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SACRAMENTO CITY UNIFIED SCHOOL DISTRICT STANDARD CONTRACT FOR ARCHITECTURAL/ENGINEERING SERVICES

THIS AGREEMENT is entered into this ***INSERT DATA HERE*** day of ***INSERT DATA HERE***, 2009, between the SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, of the County of Sacramento, California, hereinafter referred to as the "District," and ***INSERT DATA HERE***, hereinafter called the "Architect/Engineer."

Whereas, District intends to construct the Project ("Project") described as follows: ***INSERT DATA HERE***

Whereas, Architect/Engineer represents that they are fully licensed in California, qualified, and willing to perform the services required by this Agreement (with the understanding that if Architect/Engineer is a corporation or other organization, the Project Architect/Engineer specified in and pursuant to Article 1, and not Architect/Engineer itself, is fully licensed to practice as an Architect/Engineer in the State of California).

Whereas, the District is primarily engaged in fulfilling the public mandate of education and lacks the staff and employees possessing the special training, skill and expertise necessary to design, supervise and manage the construction of a public work of improvement such as that contemplated in this Agreement;

Whereas, the District desires to engage a professional with the special training, skill and expertise to design, supervise and administer the construction of the public work of improvement contemplated by this Agreement;

Whereas, the District desires to engage a professional who will act at all times with the District's best interest in mind; and,

Whereas, Architect/Engineer represents to the District that it has the special training, skill and expertise necessary to design, supervise and administer the construction of the public work of improvement contemplated herein, and will at all times act with the District's best interest in mind;

Accordingly, the parties agree as follows:

ARTICLE 1. EMPLOYMENT OF ARCHITECT/ENGINEER.

District retains Architect/Engineer pursuant to Government Code section 53060 to perform the necessary professional services, including, but not limited to, those hereinafter set forth in connection with the Project. Architect/Engineer shall name a specific person who is fully licensed to practice as an Architect/Engineer in the State of California to be Project Architect/Engineer, subject to written approval of District. The Project Architect/Engineer shall maintain personal oversight of the Project and act as principal contact with District, the contractor, Architect/Engineer consultants, engineers, any construction manager, and all inspectors on the Project. Any change by Architect/Engineer of the Project Architect/Engineer shall be subject to written approval by District. Project Architect/Engineer is ***INSERT DATA HERE***, license number _____.

ARTICLE 2. ARCHITECT/ENGINEER SERVICES.



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2.1 Architect/Engineer accepts employment and agrees to perform all the necessary professional architectural, engineering, and construction administration services in a professional manner, consistent with the currently prevailing standards of the profession at the time those services are performed. All services performed by the Architect/Engineer under this Agreement shall be conducted in a manner consistent with the level of care and skill ordinarily exercised by architects specially qualified to provide the services required by the District, including the following services:

2.1.1 Communication with District. Participate in consultations and conferences with authorized representatives of District and/or other local, regional, or state agencies concerned with the Project necessary for the development of the drawings, specifications, and documents in accordance with the applicable standards and requirements of law and District. Such consultations and conferences shall continue through the planning, construction and close-out of the Project and the contractor's warranty periods. Architect/Engineer shall only take direction from staff specifically designated by District (the "District Representative"). The District Representative for the Project shall be ***INSERT DATA HERE***. District may designate new and/or different individuals to act as District Representative from time to time.

2.1.2 Hiring of Consultants and Personnel.

2.1.2.1 Architect/Engineer shall have the option, unless District gives written objection, to employ or retain, at its expense, architects, engineers, or other persons qualified and licensed to render services in connection with the planning and/or administration of the Project, and to delegate such duties as Architect/Engineer may delegate without relieving Architect/Engineer from administrative or other responsibility under this Agreement. The Architect's/Engineer's consultants shall be employed to provide assistance during all aspects of the Project and will include, in addition to design services: review of schedules, shop drawings, samples, submittals, and requests for information. The Architect's/Engineer's consultants shall also conduct periodic inspections of the site to determine conformance with the Project design and specifications and shall participate in the final inspections and development of any "punch list" items. Architect/Engineer shall be responsible for the coordination and cooperation of its consultants and their cooperation with District consultants. Architect/Engineer shall notify District of the identity of all consultants prior to their commencement of work for District's written approval.

2.1.2.2 All engineers, experts and consultants retained by Architect/Engineer in performance of this Agreement shall be licensed in California to practice in their respective professions, where licensing is applicable.

2.1.2.3 Engineers and consultants hired by Architect/Engineer shall be required to show evidence of a policy of professional liability insurance, meeting the same requirements set forth in Article 13 hereof.

2.1.2.4 Architect/Engineer shall promptly obtain written District approval of assignment and/or reassignment or replacement of such engineers or consultants or of other staff changes of key personnel working on the Project. Any changes in Architect's/Engineer's consultants and staff shall be subject to written approval by District.



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2.1.2.5 Draftsmen and other clerical personnel shall be retained by Architect/Engineer at Architect's/Engineer's sole expense.

2.1.3 Initial Planning Phase of Project.

2.1.3.1 Assist District in the preparation of educational programming for the Project to define scope, size, cost, space relationship, and site development.

2.1.3.2 Provide advice and assistance to District in determining the feasibility of the Project, analysis of the type and quality of materials and construction to be selected, the site location, and other initial planning matters.

2.1.3.3 Architect/Engineer shall notify District in writing of potential complications, cost overruns, unusual conditions, and general needs that could significantly affect the Project budget and time line.

2.1.3.4 Architect/Engineer shall advise District in securing easements, encroachment permits, right of ways, dedications, infrastructures, and road improvements and coordinating with utilities and adjacent property owners.

2.1.4 Schematic Design Phase of Project.

2.1.4.1 Architect/Engineer shall provide a site plan and other Project-related information necessary and required for an application by District to any federal, state, regional, or local agency for funds to finance the construction Project.

2.1.4.2 In cooperation with District planners and educational committees, Architect/Engineer shall prepare preliminary plans and studies, schematic drawings, site utilization plans, and phasing plans showing the scale and relationship of the components of the Project and the plot plan development at the site, and the proposed architectural concept of the buildings, incorporating the educational program and the functional requirements of District. Such drawings and plans shall meet the requirements of the State Department of Education regulations (Cal. Code Regs., Title 5, §§ 14000, et seq.) and guidelines and shall be prepared in such form as may be submitted to the State Department of Education for approval. Such drawings and plans shall show in single-line drawings all rooms incorporated in each building in the Project, and shall include all revisions required by District or by any federal, state, regional, or local agency having jurisdiction over the Project. All architectural representation drawings for the Project shall be in a form suitable for reproduction.

The Architect/Engineer shall review with the District alternative approaches to the design and construction of the Project, and shall include alternatives that may reduce the cost of the Project.

2.1.4.3 Architect/Engineer shall prepare for District's approval a preliminary project budget or allowance based on current area, volume and other unit costs, in the format required by District, or if applicable, by the school construction funding agency identified by District. The purpose of the cost estimate is to show probable cost in relation to District's budget. If Architect/Engineer perceives site considerations which render the Project more expensive or cost prohibitive, such



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conditions shall be disclosed in writing to District immediately. Whenever the Architect's/Engineer's services include the presentation to the District of a project cost estimate, the Architect/Engineer shall include any contingency for change orders. However, any such contingency for change orders shall not affect Architect's/Engineer's compensation. Architect/Engineer shall provide a preliminary written time schedule for the performance of work on the Project that itemizes constraints and critical path issues. Architect/Engineer shall revise the cost estimate and written time schedule for the performance of work as necessary to address changed conditions or start dates

2.1.4.4 Architect/Engineer, at its own expense, shall provide a complete set of the schematic plans described in section 2.1.4.2 for District review and written approval. Additionally, at Architect's/Engineer's expense, Architect/Engineer shall provide copies of such documents as required by any federal, state, regional, or local agencies concerned with the Project, including, but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services, and any other appropriate federal, state, regional, or local regulatory bodies. Any additional copies required by District shall be provided at cost to District.

2.1.5 Design Development Phase of Project.

2.1.5.1 On specific written approval by District of the plans and the preliminary project budget or allowance described in section 2.1.4 of this article, Architect/Engineer shall prepare design development documents consisting at a minimum of site and floor plans, elevations, and any other drawings and documents sufficient to fix and describe the size and character of the Project's structural, mechanical, and electrical systems, types, quality and makeup of materials, types of structures and outline specifications (for presentation to District's Governing Board for approval).

2.1.5.2 Architect/Engineer shall provide a complete set of the design development documents described in section 2.1.5.1 for District review and written approval. Additionally, at District expense, Architect/Engineer shall provide copies of such documents as required by any federal, state, regional, or local agencies concerned with the Project, including, but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services, and any other appropriate federal, state, local, or regional regulatory bodies. Any additional copies required shall be provided at cost to District.

