has agreed to administer the SAT to registered students during the Testing Window(s) selected by Client in College Board's SSOR. In order to test, Client, or Participants, as applicable, will be required to install Bluebook on school owned devices that meet College Board technical specifications. Participants using personal devices will be required to install Bluebook on compatible devices. Client shall provide internet access to each testing device.
2. **Administering the SAT.** The SAT will be administered to Participating Students under standard College Board national test administration and security protocols as specified in the SAT School Day Test Coordinator Guide and SAT School Day Test Coordinator training and instructional materials, unless otherwise stated in this Schedule, and will result in scores that are reportable to colleges for admissions purposes. In accordance with College Board policies, any test irregularity, including mis-administrations or security breaches, will be thoroughly investigated and may result in score cancellations. Client is responsible for making all necessary arrangements to ensure that the testing environment and the security of all test materials satisfy College Board requirements as specified in the SAT School Day Coordinator training and instructional materials. The test will be administered by Client-employed personnel, who will not receive additional remuneration from College Board. Client personnel must use TDTK in connection with the administration of the SAT. This Agreement does not guarantee that all Students registered by Client for the Program will actually test. It is the responsibility of Client to encourage Participants to complete the program. Participants will follow the guidelines in applicable College Board digital student materials.

3. **Client Testing Delays.** Participating schools select an administration date within a Testing Window for the SAT School Day. Should an event occur that would require Participating School(s) to close for reasons beyond the reasonable control of such Participating School(s) (for example, including, but not limited to, severe weather, extended power outages, or a teacher's strike) (a 'Delay Event'), the Participating School(s) should adjust testing until later in their Testing Window.

Client understands that by selecting the last week of a Testing Window as their main administration date, if there is a Delay Event, there may be no additional SAT School Day test dates. In such cases, this Agreement remains in full force and effect.

In a Delay Event occurs, College Board will use its best reasonable efforts to support the change of testing window for paper testing. College Board will assume any additional costs associated with rescheduling and delivering paper tests to participating schools impacted by a Delay Event up to one week prior to the end of the testing window. College Board reserves the right to deny the delivery of additional paper materials if, in its sole opinion, the additional work will endanger its vendors or its employees, agents, consultants, or if Client has failed to promptly inform College Board of the need for new materials in time to allow delivery of applicable paper test materials. No additional administration of the assessment will be made available after the Testing Window.

VII. COLLEGE BOARD COLLECTION AND USE OF DATA

1. Client acknowledges and agrees that the data collected from the administration of the assessment ordered under this Agreement is subject to College Board's privacy policies, available at <https://privacy.collegeboard.org/>.

College Board shall collect from Client, or Participating School, as applicable, the following student data in connection with the registration of the assessments you are ordering under this Agreement, with those asterisked required for registration. Client and College Board agree to comply with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and its implementing regulations, 34 C.F.R. pt. 99 ('FERPA'), as applicable. Client will obtain any and all consents necessary for students to participate in the assessment(s), if any.

- *First and last name
- Middle initial
- *Date of Birth
- *Attending institution (AI Code)
- *Grade
- *Gender
- *Test administration indicator (that is, which assessment)
- *Season for testing
- Student identifier

College Board may collect additional data and information from students in connection with the assessments, all of which is optional and subject to College Board's privacy policies. *See Annex 1 for more information.*

For digital testing, College Board will receive certain information about the device to ensure the device is compatible and monitor the actions taken in Bluebook for test security purposes, as well as to develop and improve College Board products and services.

2. College Board may also collect, retain, use and share students' personally identifiable information to perform this Agreement and for the purposes outlined below.
- a. For SAT, State Scholarship Organizations: State affiliated scholarship organizations may receive student data for the purposes of eligibility for a scholarship or recognition program.
 - b. For SAT, National Presidential Scholars: Eligible students are shared with the US Department of Education for purposes of the U.S. Presidential Scholars Programs.
 - c. For PSAT 10 and PSAT/NMSQT, National Recognition Programs: College Board uses student data to determine eligibility and administer its National Recognition Programs and share information with the students' high school and district about the students' recognition status.
 - d. For PSAT/NMSQT, College Board will share scores and other information provided by students during testing with the National Merit Scholarship Corporation (NMSC) in order for NMSC to determine whether students are eligible for its National Merit Scholarship Program in accordance with the PSAT/NMSQT Student Guide (<https://satsuite.collegeboard.org/media/pdf/psat-nmsqt-student-guide.pdf>) and www.nationalmerit.org.
 - e. Score Reporting to Students.

