



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item 9.1a

Meeting Date: July 16, 2015

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

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

Division: Business Services

Recommendation: Recommend approval of items submitted.

Background/Rationale:

Financial Considerations: See attached.

LCAP Goal(s): College and Career Ready Students; Family and Community Engagement; Safe, Clean and Healthy Schools

Documents Attached:

1. Grants, Entitlements, and Other Income Agreements
2. Other Agreements
3. Recommended Bid Awards – Facilities Projects
4. Notices of Completion – Facilities Projects

<p>Estimated Time of Presentation: N/A Submitted by: Gerardo Castillo, CPA, Chief Business Officer Kimberly Teague, Contract Specialist Approved by: José L. Banda, Superintendent</p>

GRANTS, ENTITLEMENTS AND OTHER INCOME AGREEMENTS - REVENUE

<u>Contractor</u>	<u>Description</u>	<u>Amount</u>
<u>ADULT EDUCATION</u>		
A16-00002 Sacramento Employment & Training Agency (SETA)	7/1/15 – 6/30/16: Grant funding for Workforce Investment Act. Adult, Dislocated Worker, and CALWorks funds to provide Vocational English as a Second Language, Adult Basic Education GED, and Occupational Skills Sector Initiatives. The programs supported by these funds improve employment opportunities, and provide training, literacy, and vocational rehabilitation to community adults. Achievement in Adult Basic Education, English as a Second Language, and other vocational programs is measured through testing. Benchmarks are tracked for future funding opportunities.	\$781,280 No Match
A16-00003 Sacramento Employment & Training Agency (SETA)	7/1/15 – 6/30/16: Grant funding for Workforce Investment Act. Title I, Youth Program at Charles A. Jones Business and Education Center to serve 40 Out-of-School youth participants. Out-of-School participants are individuals between the ages of 18 and 24 who are not currently enrolled in public or private education, and who may or may not have completed a high school diploma, GED certificate, or equivalent. Students participate in an intensive program with low student-to-staff ratios for personalized assistance, and are provided guidance and support to meet their educational goals.	\$150,800 No Match
A16-00004 Sacramento Employment & Training Agency (SETA)	7/1/15 – 6/30/16: Grant funding for Workforce Investment Act. Title I, Youth Program that provides Universal Services. Funds will be used for a Youth Specialist/Worker to assist youth, ages 14 – 21 in job development skills, job search & placement at Charles A. Jones Business / Education Center.	\$61,000 No Match
<u>GOLDEN EMPIRE ELEMENTARY SCHOOL</u>		
A16-00001 RedRover Readers	7/1/15 – 6/30/17: Winner of 2015 RedRover Readers Impact Contest. Funds to be used to bring social and emotional learning to school. RedRovers Readers curriculum helps children increase their level of empathy for people and animals. Includes empathy celebration presentation and training for teaching and after school program staff.	\$5,000 No Match

SPECIAL EDUCATION

A16-00005 California Department of Education	7/1/14 – 6/30/15: Early Intervention Grant to be used for Early Education Programs run by the Sacramento County Office of Education serving medically fragile infants and toddlers with disabilities, and their families.	\$139,420 No Match
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EXPENDITURE AND OTHER AGREEMENTS

<u>Contractor</u>	<u>Description</u>	<u>Amount</u>
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FACILITIES SUPPORT SERVICES

SA16-00081 Vrilakas Groen Architects	7/1/15 – Completion of Services. Architectural and Engineering Services as needed for installation of a new two-story, nine classroom building at Theodore Judah Elementary School.	\$ 367,271 Measure Q Funds
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SCHOOLS OFFICE

Pivot Learning Partners	7/1/15 – 6/30/16: Assist in development of the Districts Strategic Plan, per proposal submitted in response to a Request for Proposals for Strategic Planning Facilitation issued in February 2015. Beginning in July 2015, Pivot Learning Partners will collaborate with senior District leadership to facilitate engagement of District stakeholders as part of their Change Design approach to strategic planning. Their extensive experience and skill-sets will support the District in sustaining coherence in its ongoing work with the LCAP.	\$153,145 General Funds
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TRANSPORTATION SERVICES