2.1.5.3 Architect/Engineer shall provide District with an updated estimate of probable construction costs, containing detail consistent with the design development documents as set forth in section 2.1.5.1 of this article and containing a breakdown based on types of materials and specifications identified in section 2.1.5.1 of this article.

2.1.5.4 Architect/Engineer shall provide a timetable for completion of the Project to District.

2.1.5.5 Architect/Engineer shall apply for and obtain required approvals from the Division of the State Architect and shall furnish and process all architectural and engineering information required to prepare and process applications to applicable



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utilities for the securing of priorities, and materials, as an aid in the construction of the Project and obtain final Project approval and acceptance by said agency as required.

2.1.5.6 Architect/Engineer shall provide a color schedule of all materials and selections of textures, finishes, and other matters requiring an aesthetic decision at this phase of the Project for District's review and approval.

2.1.5.7 The Architect/Engineer shall assist the District and its consultants in the preparation and/or modification of the Storm Water Pollution Prevention Plan if any such plan is required for the Project.

2.1.6 Building Permits and Conformity to Legal Requirements.

2.1.6.1 Architect/Engineer shall cause drawings and specifications to conform to applicable requirements of law, local, regional, federal and state, and to requirements of the Division of State Architect (structural safety, earthquake safety, fire/life safety, and access compliance section), the Office of Public School Construction (OPSC), the State Fire Marshall, and the State Department of Education, whose approval of the drawings and specifications must be obtained, and shall cause the necessary copies of such drawings and specifications to be filed with these bodies for approval in accordance with paragraph 2.1.5.2 of this article. The design shall take into consideration the environmental comfort and work efficiency of the occupants.

2.1.6.2 Architect/Engineer shall make reasonable professional efforts so that the finished Project complies with all standards imposed by the Americans with Disabilities Act, section 504 of the Rehabilitation Act of 1973, disability access requirements of the State Building Code and any other laws applicable to disability access.. If a court, administrative agency or other trier of fact later determines that Architect/Engineer has, through negligence, recklessness or willful misconduct, violated any of the above referenced laws, or the District, because of the Architect/Engineer's negligence, recklessness or willful misconduct, has violated any of the above referenced laws, Architect/Engineer shall fix the violation at its own cost and **indemnify, defend and hold harmless District for all costs and damages arising out of the violation, including but not limited to the cost to fix the violation.** The Architect/Engineer shall not be responsible for acts or omissions of the contractor or of any other persons performing portions of the Project not employed or retained by Architect/Engineer, nor shall Architect/Engineer be responsible for any subsequent changes in the law or any regulation applicable to disabled access or any subsequent differing interpretation of the laws or regulations applicable at the time Architect's/Engineer's design is reviewed by the Division of the State Architect. In the event that the Architect/Engineer is or becomes aware of possible non-compliance with the foregoing standards, Architect/Engineer shall have a duty immediately to notify the District in writing of the possible non-compliance.

2.1.7 Construction Documents Phase.

2.1.7.1 On specific written approval by District of the plans and the updated estimate of probable construction costs described in section 2.1.5 of this article,



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Architect/Engineer shall prepare such complete working drawings and specifications as are necessary for obtaining complete bids and for efficient and thorough execution of work. Such working drawings shall be developed from the preliminary drawings approved by District. The final working drawings and specifications shall set forth in detail the work to be done, materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, and electrical systems and utility service connection equipment and site work. It shall be District's responsibility to supply Architect/Engineer with the necessary information to determine the proper location of all improvements on existing sites, including record drawings ("as-built drawings") in District's possession. Architect/Engineer will make a good-faith effort to verify the accuracy of such information and as-built drawings by means of a thorough interior and exterior visual survey of site conditions. District shall also make a good-faith effort to verify the accuracy of the as-built drawings and provide any supplemental information it is aware of to Architect/Engineer that may not be shown on the as-built drawings.

The final working drawings and specifications must be in such form as will enable Architect/Engineer and District to secure the required permits and approvals from the Division of State Architect and for District to obtain, by competitive bidding, a responsive and responsible bid. The final working drawings shall be clear and legible so that uniform copies may be on standard architectural size paper, properly indexed and numbered, and shall be capable of being clearly copied and assembled in a professional manner by Architect/Engineer.

2.1.7.2 District shall review, study, and check the final working drawings and specifications presented to it by Architect/Engineer and make any necessary revisions or obtain approval of such final plans by District's Governing Board, subject to the approval of the Division of the State Architect. Architect/Engineer shall make all District-requested changes, additions, deletions, and corrections in the final working drawings and specifications so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, inconsistent with earlier District direction, or inconsistent with Architect's/Engineer's professional judgment. Architect/Engineer shall bring any such conflicts and/or inconsistencies to the attention of District. The parties agree that Architect/Engineer and not District possesses the requisite expertise to determine the constructability of the final working drawings and specifications.

2.1.7.3 It is understood by Architect/Engineer that should final working drawings and specifications be ordered by District in writing, District shall specify the sum of money set aside to cover the total cost of the construction of the work exclusive of Architect's/Engineer's fees. Should it become evident that the total construction cost will exceed the specified sum, Architect/Engineer shall at once present a statement in writing to District Representative setting forth this fact and giving a full statement of the cost estimates on which the conclusion is based. Architect/Engineer shall, if requested by District, and without extra compensation therefore, so revise the plans and specifications for the work that the construction may be completed for the total cost which does not exceed the specified sum or so that certain portions of the Project may be omitted, deferred, or separately bid. The revisions are subject to written approval by the District.

2.1.7.4 Architect/Engineer shall provide a complete set of final working drawings and specifications described in Article 2, section 2.1.7.1, for District review and written approval. Additionally, at Architect's/Engineer's expense,



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Architect/Engineer shall provide copies of such documents as required by and to federal, state, regional, or local agencies concerned with the Project, including the State Department of Education and the Division of State Architect. Additional copies required shall be provided at cost to District. Architect shall make all necessary changes to obtain Division of State Architect approval.

At the District's request, the Architect/Engineer and Architect's/Engineer's consultants shall cooperate with District and the District's consultants in verifying that Architect's/Engineer's plans, specifications, studies, drawings, estimates or other documents relating to the Project are constructible and otherwise comply with the Construction Documents.

2.1.7.5 In the event that there exist previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Architect/Engineer, whether supplied by District or by Architect/Engineer, which are relied upon, altered or otherwise utilized by Architect/Engineer, Architect/Engineer shall be responsible for giving appropriate recognition to such other design professionals in any materials prepared by Architect/Engineer pursuant to this Agreement. The Architect/Engineer is responsible for errors and omissions that the Architect/Engineer should have found in the exercise of due care in such previously prepared documents provided by the District and for all errors and omissions in such previously prepared documents supplied by the Architect/Engineer prepared by design professionals other than the Architect/Engineer.

2.1.8 Construction Contract Documents. If so required by District, Architect/Engineer shall assist District in the completion of construction documents, including, but not limited to, Public Notice to Contractors, instructions to Bidders, Bid Forms (including Alternate Bids as requested by District), Bonds, General Conditions, any Special Conditions, Contract, Disabled Veteran Business Enterprise forms, and/or affirmative action documents, if required, and any other documents reasonably required in order to obtain bids responsive to the specifications. All such documents shall be subject to the written approval of District and District's counsel. At the time of delivery of the aforementioned construction documents, which shall include the final working drawings and specifications (collectively, the "Construction Documents"), Architect/Engineer shall provide District with its final written itemized estimate of probable construction cost ("Final Estimate") for District's written approval.

2.1.9 Bid Phase.

2.1.9.1 Following District's written approval of the Construction Documents and Final Estimate, Architect/Engineer shall provide one set of reproducible Construction Documents either to District or a designated location or Architect/Engineer shall distribute plans and specifications and maintain bidders' list as directed by District. Architect shall direct the obtaining of bids and shall assist the District in evaluating and awarding the bids.

2.1.9.2 Architect/Engineer shall conduct a pre-bid walk with potential bidders.



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2.1.9.3 If the lowest responsive bid from a responsible bidder on a Project exceeds the Final Estimate by ten percent after adjustment for any change in the Construction Cost Index adopted by the State Allocation Board, District may request Architect/Engineer to revise the final drawings and specifications and to re-bid the Project so that bids are within ten percent of the Final Estimate. In making such changes, Architect/Engineer will exercise Architect's/Engineer's best judgment in determining the balance between the size of the Project, the type of construction, and the quality of the construction to achieve a satisfactory project within ten percent (10%) of the Final Estimate. At the request of District, Architect/Engineer shall provide specifications that include alternate bids as deemed advisable by District.

2.1.10 Observation of Project. Observation of the work executed from the final working drawings and specifications shall be in person by Project Architect/Engineer provided that District may, in its discretion, consent to such observation by another competent representative of Architect/Engineer.