- f. SAT Score Sends: Students may identify institutions to receive their SAT scores. Student scores and basic demographic information sufficient for identity matching are only provided to higher education institutions and scholarship organizations when authorized by students.
- g. Score Report to Schools, Districts and State. Schools, Districts and the State will have access to students' assessments score(s) and data derived from the score(s).
- h. Accommodations: College Board uses student data to process applications for testing accommodations and to communicate with the SSD coordinator and students regarding accommodations.
- i. Test Security: College Board may use student data to identify and investigate potential test security incidents, and protect and enhance test security, and disclose the results of test security investigations with third parties, including to the student's school, any score recipient, college, higher education institution or agency, scholarship organization, potential score recipient government agency in the U.S or abroad, parents, legal guardians, or law enforcement.
- j. Research: College Board may use de-identified data obtained from student test-takers for psychometric and educational research purposes to evaluate the validity of our assessments and ensure that tests are unbiased in terms of race, gender, and culture. College Board may also use data to maintain, develop, support, improve and diagnose our services and applications.
- k. Other: College Board may disclose student data as required by law, when we believe in good faith that it's necessary to protect our rights, protect an individual's safety or the safety of others, investigate fraud, or respond to a government request.

Client acknowledges that students may desire to continue and further develop a direct relationship beyond the administration of SAT Suite of Assessments for the purposes of students' college and career readiness by utilizing College Board's services available to all students. The terms and conditions of this Agreement related to the collection, maintenance, use, and disclosure of data shall only apply to the data College Board receives in connection with this Agreement. Nothing in this Agreement is intended to diminish or interfere with student rights in their assessment data, and no provisions in this Agreement are intended to address or cover data that College Board has, or may receive, for services which are outside the scope of this Agreement.

College Board agrees to adhere to the Data Protection, Security Measures and Notice provisions set forth below.

VIII. DATA PROTECTION, SECURITY MEASURES AND NOTICE

1. **Data Protection.** College Board shall take actions to protect the security and confidentiality of personally identifiable information that may be obtained pursuant to this Agreement in a manner consistent with industry standards. College Board will maintain a SOC 2 Type II report.

College Board has security measures in place designed to help protect against loss, misuse and alteration of the data under College Board's control. College Board shall develop, implement, maintain and use reasonably appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of personally identifiable information that may be obtained pursuant to this Agreement, as determined by College Board. College Board shall host content in a secure environment that uses Web Application Firewalls/security groups and other advanced technologies designed to prevent interference or access from outside intruders.

College Board encrypts personally identifiable information that may be obtained pursuant to this Agreement in transmission and storage where technically feasible and when designed as being appropriate by College Board. If not, other security controls may be implemented to reduce risk, mitigate risk, or otherwise protect the data as determined solely by College Board. When College Board's platforms are accessed using a supported web browser, Transport Layer Security ("TLS") or equivalent technology protects information while in transit, using both server authentication and data encryption to help secure the data and limit availability to only authorized users.

Client shall be responsible for removing access to College Board's platforms for any personnel who no longer should have access, or promptly notifying College Board to request removal of any such access.

2. **Security Measures.** College Board will extend the confidentiality requirements and security measures identified in this Agreement by contract to subcontractors used by College Board, if any, to provide services related to this Agreement. College Board will use appropriate and reliable storage media, regularly backup data and retain such backup copies for the duration of this Agreement, as defined by College Board. You acknowledge that College Board utilizes cloud hosting service providers throughout its infrastructure. College Board will store personally identifiable information that may be obtained pursuant to this Agreement in the United States where technically feasible and reasonable, as determined solely by College Board.

IX. COLLEGE BOARD SCHOOL DAY CUSTOMER SERVICE

1. **Dedicated SAT School Day Customer Service for Educators:** College Board will provide Client with telephone customer service support for educators. Specifically, College Board will provide:
 - a. Step-by-step assistance with College Board online tools including SSD System, SSOR and TDTK;
 - b. Assistance with completing required forms such as AI Request Form;
 - c. Assistance with technical complications for Bluebook Installation and Registration login, for example; and
 - d. Feedback mechanism for counselors.