R16-00605 A-Z Bus Sales	Purchase of 27 passenger and wheelchair school buses, utilizing the Waterford Unified School District Bid #01/12. Public Contract Code §20118 allows government agencies, such as school districts to piggyback on awards while still satisfying the legally required competition for contracts.	Piggyback pursuant to Public Contract Code §20118 \$1,749,994 Transportation Funds
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RECOMMENDED BID AWARDS – FACILITIES PROJECTS

Project: Lease-Leaseback Agreement for Swimming Pool Renovations at Sacramento Charter High School

Recommendation: Award to XL Construction

Amount/Funding: \$865,698 – Emergency Repair Program Funds

The lease-leaseback project delivery method is authorized by California Education Code §17406, and authorizes the governing board, without advertising for bids, to enter into a lease with a builder for the purpose of construction, including remodeling and permanent improvements, upon property.

This delivery method to construction has been recognized by the State Legislature as a proven method to deliver school facilities on time, on budget, and with a reduced level of public agency risk associated with design issues, delays and cost overruns. The Lease-Leaseback Agreement establishes a Guaranteed Maximum Price which is the total sum to be paid to the builder for the project.

NOTICES OF COMPLETION – FACILITIES PROJECTS

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

Contractor	Project	Completion Date
Simplex Grinnell	Fire Alarm Testing at 111 Sites	October 2, 2014
Stuebaker Brown Electric	Fire Alarm Panel Replacement at 11 sites	April 1, 2015
Stuebaker Brown Electric	Fire Alarm System Upgrade at Transportation, Central Warehouse and Facilities Maintenance	June 15, 2015



Business Services

Contracts Office

5735 47th Avenue • Sacramento, CA 95824

(916) 643-2464

José L. Banda, Superintendent

Gerardo Castillo, Chief Business Officer

MASTER AGREEMENT

For

ARCHITECTURAL SERVICES

With

VRILAKAS GROEN ARCHITECTS

July 16, 2015

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MASTER AGREEMENT FOR ARCHITECTURAL SERVICES

This Master Agreement for Architectural Services (“Agreement”) is made and entered into by and between the Sacramento City Unified School District, a school district duly organized and existing under the laws of the State of California (the “District”), and Vrilakas Groen Architects (the “Architect”), with respect to the following recitals:

A. District proposes to undertake the construction of improvement projects which require the services of a duly qualified and licensed architect.

B. Architect represents that Architect is licensed to provide architectural/engineering services in the State of California and is specially qualified to provide the services required by the District, specifically the design and construction oversight of public school(s).

C. The parties have negotiated the terms pursuant to which Architect will provide such services and reduce such terms to writing by this Master Agreement.

In consideration of the covenants and conditions contained in this Master Agreement, the parties agree as follows:

ARTICLE 1

DEFINITIONS

1.1 **Additional Services.** “Additional Services” shall mean those services in addition to the Basic Services that are provided by Architect and authorized in writing by the District, and as further defined in Article 6 herein.

1.2 **Agreement.** “Agreement” shall mean this Master Agreement for Architectural Services.

1.3 **Architect.** “Architect” shall mean Vrilakas Groen Architects, and its officers, shareholders, owners, partners, employees, agents and authorized representatives.

1.4 **Basic Services.** Architect’s Basic Services consist of the design services, including landscaping architectural services and landscape irrigation design, civil, structural, mechanical, and electrical engineering services, normally required to complete the Project, as further defined in Article 5.

1.5 **Contract Documents.** “Contract Documents” shall mean those documents which are required for the actual construction of the Project, including but not limited to the Agreement between Owner and Contractor, complete working drawings and specifications setting forth in detail sufficient for construction the work to be done and the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system and utility-service-connected equipment and site work.

1.6 **Contractor.** “Contractor” shall mean one or more contractors ultimately selected to perform work on the Project or any replacement.