2.1.11 Construction of Project. The construction phase shall begin on the date stated in the official Notice to Proceed and, solely for purposes of payment of the Architect/Engineer, shall be deemed complete upon District's written approval of Architect's/Engineer's final certificate for payment to contractor, provided that such certification and payment shall not constitute an admission by Architect/Engineer or District that the Project has been completed in accordance with Construction Documents or in conformance with this Agreement. Architect/Engineer shall provide general administration of the construction and of the Construction Documents, including, but not limited to, the following:

2.1.11.1 Architect/Engineer shall conduct a pre-construction meeting with all interested parties.

2.1.11.2 Site visits, as often as necessary and appropriate to the stage of construction but at least weekly, to observe contractor's work for conformance with the plans and specifications and to confirm work is progressing in accordance with the Construction Documents and contractor's schedule. District may require additional visits.

2.1.11.3 Site visits to communicate and observe the activities of the Project Inspector of Record, mutually acceptable to Architect/Engineer and District, and retained by District. Architect/Engineer shall direct the Inspector and/or contractor and coordinate in the preparation of record drawings indicating dimensions and location of all "as-built" conditions, including but not limited to, underground utility lines. Architect/Engineer shall provide direction to Inspector as to interpretation of the Construction Documents.

2.1.11.4 Cause engineers and other consultants, as may be hired by Architect/Engineer pursuant to section 2.1.2 of this article, to observe the work completed under their engineering disciplines as required, and approve and review all test results for conformance with the original approved documents for their portion of the Project.



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2.1.11.5 Make regular reports as may be required by the applicable federal, state, regional, or local agencies.

2.1.11.6 Attend as necessary all construction meetings and provide written reports to District after each construction meeting to keep District informed of the progress of the work. Such meetings shall occur at a frequency necessary for the progress of the work, but no less than once every two weeks.

2.1.11.7 Make written reports as necessary to inform District of problems arising during construction, changes contemplated as a result of each such problem, and progress of work. In the event the District or Architect/Engineer is or becomes aware of the presence of, or exposure of persons to, asbestos, polychlorinated biphenyl (PCB) or any other toxic or hazardous contaminants, materials, air pollutants or water pollutants at the Project site ("Hazardous Substances"), or the substantial risk thereof, each shall have a duty immediately to notify the other in writing. The parties recognize, however, that neither Architect/Engineer nor the District is trained or licensed in the recognition or remediation of Hazardous Substances.

With respect to asbestos and asbestos containing materials, the parties acknowledge that the Architect/Engineer has recommended and the District has agreed to retain a qualified consultant to evaluate the presence of such materials at certain District facilities which are included in the scope of this Agreement. In the event that said consultant recommends a procedure to deal with such materials, said consultant shall have the responsibility to draft specification language for the removal or other remediation of such materials, and subsequently may be required to certify that they have been properly removed or otherwise remediated. Architect/Engineer shall include consultant's recommendations and specifications in the appropriate design documents for modernization and shall, at no additional cost, provide designs and other bid documents consistent therewith.

2.1.11.8 Keep records of construction progress and time schedules and promptly advise contractor and District of any deviations from the time schedule which could delay timely completion of Project.

2.1.11.9 Check and process, in a timely manner, all required material and test reports and promptly report to the Division of the State Architect as necessary, the contractor, and District any deficiencies in material as reflected by those reports, with recommendation for correction of such deficiencies. Whenever, in the Architect's/Engineer's reasonable judgment, it is considered necessary or advisable for the implementation of the intent of the Construction Documents, the Architect/Engineer shall recommend to the district that special inspection or testing of the work or materials in accordance with the Construction Documents be made whether or not such work or materials be then fabricated, installed or completed. Upon written approval by the District, Architect/Engineer shall obtain the approved testing or inspection.

2.1.11.10 Review and respond, in a timely manner, to all schedules, submittals, shop drawings, samples, information requests, and other submissions of the contractor and subcontractors for compliance with design and specifications, and to ensure timely and uninterrupted progress of the work.



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2.1.11.11 Promptly reject, as discussed with District, work or materials which do not conform to the Construction Documents and notify District of such rejection.

2.1.11.12 Consult with District, in a timely manner, with regard to substitution of materials, equipment, and laboratory reports thereof prior to the final approvals of such substitutions by District in writing.

2.1.11.13 Architect's/Engineer's responsibility shall include the preparation of all documents and/or drawings made necessary by errors and omissions in the originally approved drawings or specifications and such modifications therein as may be necessary to meet unanticipated conditions encountered during construction, at no additional expense to District.

2.1.11.14 Evaluate and notify District, in a timely manner and in writing, of any change requests, material changes, requested or necessary, in the plans and specifications of the Project. (Written notification may be by way of providing a copy of any such request.) Architect/Engineer shall not order contractors to make any changes affecting contract price or time or aesthetics without approval by District of a written change order, pursuant to the terms of the Construction Documents, unless District Representative agrees in writing to a construction change directive.

Any and all change orders shall be prepared and submitted to District prior to final payment to Architect/Engineer.

Architect/Engineer may order, on its own responsibility and pending the Board's approval, changes necessary at the time to meet construction emergencies if written approval of District Representative is first secured.

2.1.11.15 Examine, verify, and approve contractor's applications for payment and issue certificates for payment for work and materials approved by the Inspector which reflect Architect's/Engineer's recommendation as to any amount which should be retained or deducted from those payments under the terms of the Construction Documents or for some other reason. The issuance of a certificate for payment shall constitute a representation by the Architect/Engineer to the District that the quality of the Project is in accordance with the Construction Documents based upon Architect's/Engineer's periodic observations and that the contractor is entitled to payment in the amount certified. Any payment request found not to be a proper payment request shall be returned to the Contractor as soon as practicable, but not later than seven days after receipt. A request returned pursuant to this section shall be accompanied by a written document setting forth the reasons why the payment request is not proper. A copy of this document shall be immediately provided to the District.

2.1.11.16 Provide technical direction and interpret the Contract Documents for the Project Inspector of Record retained by District, conduct a review of the daily inspection reports submitted by Inspector, and issue such recommendations to the District as the evaluation of the report data dictates necessary to ensure that all work strictly complies with the requirements of the Contract Documents.



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2.1.11.17 Render prompt advice to the District on claims, disputes and other matters in question between the construction contractor and the District relating to the execution or progress of the work or the interpretation of the Contract Documents. Architect/Engineer agrees to toll all statutes of limitations for District's assertions of claims against Architect/Engineer arising out any claims by contractors against District involving Architect's/Engineer's work, until contractors' claims are finally resolved.

2.1.11.18 Analyze and advise District as to acceptability of test reports, methods, materials, equipment and systems.

2.1.11.19 Review and advise District as to the acceptability of substitutions proposed by the construction contractor.

2.1.11.20 Review and advise District as to the acceptability of schedules, shop drawings, laboratory reports, product data and samples, fabrication, erection and setting drawings, wiring and control drawings, schedules, lists of materials and equipment, and other descriptive data pertaining to materials, and equipment.

2.1.11.21 Promptly respond to all questions, inquiries and communications from the contractor(s), or District, and respond to all Requests for Information (RFIs) within five day(s) of receipt.

2.1.11.22 Coordinate final color and product selection with District's original design concept.

2.1.11.23 Determine date of completion.

2.1.11.24 After being notified the Project is nearing completion, Architect/Engineer shall participate in the final inspection of the Project and review the punch-list(s) prepared by the contractor and/or the Architect/Engineer, including minor items ("punch-list items"). Architect/Engineer shall notify contractor in writing that all deficiencies and punch-list items must be corrected prior to acceptance of the Project and final payment. District shall be notified of all deficiencies and punch-list items. All punch list items must be corrected prior to Architect's/Engineer's receipt of final compensation.

2.1.11.25 Review materials assembled by the contractor and assemble for and provide to District written warranties, guarantees, owners' manuals, instruction books, diagrams, record drawings ("as-builts"), and any other materials required from the contractors and subcontractors in accordance with the Construction Documents.

2.1.11.26 Make any further site visits following the final inspection of the Project necessary to issue Architect's/Engineer's Certificate of Completion and final certificate for payment.

2.1.11.27 Cause engineers and consultants as may be hired by Architect/Engineer pursuant to section 2.1.2 of this article, to file required documentation with governmental authorities necessary to close out the Project.



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2.1.11.28 Assist District in fulfilling the requirements of the authorities and funding agencies relative to disbursements made under the construction contract for the Project.

2.1.11.29 Procure permits and coordinate with all regulatory authorities as necessary to procure approvals and assure compliance with applicable law.

2.1.11.30 Prepare and submit periodic reports as may be required, including but not limited to- Form SSS-6A/E, to Department of General Services, Division of the State Architect.

2.1.11.31 Prepare and/or furnish to Department of General Services, Division of the State Architect, all documents necessary for final approval and/or acceptance of the Project by Division of the State Architect.

2.1.11.32 Before receipt of final payment, obtain final Division of the State Architect certification of compliance with regulations and/or other approval or certification as may be normal for a Project such as that contemplated by this Agreement, including any requirements of State of California, Department of Education, Office of Public School Construction, State Allocation Board, or any other governmental or lending authority having jurisdiction over the Project.