Dates and Times of Service: **Available three months prior to primary test date.** Standard hours of operation: Monday through Friday 9:00 a.m. to 6:00 p.m. Eastern Standard Time. Customer service for the SAT Program can also be accessed online at the following web address: <https://collegereadiness.collegeboard.org/contact-us>.

X. ADDITIONAL SAT SCHOOL DAY TERMS AND CONDITIONS

1. **Ownership of Intellectual Property.** College Board is the exclusive owner of all rights in and to the digital Testing Platform, Bluebook, Test Day Toolkit (TDTK), K-12 Reporting Portal, AP Potential, guidebooks for students and Designated Personnel, SAT exam, SAT with Essay exam, PSAT/NMSQT, PSAT 10, and PSAT 8/9 examinations, all individual test items (questions) contained therein, including all copies thereof, test booklets, all examination materials and all data collected therefrom, including but not limited to student scores derived from the exam, are at all times exclusively owned by College Board. In addition, College Board is the exclusive owner of AP Potential, College Board's mobile app described below, and all publications and reports associated with SAT exam, SAT with Essay exam, PSAT/NMSQT, PSAT 10 and PSAT 8/9 described in this Agreement including all copyrights, trademarks, trade secrets, patents, and other similar proprietary rights, and all renewals and extensions thereof (all platforms, exams and related material referenced in this provision are collectively referred to as 'College Board Intellectual Property'). Client acknowledges and agrees that nothing in this Agreement shall be interpreted to indicate that College Board is passing its proprietary rights in and to College Board Intellectual Property to Client.

Except as expressly provided herein, Client is prohibited from copying, disseminating, publishing, displaying or distributing in any form, or reproducing any questions from the assessments including from digital testing or paper test booklets (if used) in whole or in part, without the prior written consent of College Board.

2. **SAT Suite Question Bank and License.** The SAT Suite Question Bank provides educators with the ability to access released PSAT 8/9, PSAT 10, and SAT questions by content domain, and score bands are provided for each question. College Board will release at least one full 'adaptive test panel' of content for each section of each assessment each year.

College Board grants Client a non-exclusive, limited and revocable license to use the SAT Suite Question Bank and any other released questions for the sole purpose of classroom teaching and internal reporting purposes. Client understands and acknowledges that the questions and answers explanation include College Board copyrighted content and may also include third party copyrighted content for which you may only use for the aforementioned purposes. Client acknowledges and agrees that it has no right to upload or post online, cache, reproduce, modify, display, edit, alter or enhance any portion of the SAT Suite Question Bank questions and answers or the third-party content in any manner unless it has express written permission from College Board and the owner of the third-party content.

College Board reserves the right to revoke the above license grant if Client violates the terms of the license. In addition, College Board shall not be liable to Client nor any third party for Client's use of the question and answers explanation (including but not limited to, any copyright infringement claims) beyond the scope of the license.

3. **Student Score Report License.** College Board hereby grants Client a limited, nonexclusive, nontransferable, non-assignable right to access and use the student score reports provided for the assessment(s) pursuant to this Agreement for the legitimate educational purposes of internal analysis, which includes your internal training sessions, as long as the data used during training preserves the confidentiality of students. Client may not use or distribute the score reports or the data derived from them externally or to third parties other than the student without the express written consent of College Board.

XI. FEE CALCULATION

1. **Fees.** The fee calculation for this Schedule is based on Client selections in SSOR. Pricing adjustments that reduce the fee per test for an amount less than the retail price are provided at the sole discretion of College Board.



Clients will be charged the fee in the attached Budget Schedule based on the number of students registered via the College Board registration system located at <https://ordering.collegeboard.org/>, regardless of how many students take the SAT School Day assessment. The test volumes and total cost indicated in the Budget Schedule are estimates.

2. **Restrictions.** No student participating under this Schedule will be assessed an individual fee for taking the SAT School Day exam.