1.7 **District.** “District” shall mean the Sacramento City Unified School District, and its governing board members, employees, agents and authorized representatives.

1.8 **Project.** “Project” shall mean the work of improvement described in Article 3 and the amendments to this Agreement set forth in the Project Authorization Form, and construction thereof, including the Architect's services thereon, as described in this Master Agreement.

1.9 **Project Construction Cost.** “Project Construction Cost” shall mean the estimate of total construction costs to the District as initially submitted by the Architect pursuant to this Master Agreement and accepted by the District, and as subsequently revised in these manners: (a) Revised by changes to the Project Construction Cost under Article 5 of this Master Agreement; (b) revised at the time the District enters a construction contract, to equal the construction contract amount, (c) increased by the dollar amounts of all approved additive contract change order items, with the exception of (i) items resulting from Wrongful Acts or Omissions on the part of the Architect, including but not limited to those items covered by Section 5.7.19.2, below, (ii) payments to Architect or consultants for costs of inspections, surveys, tests and sites and landscaping not included in the Project, and (iii) items where Architect and District agreed to compensate the Architect for its services on an hourly basis, pursuant to Section 5.7.19.1, below; and (d) decreased by the dollar amounts of all approved deductive contract change order items.

1.10 **Wrongful Acts or Omissions.** “Wrongful Acts or Omissions” shall mean Architect’s acts, errors, or omissions in breach of this Master Agreement, the applicable standard of care, or law.

ARTICLE 2

RETENTION OF ARCHITECT: STANDARD OF CARE

District retains Architect to perform, and Architect agrees to provide to District, for the consideration and upon the terms and conditions set forth below, the architectural and engineering services specified in this Master Agreement and related incidental services. The Architect agrees to perform such services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project, and in accordance with a mutually acceptable project schedule as set forth in Attachment One to each Project Authorization Form. The schedule shall include reasonable allowances for review and approval of deliverables under the Master Agreement by the District and governmental entities having jurisdiction over the Project. The schedule may be adjusted by the Parties, in writing, as the Project progresses, to address circumstances beyond the Architect’s reasonable control.

All services performed by the Architect under and required by this Master Agreement shall be performed (a) in compliance with this Master Agreement and (b) in a manner consistent with the level of care and skill ordinarily exercised by architects in the same discipline, on similar projects in California with similar complexity and with similar agreements, who are licensed and qualified to provide the services required by the District; and all such services shall be conducted in conformance to, and compliance with, all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the Americans with Disabilities Act (“ADA”) that are in effect as of the date of this Master Agreement. Architect shall be responsible for the completeness and accuracy of the plans and specifications.

ARTICLE 3

DESCRIPTION OF PROJECT

The Project concerning which such architectural services shall be provided is described in the Project Authorization Form, issued for each individual project.

ARTICLE 4

COMPENSATION

4.1 Basic Services

4.1.1 For all “Basic Services” satisfactorily performed as defined in Articles 1 and 5 of this Master Agreement, the total compensation paid to the Architect for the Project is set forth in the Project Authorization Form, issued for each individual project. This compensation shall be paid pursuant to the following schedule:

Initial Payment	0%
Upon Completion of:	
Schematic Design	10%
Design Development Phase (50%)	10%
Design Development Phase (100%)	10%
Contract Documents Phase (50%)	10%
Contract Documents Phase (100%)	10%
DSA Back Check	10%
Bidding Phase	10%
Construction Phase	25%
Close Out Phase	5%
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TOTAL BASIC COMPENSATION	100%

4.1.2. **PLEASE NOTE:** Beginning with the 2014/15 school year, the District is utilizing construction program management software, e-Builder™. All project stakeholders (Architects, Inspectors, Contractors, etc.) are now required to use this software for all project-related documents, questions, etc. If you have not already registered with e-Builder™, please go to their website, www.e-builder.net. You can also contact their technical support at (888) 288-5717, or support@e-builder.net. You may also call the Planning & Construction Office for assistance, (916) 264-4075 x1020 or x1025.