2.1.11.33 As-Built Drawings.

2.1.11.33.1 Not later than 30 days after completion of construction, and before receipt of final payment, Architect/Engineer shall review and forward the final as-built drawings and specifications, indicating all changes made by change orders or otherwise, under the construction contract and all information called for on the specifications, producing a record set of final working drawings which will show, among other things, the location of all concealed pipe, buried conduit runs, and other similar elements within the completed Project based upon the information supplied to Architect/Engineer by the contractor and Inspector. Architect/Engineer shall personally review and certify that the record drawings are a correct representation of the information supplied to Architect/Engineer by the Inspector and the contractor and shall obtain the certificate of the Inspector and the contractor that the as-built drawings are correct.

2.1.11.33.2 On approval by District Representative of the completed record drawings, Architect/Engineer shall forward to District the complete set of reproducible duplicates of the original drawings corrected to "as-built" condition. The tracing shall be of such quality that clear and legible prints may be made without appreciable and objectionable loss of detail. The "as built" drawings shall be mylar/vellum. The plans and specifications shall be provided to the District on computer disks in a format designated by District. District shall be provided two disks containing the plans and specifications of the Architect/Engineer or other consultants on the Project.

2.1.11.33.3 Prior to the receipt of final payment, Architect/Engineer shall forward to District one clear and legible set of reproductions of the computations, the original copy of the specifications, the record drawings,



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the final verified progress report pursuant to Title 21 of the California Code of Regulations, and Architect's/Engineer's Certificate of Completion.

2.1.11.33.4 Provide advice to District on apparent deficiencies in construction during all warranty periods following acceptance of work.

2.2 Additional Services of Architect/Engineer. At District's request, Architect/Engineer may be asked to perform services not otherwise included in this Agreement and/or services not customarily furnished in accordance with generally accepted architectural practice. District may agree to pay for such services, pursuant to section 4.2 hereof, if such services cause Architect/Engineer additional expense and are necessitated due to unusual circumstances and through no fault or neglect on the part of Architect/Engineer. No additional compensation shall be paid to Architect/Engineer for performing such services unless District and Architect/Engineer agree in writing as to the amount of compensation for such services prior to such services being rendered. Such services may include, but shall not be limited to:

2.2.1 Assistance to District, if requested for the selection of moveable furniture, equipment, or articles which are not included in Construction Documents.

2.2.2 Services caused by default of the contractor in the performance of the construction contract, provided that any such services made necessary by the failure of Architect/Engineer to detect and report such matters earlier shall not be compensated.

2.2.3 Revisions in drawings, specifications, or other documents when such revisions are inconsistent with written approvals or instructions previously given and due to causes beyond the control of Architect/Engineer.

2.2.4 Serving as an expert, rather than percipient, witness on District's behalf.

2.2.5 Observation of repair of damages to structure.

2.2.6 Additional work required for unknown environmental conditions, i.e., asbestos, unforeseen site conditions.

ARTICLE 3. DISTRICT RESPONSIBILITIES.

District shall:

- 3.1** Make available to Architect/Engineer all necessary data and information concerning the purpose and requirements of the Project, including realistic scheduling and budget limitations.
- 3.2** Depending upon the scope of the Project, furnish Architect/Engineer with, or direct Architect/Engineer to procure at District expense, a survey of the Project site preparation by a registered surveyor or civil engineer and any other record documents which shall indicate existing structures, land features, improvements, sewer, water, gas, electrical and utility lines, topographical information and boundary dimensions of the site, and any other such pertinent information. All the information on the survey customarily referenced to a project benchmark



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shall be referenced to a Project benchmark. The cost of any such survey obtained by Architect/Engineer shall be borne by the District, and upon termination of this Agreement or completion of the Project, Architect/Engineer shall provide to District any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the survey. District shall also provide or direct Architect/Engineer to provide a soils investigation report and a geological report, if required by law. The cost of such reports if obtained by Architect/Engineer shall be borne by District and Architect/Engineer shall provide such reports and any other documents prepared with the reports to District on termination of this Agreement or completion of the Project.

- 3.3** Appoint and pay, an Inspector of Record as provided by state law. Said Inspector shall be qualified and approved by Architect/Engineer and by the Division of State Architect, and shall be responsible to, and act in accordance with the policies of District. The administration by Architect/Engineer and its engineers shall be in addition to and broader in scope than the personal inspection of the Inspector.
- 3.4** Conduct the distribution of plans to bidders and the opening of bids on the Project, as applicable.
- 3.5** Conduct or direct Architect/Engineer to conduct chemical, mechanical, or other tests required for proper design and construction of the Project and tests for Hazardous Materials. Furnish such surveys, borings, test pits, and other tests as may be necessary to reveal conditions of the site, including subsoil conditions, which must be known for the proper development of the required drawings and specifications and to determine soil condition. The cost of any such tests obtained by Architect/Engineer shall be borne by the District, and, upon termination of this Agreement or completion of the Project, Architect/Engineer shall provide to District any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the testing.
- 3.6** Retain a testing service for materials testing and inspection as required by Title 21 of the California Code of Regulations.
- 3.7** Direct pay or reimburse the payment of all fees required by any reviewing or licensing agency.
- 3.8** Designate a representative authorized to act as liaison between Architect/Engineer and District in the administration of this Agreement and the Construction Documents. Such person or persons shall assist Architect/Engineer to the extent of his/her abilities and within his/her job description in making inspections and preparing the list of deficiencies required by section 2.1.11.24 hereof, and accompany Architect/Engineer and contractor on the final inspection.
- 3.9** Review all documents submitted by Architect/Engineer, including change orders and other matters requiring District's Governing Board approval or approval of District officials. Advise Architect/Engineer of decisions pertaining to such documents within a reasonable time after submission.
- 3.10** Notify Architect/Engineer if any deficiencies in material or workmanship become apparent during contractor's warranty periods.



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- 3.11** Obtain legal advice and services for the District as may be required in the opinion of District to protect the District's interest in the Project.
- 3.12** Nothing in this Agreement nor any act or failure to act on the part of the District shall be construed as a waiver of a claim by District for, among other things, any defects or deficiencies in the drawings and specifications or of the construction supervision required of Architect/Engineer.

ARTICLE 4. Architect's/Engineer's FEE.

- 4.1** District shall pay to Architect/Engineer, for the performance of all services rendered herein, the amount specified on Exhibit A, incorporated herein by reference, which constitutes complete payment for Architect's/Engineer's services under this Agreement.
- 4.2** Payment for Additional Services. Architect/Engineer shall be paid for additional services not originally contemplated by the parties to this Agreement as follows, provided the additional services have received advance written approval by District's Governing Board:
 - 4.2.1** Not used. ***INSERT DATA HERE*** percent of the cost of furnishings, equipment, or other articles incorporated in the Construction Documents by Architect/Engineer and not included in the cost of the work, as defined in paragraph 4.1 above.
 - 4.2.2** For services in addition to the basic services of the Architect/Engineer set forth in Article 2 hereof, a fee to be agreed upon by the parties in writing prior to performance of such services by Architect/Engineer, which fee may be a flat amount or Architect's/Engineer's standard hourly rates.
 - 4.2.3** Not used. ***INSERT DATA HERE*** Special consultants, prior approval of which is required, shall be paid at a multiple of ***INSERT DATA HERE*** times the amount billed to Architect/Engineer for services, except those hired pursuant to section 2.1.2.
- 4.3** Reimbursable Expenses. Reimbursable expenses are in addition to compensation for basic and additional services (as set forth in Article 2 and Article 4.2, above) and are expenses incurred by Architect/Engineer and Architect's/Engineer's employees and consultants in the interest of the Project, as identified in the following clauses (and in the amounts that were included in Architect's/Engineer's proposal to District as approved by District in writing):
 - 4.3.1** Expense of pre-authorized transportation, excluding ordinary mileage normally incurred, in connection with the Project.
 - 4.3.2** Expenses in connection with pre-authorized out-of-town travel. If payable, such expenses shall be limited to the standard allowances authorized by board policy.
 - 4.3.3** Fees paid for securing approval of authorities having jurisdiction over the Project.



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4.3.4 Expenses of reproductions of drawings and specifications, as authorized herein, or as requested by the District.

4.3.5 Other costs/expenses pre-authorized in writing by District.

ARTICLE 5. PAYMENTS TO ARCHITECT/ENGINEER.