XII. CLIENT CONTACT INFORMATION

	Primary ⁶	Procurement ⁷
Name:	Suzanne McKelvey	Robert Aldama
Title:	Assessment Coordinator III	Purchasing Manager II
Address:	5735 47th Ave	5735 47th Ave
City/State/Zip:	Sacramento, CA 95824-4528	Sacramento, CA 95824-4528
Phone:	916-643-9280	916-643-9465
Fax:		
Email:	suzanne-mckelvey@scusd.edu	robert-aldama@scusd.edu

⁶ This is the person to whom College Board should direct primary communications.

⁷ This is the person to whom College Board should send the contract to, if different from the Primary Contact.

Annex 1 to PSAT/NMSQT Schedule (Fall), PSAT 10 Schedule (Spring), SAT School Day Schedule (Spring)

College Board shall provide the following educational services to help students navigate post-secondary and career pathways and to help K-12 educators and counselors serve their students' needs (collectively, 'Educational Services').

'App' refers to a College Board mobile application that students can download from the App Store to access Educational Services.

SCORE INFORMATION: In the App, students may access their scores and other score information (collectively, 'Score Information') for College Board assessments delivered pursuant to this Agreement and pursuant to other agreements that College Board has with Client's school, district, or state, as applicable (collectively, 'Covered Assessments').

RECOMMENDATIONS: In the App, College Board will provide students with educational information and recommendations about college and career options including, for example, postsecondary options and opportunities, career pathways, scholarships, National Recognition Program potential eligibility, financial aid and paying for college information, and opportunities to participate in College Board research studies (collectively, 'Recommendations'). In providing and customizing Recommendations, College Board may use student information collected in connection with Covered Assessments and through students' use of Educational Services.

CONNECTIONS*: Connections is a College Board program through which students are provided information about non-profit colleges, universities, scholarship organizations and other nonprofit educational organizations ('Eligible Institutions') based on criteria provided by those Eligible Institutions, which may include student interests, demographics, assessment score ranges, students' use of Educational Services, and other information collected by College Board during Covered Assessment(s) for which the student opts-in to Connections. The students' interests and preferences, such as through user controls within the App, may also influence and personalize the students' experiences within the App and the content delivered to them through Connections. Connections is entirely optional, and students must affirmatively opt-in if they wish to participate. Unless you direct College Board to exclude your students from Connections (as further described below), students can opt-in during Covered Assessment(s) or in the App. Students can opt-out any time, as described more fully below.

Opted-in students may receive information and messages from Eligible Institutions in the App, by hard copy mail, and by email, subject to the student providing their home address, email, and/or downloads the mobile application, all of which data elements are optional (collectively, 'Messages'). Eligible Institutions do not know the identity of a student to which they have been matched unless and until the student chooses to provide their personal information directly to the Eligible Institution, which the student can only do outside of the App and outside of the Educational Services. For example, a student may be able to link from the application to a webpage or webform hosted by that college. College Board may track students access to such links/webpages for purposes of reporting and analytics, but College Board will not disclose such information to Eligible Institutions other than in de-identified and aggregated form. **College Board never shares students' personally identifiable information with Eligible Institutions as part of Connections.**

Messages are created by Eligible Institutions and may include text, images, videos, and interactive elements. While the messages may be personalized by College Board (e.g., student name at the top of an email) through automated means, College Board does not create, edit, or approve of Messages and is not responsible for Messages.

Students who choose to opt-in to Connections can opt out at any time, for any or all Covered Assessment(s). Students can also choose to remain in Connections for any or all Covered Assessment(s) but opt-out of individual communications channels (emails, hardcopy mailings, and in-App). Students have multiple ways to opt-out, including, an opt-out feature within the App, an unsubscribe option from Connections emails, opt-out instructions included in each mailing, and by contacting College Board's customer service.

ADDITIONAL DETAILS REGARDING EDUCATIONAL SERVICES:

There is no incremental cost for Educational Services.

College Board shall provide Client with reporting on your students' use of Educational Services, with the content and cadence within College Board's sole discretion.

College Board collects certain information from students during Covered Assessments to ensure test validity and fairness, for identity matching and the purposes described above under the 'College Board Collection and Use of Data' section. College Board also uses that information in Educational Services, as described above. For students who use the App, they may be able to update this information within the App, if they so choose. **All questions are optional.** More information about College Board's Privacy Policies is located at <https://privacy.collegeboard.org/?navId=gf-pp>.