- 5.1** Architect's/Engineer's compensation shall be paid by District monthly, incrementally, as set forth in Exhibit B, based on the percentage of work completed as defined in the schedule of values provided to Architect/Engineer for Project, and as appropriate, in accordance with OPSC's normal phasing and funding schedule.
- 5.2** In order to receive payment, Architect/Engineer shall present to District a claim for payment for approval by District's authorized representative, which shall designate services performed, percentage of work completed, method of computation of amount payable, and amount to be paid.
- 5.3** Payments made for extra work or special services shall be made in installments, not more often than monthly, proportionate to the degree of completion of such services or in such other manner as the parties shall specify when such services are agreed upon. Invoices or other documentation to establish the validity of all reimbursable expenses shall be a prerequisite to District payment of such expenses.
- 5.4** Upon cancellation of the Project or termination of this Agreement, Architect/Engineer shall be compensated as set forth in Article 8 hereof.
- 5.5** Notwithstanding anything to the contrary stated herein, the District may at any time decline to pay the Architect/Engineer, or reduce or withhold any portion of a payment otherwise due the Architect/Engineer under this Agreement, if among other things:
- 5.5.1** Any of the plans, specifications, drawings and other documentation provided by the Architect hereunder are defective, or contain errors or omissions, and such defects, error or omissions are not remedied;
 - 5.5.2** Any third party claims are filed against any Project hereunder or against the District, or there is reasonable evidence indicating the probable filing of such claims, and such claims directly relate to the Architect's/Engineer's services hereunder;
 - 5.5.3** The Architect/Engineer fails to make timely payments to its contractors, consultants and other third parties hired by Architect/Engineer in connection with the services to be provided hereunder;
 - 5.5.4** Any claimed damage or loss has occurred to the District or any contractor, subcontractor or other person in connection with any Project hereunder, and the Architect/Engineer may be liable for such damage or loss;
 - 5.5.5** The Architect/Engineer fails to perform any portion of the services required hereunder in accordance with the terms of this Agreement.



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5.5.6 Any claims, liens or stop notices are filed in connection with any Project governed by this Agreement by any person employed by the Architect/Engineer in connection with the provision of services hereunder.

5.5.7 The District expends any sums in order to cure a Default (as hereinafter defined) of the Architect/Engineer hereunder (in accordance with any term or provision hereof) and such expenditure has not been reimbursed by the Architect/Engineer.

If the District elects to withhold or reduce payment from the Architect/Engineer pursuant to this Article 5.5, then the District shall be permitted to withhold or offset such amounts as the District may, in its reasonable discretion, deem necessary to, among other things, (a) protect the District from and against any and all liabilities to the Architect's/Engineer's contractors, consultants and other persons employed by the Architect/Engineer in connection with the services hereunder or from and against any of the Architect's/Engineer's acts or omissions, (b) correct any defective work hereunder, or any errors or omissions in the plans, specifications, drawings or other documentation provided by the Architect/Engineer hereunder, including, without limitation, the cost to correct any construction work in place and required to be removed and reconstructed due to any such defects, errors or omissions, (c) recover any actual damages incurred or that may be incurred by the District as a result of the Default (as hereinafter defined) by the Architect/Engineer hereunder (including, without limitation, delay damages due to other parties as a result thereof), and (d) recover any costs or expenses incurred by the District in connection with the cure of the Architect's/Engineer's Default hereunder. If the Architect/Engineer disputes any retention of moneys hereunder by the District or any other failure of the District to timely make payments to the Architect/Engineer, the Architect/Engineer shall, in any event, promptly proceed with, and diligently perform, any services required hereunder and will deliver to (and in no event be permitted to withhold from) the District all Construction Documents, plans and other documentation required hereunder.

ARTICLE 6. INSTRUCTIONS TO PROCEED.

Architect/Engineer is not to proceed with performance of any services under this Agreement without first securing written authorization from District to do so in the form of a fully executed, Board approved or ratified agreement and purchase order.

ARTICLE 7. TIME SCHEDULE.

7.1 Architect/Engineer shall perform all services as expeditiously as is consistent with professional skill and care and the orderly progress of the work. Upon request of District, Architect/Engineer shall prepare an estimated time schedule for the performance of Architect's/Engineer's services, to be adjusted as the Project proceeds. Such schedule shall include allowances for periods of time required for District's review and approval of submissions and for approvals of authorities having jurisdiction over Project approval and for funding. The schedule shall not be exceeded by Architect/Engineer, without the prior written approval of District.

7.2 Any delays in Architect's/Engineer's work because of the actions of District or its employees, those in direct contractual relationship with District, by a governmental agency having jurisdiction over the Project, or by an act of God or



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other unforeseen occurrence, to the extent not due to any fault or negligence on the part of Architect/Engineer, shall be added to the time for completion of any obligations of Architect/Engineer.

- 7.3** Should Architect/Engineer make an application for an extension of time, Architect/Engineer shall submit evidence that the insurance policies required by Article 12 remain in effect during the requested additional period of time.

ARTICLE 8. DEFAULT; TERMINATION; REMEDIES

- 8.1** Default. The following events shall constitute a default of the Architect/Engineer under this Agreement.

8.1.1 If the Architect/Engineer fails to timely pay any engineers, consultants or other persons retained by the Architect/Engineer in connection with the services to be provided under this Agreement;

8.1.2 If the Architect/Engineer refuses or fails to supply sufficient properly skilled staff or proper materials, except in cases for which extension of time is provided, or disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise violates or breaches any term or provision of this Agreement or fails to perform any of its obligations hereunder in a timely manner (including the timely delivery to the District of all documentation required to be prepared by the Architect/Engineer or its engineers or consultants hereunder); or

8.1.3 If the drawings, specifications or any other documents prepared or furnished in connection with this Agreement contain any errors or omissions arising wholly or in part out of the fault or negligence of the Architect/Engineer.

- 8.2** Termination of Agreement or Services. If a Default occurs or, if no Default has occurred, the District may without prejudice to any other right or remedy, including its remedies under Article 8.3 below, immediately terminate the Agreement or any or all services of the Architect/Engineer hereunder. In the event of such termination, the Architect/Engineer shall be paid its compensation for services performed in accordance with this Agreement to the date of termination, and for such other documented and verifiable costs and expenses properly incurred by the Architect/Engineer in accordance with this Agreement to the date of termination, including additional services; provided that, the District may offset any and all losses, damages, expenses and costs suffered or incurred by the District arising out of the Architect's/Engineer's performance of the Agreement. District may require Architect/Engineer to complete any services required to facilitate transfer of Architect's/Engineer's responsibilities to another person.

- 8.3** In addition to the termination right set forth in Article 8.2 above, in the event of a Default, the District shall have (i) the right to cure the Architect's/Engineer's Default, at the Architect's/Engineer's cost and expense, and all amounts expended in connection with such cure shall accrue interest from the date incurred until repaid to the District at the rate provided in Article 8.4, immediately below, and (ii) all other rights and remedies available to it at law and in equity, including, without limitation, an action for damages. Notwithstanding anything to the contrary



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contained in this Agreement, if errors or omissions arising in part or wholly out of the fault or negligence of the Architect/Engineer are detected in the drawings, specifications or other documents before work is in place, then the Architect/Engineer shall bear the cost of any redesign required to correct such errors or omissions. If such errors or omissions are not detected until after the work is in place, the Architect/Engineer shall also bear the cost of removal and replacement of any construction erroneously in place, based on the extent of its liability therefore. In the event such errors or omissions by the Architect/Engineer result in project delays, the Architect/Engineer shall bear the cost of any and all damages to the extent they result from such delay.

- 8.4** All amounts due District under this Agreement and not paid when due shall bear interest at the rate of ten percent (10%) per annum.
- 8.5** Following the termination of this Agreement for any reason whatsoever, the District shall have the right to utilize any designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared under this Agreement by the Architect/Engineer, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316. Architect/Engineer shall promptly make any such documents or materials available to the District upon request without additional compensation.

In the event of the termination of this Agreement for any reason whatsoever, all designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings in the possession of Architect/Engineer and prepared or caused to be prepared by the Architect/Engineer or any of its agents pursuant to this Agreement shall immediately upon request by the District be delivered to the District in good, unaltered condition. Architect/Engineer may not refuse to provide such writings or materials for any reason whatsoever, including but not limited to a possessory interest lien for any claim the Architect/Engineer may have against the District or a claim by the Architect/Engineer to an ownership interest in the intellectual property embodied in the documents or materials.

- 8.6** This Agreement may be terminated by the Architect/Engineer upon written notice to the District only when the District has substantially failed to perform its obligations under this Agreement. The written notice shall include a description of the District's substantial failure to perform, status of the work completed as of the date of termination together with a description and a cost estimate of the effort necessary to complete work in progress. In such event, the Architect shall be compensated for services completed to the date of termination.

ARTICLE 9. SUSPENSION OR ABANDONMENT



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- 9.1** District hereby reserves the right to suspend or abandon at any time all or any of the construction work on the Project. In the event of such suspension or abandonment, Architect/Engineer shall be paid pursuant to the schedule of payments set forth in Articles 4 and 5 of the Agreement for services rendered up to the date of such suspension or abandonment, less any damages suffered by District as a result of the performance of Architect/Engineer. Architect/Engineer hereby expressly waives any and all claims for damages or compensation arising under this Contract, except as set forth herein, in the event of such suspension or abandonment.
- 9.2** If Architect's/Engineer's services are suspended by District, District may require Architect/Engineer to resume services within ninety (90) days after written notice from District.
- 9.3** Upon suspension, or abandonment, Architect/Engineer shall, if requested by District, turn over to District all preliminary studies, sketches, working drawings, specifications, computations, and all other matters to which District would have been entitled at the completion of Architect's/Engineer's services. Upon payment of the amount required to be paid under this article following the termination of this Agreement, District shall have the rights, as enumerated in Article 10, hereinafter, to use any completed contract documents or other work product prepared by Architect/Engineer under this Agreement. Architect/Engineer shall make such documents available to District upon request and without additional compensation.

ARTICLE 10. OWNERSHIP AND USE OF DOCUMENTS.

- 10.1** All designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect /Engineer pursuant to this Agreement shall be and shall remain the property of the District for all purposes, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to any other project, provided that any invalidity of such ownership in relation to any other project shall not affect the validity of such ownership in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316.

The Architect/Engineer will provide the District with a complete set of reproducible designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect /Engineer pursuant to this Agreement, and will retain, on the District's behalf, the original documents or reproducible copies of all such original documents, however stored, in the Architect's/Engineer's files for a period of no less than fifteen (15) years. Architect/Engineer shall promptly make available to District any original documents it has retained pursuant to this Agreement upon request by the District.



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- 10.2** This Agreement creates a non-exclusive and perpetual license for District to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents, or any other works of authorship fixed in any tangible medium of expression, including, but not limited to, physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by Architect/Engineer pursuant to this Agreement not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316. Architect/Engineer shall require any and all subcontractors and consultants to agree in writing that District is granted a non-exclusive and perpetual license for the work of such subcontractors or consultants performed pursuant to this Agreement.

The compensation for this Project includes compensation not only for any use in connection with this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but also for any re-use by the District in relation to other projects. The only other term or condition of such use on this Project by the District shall be that any additional expense or risk of such use by the District shall be borne solely by the District, to the extent not caused by Architect's/Engineer's errors or omissions. The only other terms or conditions of such re-use by the District in relation to other projects shall be that (1) any additional expense or risk of such re-use by the District shall be borne solely by the District and (2) to the extent required by Education Code section 17316(c), the District shall indemnify and hold harmless the Architect/Engineer and its consultants, agents, and employees from and against any claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from, in whole or in part, the re-use if the District retains another architect to prepare the plans prepared under this Agreement for such re-use.

- 10.3** Architect/Engineer represents and warrants that Architect/Engineer has the legal right to license any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, or other documents that Architect/Engineer prepares or causes to be prepared pursuant to this Agreement. **Architect/Engineer shall indemnify and hold District harmless pursuant to Article 12 of this Agreement for any breach of Article 10 due to Architect/Engineer's negligence, recklessness or willful misconduct.** Architect/Engineer makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates, or other documents, or any other works of authorship fixed in any tangible medium of expression, including, but not limited to, physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Architect/Engineer and provided to Architect/Engineer by District.



ARTICLE 11. FINGERPRINTING REQUIREMENTS.

Education Code Section 45125.1 states that if employees of any contractor providing school site administrative or similar services may have any contact with any pupils, those employees shall be fingerprinted by the Department of Justice (DOJ) before entering the site to determine that they have not been convicted of a serious or violent felony. If the District determines that more than limited contact with students will occur during the performance of these services by Architect/Engineer, Architect/Engineer will not perform services until all employees providing services have been fingerprinted by the DOJ and DOJ fingerprinting clearance certification has been provided to District.

- 11.1** District has determined that Architect's/Engineer's services will result in limited contact with pupils. Architect/Engineer is required to comply with the conditions listed in Exhibit D, Architect's/Engineer's certification of compliance with District fingerprinting and security requirements. If Architect/Engineer is unwilling to comply, Architect's/Engineer's employees may not enter any school site until Architect/Engineer provides certification of fingerprinting clearance by the DOJ for employees providing services. These requirements apply to self-employed contractors.

ARTICLE 12. INDEMNITY.

Architect/Engineer shall defend, indemnify, and hold harmless District (including its inspectors, project manager, trustees, officers, agents, members of District's Board, employees, affiliates, volunteers, consultants, subconsultants and representatives and each of them, of and from any and all claims, demands, suits, causes of action, damages, costs, expenses, attorneys' fees, losses, or liability, in law or in equity, of every kind and nature whatsoever to the extent arising out of, pertaining to or relating to Architect's/Engineer's, the Architect's/Engineer's officers, employees, affiliates, volunteers, consultants, subconsultants, representatives or agents negligence, recklessness or willful misconduct in performing work under this Agreement, including, but not limited to:

- 12.1** Personal injury (including, but not limited to, bodily injury, emotional injury or distress, sickness, or disease) or death to persons, including, but not limited to, any employees or agents of Contractor, District, Architect/Engineer, or any subcontractor, or damage to property of anyone including the work itself (including loss of use thereof);
- 12.2** Penalties threatened, sought, or imposed on account of the violation of any law, order, citation, rule, regulation, standard, ordinance, or statute;
- 12.3** Alleged infringement of any patent rights which may be brought with respect to Architect's/Engineer's design;
- 12.4** Failure of Architect/Engineer to comply with the provisions of this Agreement with respect to insurance; and,
- 12.5** Any violation or infraction by Architect/Engineer of any law, order, citation, rule, regulation, standard, ordinance, or statute in any way relating to the occupation, health, or safety of employees.



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District shall defend, indemnify, and hold harmless Architect/Engineer (including its officers, agents, employees, affiliates, volunteers, consultants, subconsultants and representatives and each of them, of and from any and all claims, demands, suits, causes of action, damages, costs, expenses, attorneys' fees, losses, or liability, in law or in equity, of every kind and nature whatsoever to the extent arising out of, pertaining to or relating to District's, the District's officers, employees, consultants, subconsultants or agents negligence, recklessness or willful misconduct in performing work under this Agreement or for defects in design furnished by such persons other than Architect/Engineer and its agents, employees, officers, affiliates, volunteers, consultants representatives, and subconsultants. However, by providing this indemnification, District does not waive its statutory or other immunities.

The District shall defend, indemnify, and hold harmless the Architect/Engineer and Architect/Engineer's officers, employees, consultants and subconsultants against any and all copyright infringement claims by any design professional formerly retained by the District arising out of Architect's/Engineer's completion, use or re-use of that former design professional's designs or contract documents in performing this Agreement. Architect/Engineer shall be entitled to such indemnification only if each of the following conditions are met: (a) Architect/Engineer actually re-draws or completes such other designs or contract documents; (b) Architect/Engineer complies with the provisions of Article 2.1.7.5 regarding use of materials prepared by other' design professionals; (c) District has supplied Architect/Engineer with the previously prepared documents or materials; and (d) District expressly requests that the Architect/Engineer utilize the designs or contract documents in question. However, by providing this indemnification, District does not waive its statutory or other immunities.

It is understood and agreed that such indemnity shall survive the termination of this Agreement. The indemnities set forth in this section shall not be limited by the insurance requirements set forth in this Agreement.

ARTICLE 13. ERRORS AND OMISSIONS.

Architect/Engineer shall be liable for any damages and costs incurred by, and any claims against, District that result from Architect's/Engineer's negligence, recklessness or willful misconduct in the performance of this Agreement. Additionally, Architect/Engineer shall not be paid a fee for work required due to Architect's/Engineer's negligence, recklessness or willful misconduct or the negligence, recklessness or willful misconduct of Architect's/Engineer's subcontractors, consultants, and/or employees in the performance of services under this Agreement. Architect/Engineer shall familiarize himself/herself with actual condition of site and buildings.

Regarding Change Orders, the Architect/Engineer shall recommend, prepare, and process the necessary change orders as may be requested by the District. Payment of fees to the Architect/Engineer as a result of change orders shall be handled as follows:

District initiated change orders. If a change order is requested by the District, the Architect's/Engineer's fee for such change order shall be calculated on a percentage or hourly basis as agreed in writing by the District and the Architect/Engineer prior to commencement of work on the change order.

Change orders due to Architect/Engineer negligence, recklessness or willful misconduct. When a change order is necessitated as a result of negligence, recklessness or willful misconduct in the exercise of Architect's/Engineer's professional duties, the Architect's/Engineer's fees shall not be calculated by reference to the cost of any change



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order work which would not have been necessitated had the work been included in the bid documents.

Change orders beyond District or Architect/Engineer control. If a change order is necessitated as a result of changes in law, in-field changes required by governing agencies after document approval, unknown, unforeseeable or hidden conditions, or actual conditions inconsistent with available drawings of existing conditions, such change orders shall be handled in the same manner as District initiated change orders.