Questions include the following:

- Home/Mailing Address
- Mobile Phone Number
- Email Address
- Race
- Ethnicity
- First Language
- Best Language
- GPA
- Intended College Major
- Level of Education Aspirations
- Parents' Level of Education

The following are only asked for the PSAT/NMSQT:

- Whether the student is enrolled in high school traditional or homeschooled
- Whether the student will complete or leave high school and enroll full-time in college
- How many total years the student will spend in grades 9-12
- Whether the student is a U.S. citizen

To use the App, students provide a mobile number during the administration of the Covered Assessment and are encouraged to provide an email address solely for App account recovery purposes. By providing their mobile number, the student authorizes College Board to text them to download the App and authenticate into the App, about their scores, including when their scores are available, and with App notifications (if the student elects to turn on those notifications). The foregoing is clearly explained to the student. The student's phone number authenticates the student into the App. College Board does not use mobile numbers collected during Covered Assessments for any other purposes.

Client may direct College Board to automatically exclude its students from Connections for one or more Covered Assessments by contacting College Board Customer Service at (866) 609-1369. Client may visit collegeboard.org/connections-tc for more information about Connections and for access to an opt-out form.

- Opt-outs must be submitted before the Ordering Deadline to suppress displaying the Connections opt-in to students during their testing experience for the Covered Assessment(s).
 - If a student had already opted-in to Connections before Client opted-out of Connections for a Covered Assessment, (i) the student's data from Covered Assessment(s) for which Client opted out of Connections will no longer be used for Connections upon College Board's implementation of Client's opt out; (ii) the student's data from any Covered Assessment(s) for which Client chose *not* to opt-out of Connections may continue to be used for Connections and the student may still use the Connections feature within the App; and (iii) if Client excludes its students from Connections for *all* Covered Assessments, use of the student data for Connections for those Covered Assessments will cease upon College Board's implementation of Client's opt out, the students will not receive any new Messages, and any previously delivered Messages may be still accessed by students.
- In some instances, Client's state may have elected to opt-out its students and College Board will abide by that exclusion for Client's students.
- If Client opts-out, Client may revoke this opt-out election by contacting College Board at SAT Customer Service at 888-SAT-HELP, +1-212-520-8600 (International), or email sateducator@collegeboard.org.
- If Client opts-out, Client's students will not going forward be able to opt-in to Connections for the Covered Assessment(s) for which Client opted out of Connections.
- Upon opt-out, students will still be able to use the App to receive Score Information and Recommendations, so long as the student provides their mobile number during the Covered Assessment.

Students may have opportunities to link from the App to BigFuture[®] and to other college and career planning services on College Board's website, www.collegeboard.org. Those services are not part of Educational Services and do not use student data collected under this Agreement, the only exception being scores on College Board assessments, as all students have independent rights in their own test scores. Students use BigFuture in their personal capacity and may need a personal College Board account to use certain features. Students with personal College Board accounts may also be able to access their scores through their personal accounts. Students may also have opportunities to copy data from their personal College Board accounts to Educational Services for use by Connections. Such data copies shall be considered part of Educational Services and those copies are subject to the same privacy rules as student data collected during Covered Assessments <https://privacy.collegeboard.org/>.



Some states, districts and other organizations send data protection agreements or similar as part of their procurement process. Client agrees that any such agreement that College Board may receive in connection with this Agreement is not intended to and does not contradict this Agreement.

*Not offered in New York at this time. There may be other exclusions.



Budget Schedule

Product Name	Start Date	End Date	Quantity	Unit Price	Cost	Discount	Total Cost
PSAT/NMSQT: Fall 2023	July 1, 2023	June 30, 2024	3,059	\$18.00	\$55,062.00	\$10,461.78	\$44,600.22
PSAT 8/9: Fall 2023	July 1, 2023	June 30, 2024	6,492	\$14.00	\$90,888.00	\$17,268.72	\$73,619.28
SAT School Day: Spring 2024	July 1, 2023	June 30, 2024	3,040	\$60.00	\$182,400.00	\$91,929.60	\$90,470.40

Subtotal: \$328,350.00

Total Discount: \$119,660.10

Total Cost: \$208,689.90