Notwithstanding any other provision of this Agreement, in the event a change order is necessitated as a result of negligence, recklessness or willful misconduct in the exercise of Architect's/Engineer's professional duties, the Architect/Engineer shall be responsible for the cost of the following:

The reasonable excess cost to construct the work described in the change order, as compared with the cost to construct the work had it been included in the bid documents; and

Any delay damages which the District incurs as a result of the negligence, recklessness or willful misconduct including but not limited to any delay damages the District pays to any third party as a result of such negligence, recklessness or willful misconduct.

ARTICLE 14. INSURANCE.

- 14.1** Throughout the performance of all services rendered under this Agreement, Architect/Engineer shall maintain in full force and effect, errors and omissions insurance covering the services furnished by Architect/Engineer pursuant to this Agreement, providing for coverage on per claim basis for a minimum of One Million Dollars (\$1,000,000.00) per claim. The insurance policy shall not contain a provision providing for any deductible greater than a total of Fifty-Thousand Dollars (\$50,000.00). A copy of the policy and all endorsements and riders with respect thereto shall be furnished to the District prior to commencement of services. District will be provided with copies of any policy changes during the term of this Agreement. If Architect's/Engineer's errors and omissions insurance is in a claims made form, said insurance shall be carried and continued by Architect/Engineer for a period of four (4) years from the date the Notice of Completion is recorded for the Project.
- 14.2** Throughout the performance of all services under this Agreement, Architect/Engineer shall carry and maintain commercial general liability, automobile liability, employer's liability, and contractual liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000) general aggregate, and such Workers' Compensation insurance as required by law. The commercial general liability shall include coverage for personal injury and advertising injury, with a policy limit of not less than One Million Dollars (\$1,000,000). Proof of all required insurance coverage, including additional insured endorsements, shall be attached hereto prior to commencement of work under this Agreement. Upon request by District, Architect/Engineer will immediately furnish copies of the required insurance policies. District will be provided with copies of any policy changes during the term of this Agreement.



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- 14.3** As a part of the signing of this Agreement, the Architect/Engineer shall furnish a Certificate of Insurance substantiating the fact that it has taken out the insurance set forth above with an insurance carrier admitted by the State of California to transact insurance in the State of California and acceptable to the District and under terms satisfactory to the District. Any insurance required under this Agreement shall contain an endorsement precluding the cancellation or material modification of said policy before the expiration of thirty days after the District shall have notification of such cancellation.
- 14.4** All insurance policies, except for professional liability and workman's compensation, by way of endorsement shall include Sacramento City Unified School District, its trustees, officers, employees, agents, inspectors, project managers, volunteers, consultants, subconsultants, their employees, and each of them, as additional insureds to protect, as well as to provide the defense of, from all suits, actions, damages, liabilities, or claims of every type and description to which they may be subjected or put by reason of, or resulting from, the Architect's/Engineer's performance of this Agreement. Architect's/Engineer's insurance shall apply as primary insurance, and any other insurance carried by the additional insureds identified above shall apply as excess and will not contribute with Architect's/Engineer's insurance.
- 14.5** Each insurance policy required by this Agreement shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; and, (2) It acts as primary insurance, and that no insurance held or owned by the District shall be called upon to cover, either in full or in part, any loss covered under the policy acquired by Architect/Engineer.
- 14.6** If the Architect/Engineer fails to maintain the above insurance, the District may, but shall not be required to, take out insurance to cover damages of the herein mentioned classes for which the District might be held liable on account of the Architect/Engineer failing to pay such damages and deduct and retain the amount of the premium for such insurance from any sums due the Architect/Engineer under this Agreement. Failure of the District to obtain such insurance shall in no way relieve the Architect/Engineer from any of its responsibilities under this Agreement. If the funds due the Architect/Engineer are not sufficient to reimburse District for the amount of the premium for such insurance, Architect/Engineer agrees to pay District the difference.
- 14.7** Architect/Engineer will require each of its consultants, subconsultants and subcontractors, by an appropriate written contractual provision, to provide insurance of the kind provided for in this Article 14.
- 14.8** Nothing contained in this Agreement shall be construed as limiting, in any way, the extent to which Architect/Engineer may be held responsible for the payment of damages resulting from or arising out of Architect's/Engineer's operations and/or performance of services under this Agreement.

ARTICLE 15. RECORDS.



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Architect/Engineer shall maintain records of direct personnel and reimbursable expenses pertaining to the extra and special services of the Project that are compensable by other than a flat rate. Architect/Engineer shall maintain all records of accounts between District and Architect/Engineer on a generally recognized accounting basis. Such records shall be available to District or its authorized representative for inspection or audit at any reasonable time. Architect/Engineer shall maintain all records concerning the Project for a period of three years after its completion.

- 15.1** Records of the Architect/Engineer and his consultants' direct personal expenses for extra services and reimbursable expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be presented to the District or its authorized representative with the invoice for the additional expenses or services.

- 15.2** For all invoices or statements from Architect/Engineer of Architect's/Engineer's consultants and subconsultants for fees or services rendered based upon an hourly rate of compensation (rather than an agreed upon lump sum), Architect/Engineer shall present a detailed itemized accounting for all hours incurred. As used herein, a detailed itemized accounting means, for each person furnishing such services rendered on an hourly rate of compensation, contemporaneously maintained records containing a specific description of the service performed such that the necessity and purpose of the service can be readily ascertained, the date that the service was performed, the hours (including fractions thereof) that each service required to be performed, and the hourly rate for services for each person. (By way of illustration only: 3/17/97, John Smith, Prepare Change Order 004 as requested by District representative Jane Doe, .4 hours at \$60.00 hour, TOTAL DUE \$24.00.)

ARTICLE 16. STANDARDIZED MANUFACTURED ITEMS.

Architect/Engineer shall cooperate and consult with District in use and selection of manufactured items on the Project, including, but not limited to, paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials, and floor coverings, etc. All such manufactured items shall be standardized to District's criteria to the extent such criteria do not interfere with project design.

ARTICLE 17. LIMITATION OF AGREEMENT.

This Agreement is limited to and includes only the work included in the Project described above and as determined at the time the design development documents prepared pursuant to section 2.1.5.2 are approved, unless this Agreement is amended by the parties to include additional work as part of the Project. Any subsequent construction at the site of the Project, or at any other site in District will be covered by, and be the subject of, a separate Agreement for architectural services between District and the Architect/Engineer chosen therefore by District.

ARTICLE 18. MEDIATION.

Disputes arising from this Agreement may be submitted to mediation if mutually agreeable to the parties hereto. The parties shall select a disinterested third-person mediator within a reasonable period of time, mutually agreed to by the parties. The mediation shall be commenced within 30 days of the selection of the mediator.



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ARTICLE 19. COMPLIANCE WITH THE LAWS.

Architect's/Engineer's work shall comply with and meet applicable requirements of federal, state, regional, or local law, including, but not limited to, the Uniform Building Code, the Education Code, Title 19 and Title 24 of the California Code of Regulations, and all requirements prescribed by the California Department of General Services. Architect/Engineer shall comply with any applicable prevailing wage law.

ARTICLE 20. CONFLICT OF INTEREST.

Architect/Engineer shall abide by and be subject to all applicable District policies, regulations, statutes or other laws regarding conflict of interest.

Architect/Engineer 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, Architect/Engineer shall not hire any employee of the United States government to perform any service covered by this Agreement.

Architect/Engineer affirms to the best of his/her knowledge, there exists no actual or potential conflict of interest between Architect's/Engineer's family, business or financial interest and the services provided under this Agreement, and in the event of 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 21. INDEPENDENT CONTRACTOR.

Architect/Engineer is, for all purposes arising out of this Agreement, an independent contractor, and neither Architect/Engineer nor its subcontractors, consultants, or employees shall be deemed an employee of District for any purpose. It is expressly understood and agreed that Architect/Engineer shall in no event be entitled to any benefits to which District employees are entitled, including, but not limited to, overtime, retirement benefits, insurance, vacation, worker's compensation benefits, sick or injury leave, or other benefits.

ARTICLE 22. SUCCESSORS IN INTEREST AND ASSIGNS.

This Agreement is binding upon and inures to the benefit of the successors in interest, executors, administrators, and assigns of each party to this Agreement, provided, however that Architect/Engineer shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations without the prior written consent of District's Governing Board. Any attempted assignment without such consent shall be invalid.

ARTICLE 23. ASBESTOS CERTIFICATION.

Architect/Engineer shall certify to the best of its information pursuant to 40 Code Federal Regulation, section 763.99(a)(7), that no asbestos-containing material was specified as a building material in any construction document for the Project and will ensure that contractors provide District with certification that all materials used in the construction of any school building are free from any asbestos-containing building materials ("ACBMs"). Architect/Engineer shall include



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statements in specifications that materials containing asbestos are not to be included. This certification shall be part of the final Project submittal.

ARTICLE 24. DISABLED VETERAN BUSINESS ENTERPRISE CERTIFICATION.

In accordance with Education Code Section 17076.11, the District has a participation goal for disabled veteran enterprises of at least 3 percent per year of the overall dollar amount of funds allocated to the District by the State Allocation Board pursuant to the Leroy F. Greene Facilities Act of 1998 for construction or modernization and expended each year by the District. Prior to, and as a condition precedent for final payment under this Agreement, the Architect/Engineer shall provide appropriate documentation to the District identifying the amount paid to disabled veteran enterprises in conjunction with this Agreement. In addition to the requirements of Education Code Section 17076.11, Architect/Engineer shall comply with, and assist the District in complying with, all other rules, regulations or statutes related to the use of disabled veteran enterprises for this Project.

ARTICLE 25. NO RIGHTS IN THIRD PARTIES

This Agreement shall not create any rights in, or inure to the benefits of, any third party.

ARTICLE 26. NOTICES.

Any notice may be served effectively upon the District by delivering it in writing, or by depositing it in the United States Mail with postage thereon fully prepaid and addressed to District at the address set forth for the District on the signature page of this Agreement and in the case of the Architect/Engineer, may be served effectively upon Architect/Engineer by delivering it in writing, or by depositing it in the United States Mail with postage thereon fully prepaid and addressed to the Architect/Engineer at the address set forth on the signature page of this Agreement, or any notice may be served effectively by delivering or mailing it, as in this paragraph provided, addressed to any other place or places District or Architect/Engineer, by written notice served upon the other, from time to time may designate.

ARTICLE 27. NONDISCRIMINATION.

In connection with the performance of Architect/Engineer pursuant to this Agreement, Architect/Engineer will not willfully discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, sexual preference, marital status, physical handicap, or national origin. Architect/Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, sex, sexual preference, marital status, physical handicap, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

ARTICLE 28. WAIVER.

Architect/Engineer shall not be relieved of liability to the District for damages sustained by the District by virtue of any breach of the Agreement by Architect/Engineer, and District may withhold any payments to Architect/Engineer for the purpose of set-off until such time as the exact amount of damages due District from Architect/Engineer is determined. The waiver by District of any breach of this Agreement shall not constitute a waiver as to any succeeding breach.



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ARTICLE 29. MISCELLANEOUS.

The following terms and conditions shall be applied to this Agreement:

- 29.1** Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California, excluding its choice of law rules.
- 29.2** Entire Agreement. This Agreement with its exhibits supersedes any and all other prior or contemporaneous oral or written agreements between the parties hereto. Each party acknowledges that no representations, inducements, promises, or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void.
- 29.3** Severability. Should any provision in the Agreement be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.
- 29.4** Non-Waiver. None of the provisions of this Agreement shall be considered waived by either party unless such waiver is specifically specified in writing.
- 29.5** Supplemental Conditions. Any supplemental conditions shall be attached as an exhibit to this Agreement and incorporated herein by reference.
- 29.6** This Agreement may only be modified by a written instrument signed by both parties.
- 29.7** Venue for any dispute arising under this Agreement shall be Sacramento, California, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by the District.
- 29.8** Time is of the essence of this Agreement.
- 29.9** Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa. Each gender shall be deemed to include any other gender, and each shall include corporation, partnership, trust, or other legal entity whenever the context so requires. The captions and headings of the various Articles of the Agreement are intended only for convenience and in no way define, limit, or prescribe the scope or intent of the Agreement or any Article thereof.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed on the day and year first written above



INSERT DATA HERE
INSERT DATA HERE

**SACRAMENTO CITY
UNIFIED SCHOOL DISTRICT**

INSERT DATA HERE
INSERT DATA HERE
INSERT DATA HERE

By: _____
Thomas S. Barentson
Deputy Superintendent/CFO

By: _____
Signature

Date

Print Name

Title

Date



INSERT DATA HERE
 INSERT DATA HERE

EXHIBIT A

COMPENSATION TO ARCHITECT/ENGINEER

The Architect/Engineer shall be compensated for work on the Project in accordance with Exhibit C, Architect's Fee Schedule.

10.0%		\$	-	for contracts under \$300,000
8.0%	\$	-	\$	- for contracts exceeding \$300,000
11.0%	\$	_____	\$	_____ next \$1 m
10.0%	\$	_____	\$	_____ next \$4 m
9.0%	\$	_____	\$	_____ next \$4 m
8.0%	\$	_____	\$	_____ excess
Subtotal:	\$	-		
	\$	-	\$	- - Architect Fee**

** Architect's/Engineer's Fee shall be adjusted at construction contract award (computed cost). All fees for Architect's/Engineer's services beyond the fixed fee are subject to negotiation.



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EXHIBIT B

PAYMENT TO THE ARCHITECT/ENGINEER

A. Payments on account of the agreed compensation in Article 4 shall be made as follows:

1. **Schematic Design Phase.** 10% of total compensation based upon the tentative estimated Project Construction Cost approved by District.

Billings shall be made monthly or lump sum, in arrears, up to 10% of such total compensation based upon work completed, as reasonably determined by District.

2. **Design Development Phase.** Increase to 25% of total compensation based upon the preliminary estimated Project Construction Cost approved by District.

Billings shall be made monthly or lump sum, in arrears, up to 25% of such total compensation, based upon work completed, as reasonably determined by the District.

3. **Construction Documents Phase:**

a. Construction documents 50% complete - increase to 45% of the compensation based upon the estimated Project Construction Cost approved by District. Billings shall be made monthly or lump sum, in arrears, up to 45% of such total compensation, based upon work completed, as reasonably determined by the District.

b. Construction documents 100% complete, ready for review by applicable public agencies - increase to 60% of the total compensation based upon the estimated Project Construction Cost approved by District. Progress billings shall be made monthly in arrears, up to 60% of such total compensation, based upon work completed, as reasonably determined by District.

c. Construction documents approved by the Division of the State Architect, increase fee to 65% of the total compensation based upon the estimated Project Construction Cost approved by District. Billings shall be made monthly or lump sum, in arrears, up to 65% of such total compensation, based upon work completed, as reasonably determined by the District.

4. **Construction Phase:**

a. On all or that portion of a project for which documents have been reproduced and bids have been received WHICH DO NOT EXCEED THE MASTER PROJECT BUDGET, increase to 70% of total compensation adjusted to the accepted bid process (i.e., Computed Cost, as defined below).

b. Subsequent billings shall be submitted monthly, in arrears, in proportion to the amount of work certified as complete, as reasonably approved by the District.

c. Construction complete and accepted by District - increase to 90% of the total compensation, based upon the contract price (i.e., Computed Cost, as defined below), notwithstanding the Architect's/Engineer's service during the warranty periods.



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d. Upon completion of Project Closeout: 1.) Final DSA documentation (closeout letter from DSA), 2.) Verification of Punch List completion, 3.) As-builts delivered to owner, 4.) Submission of final Change Order, 5.) Final resolution of any contractor claims – increase to 100% of the total compensation, based upon the contract price (i.e., Computed Cost, as defined below).

B. Payments in the event of the following circumstances shall be made as follows:

1. **Deferred Bids:**

If the bids on any project hereunder are awarded within 180 days of DSA approval, the compensation shall be adjusted to conform to the awarded bid (Computed Cost). If bids are received after 180 days from the date of DSA approval, the compensation shall not be subject to adjustment as heretofore noted and the payment during the construction phase shall be the remaining percentage of the compensation based upon the awarded bid, as otherwise provided in this Agreement.

2. **Delayed Completion of Liquidated Damages.**

The Architect's/Engineer's compensation shall be paid at the time and in the amount noted notwithstanding a delay in completion of any project or the reduction in the final construction cost (Computed Cost) by reason of penalties, liquidated damages or other amounts withheld from the construction contractor.



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EXHIBIT C

ARCHITECT'S/ENGINEER'S FEE SCHEDULE

1. Ten percent (10%) of the Computed Cost for projects less than \$300,000.
2. Eight percent (8%) of the Computed Cost for projects exceeding \$300,000.



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EXHIBIT D*INSERT DATA HERE*****

CONTRACTOR CERTIFICATION

Fingerprinting: Education Code section 45125.1 provides that any contractor providing school site administrative or similar services to a school district must certify that its employees providing that service 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 must report to the Contractor if they have been convicted of such felonies. No person convicted may be assigned to work under the contract. The school district may determine, under 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, 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 contract. The District has also determined that the employees assigned to work at a school site under this contract will have only limited contact with pupils, provided the following conditions are met at all times:

1. Contractor 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. Contractor employees shall use only restroom facilities reserved for District employees and shall not use student restrooms at any time.
3. Contractor will inform all of its 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, Contractor cannot adhere to the conditions stated above, Contractor shall so inform the District and shall assign only those employees who have been fingerprinted and cleared for employment by the Department of Justice. In that case, 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 terminate the Agreement at any time for noncompliance.

Authorized Signature of Contractor

Date

Printed Name/Title