4.2 Additional Services

4.2.1 For all “Additional Services,” as defined in Articles 1 and 6 of this Master Agreement, compensation shall be a fee to be agreed upon by the parties in writing prior to performance of such services by Architect. Unless expressly stated in the written authorization to proceed with the additional services, the fee for such additional services shall be an amount computed by multiplying the hours to be worked by Architect's staff or Architect's consultants by their standard billing rates as shown in Attachment Two of the Project Authorization Form or as otherwise specifically approved in writing in advance by District.

4.2.2 Architect shall keep complete records showing all hours worked and all costs and charges applicable to work not covered by the basic fee. Architect will be responsible for Architect's consultants keeping similar records. District shall be given reasonable access to those records for audit purposes.

4.3 Reimbursable Expenses

Reimbursable Expenses are in addition to the Compensation for Basic and Additional Services and include actual expenditures made by the Architect and the Architect's employees and consultants in the interest of the Project for the expenses listed below:

4.3.1 If authorized in advance, expense of transportation in connection with the Project; living expenses in connection with out-of-town travel; and long distance communications.

4.3.2 Expense of reproductions; fax, postage and messenger for transmission of drawings, specifications and other documents (excluding reproductions for the office use of the Architect and the Architect's consultants).

4.3.3 Expense of data processing and photographic production techniques when used in connection with Additional Services.

4.3.4 If authorized in advance by the District, expense of overtime work requiring higher than regular rates.

4.3.5 Expense of renderings, models and mock-ups requested by the District; expense of publishing pursuant to section 5.6.5.

Reimbursable Expenses do not include indirect costs, such as general overhead (for example, home office overhead [including technology hardware and software] or insurance premiums), for which Architect must pay out of its compensation for services under Section 4.1, above; nor do they include expenses incurred in connection with Basic or Additional Services that result from Wrongful Acts or Omissions. Architect may not charge a mark-up on Reimbursable Expenses. Payment for all Reimbursable Expenses incurred in connection with either Basic or Additional Services shall be made on a monthly basis. Invoices, receipts or other documentation to establish the validity of all reimbursable expenses shall be a prerequisite to District payment of such expenses.

4.4 Each payment to Architect for Basic and Additional Services satisfactorily performed, and Reimbursable Expenses reasonably incurred, shall be made in the usual course of District business after presentation by Architect of a properly documented and submitted monthly invoice approved by District's authorized representative designating the services performed, or Reimbursable Expenses incurred, the method of computation of the amount payable, and the amount payable. District shall pay approved invoices within sixty (60) days after proper submission by Architect, and Architect otherwise waives all rights and remedies under law related to receipt of payment. To be properly submitted, an invoice shall be timely, be accompanied by all necessary documentation, list all activities performed and specify to which phase of the Architect's work listed in Section 4.1.1 it relates, and for each activity performed list the person performing it and the person's rate of compensation. Architect's invoice shall be submitted within ten (10) days of the end of the monthly billing period. If District disputes a portion of a properly submitted invoice, it shall notify Architect of the dispute and, upon Architect's written request, arrange for a meeting to confer about, and potentially resolve the dispute. Prior to this meeting, Architect shall provide all documentation requested to support disputed portions of properly submitted invoice. Regardless of any such dispute about an invoice or payment, Architect shall continue to provide all services required by this Master Agreement and law until the end of the Project, even if District and Architect cannot resolve all such disputes.

4.5 The Architect's compensation shall be paid at the time and in the amount noted, where the amount due to the Architect is not disputed, notwithstanding a Contractor-caused delay in completion of the project or reduction of final construction cost by reason of penalties, liquidated damages, or other amounts withheld from the Contractor. However, District may withhold from payments to Architect to the extent that (i) Basic and Additional Services remain to be performed, including but not limited to those required for project closeout and payments to Contractor; and (ii) Wrongful Acts or Omissions caused District to incur damages, losses, liabilities or costs, including but not limited to withholding any amounts for which Architect is responsible under Section 5.7.20.

4.6 Should District cancel the Project pursuant to section 12.1 of this Master Agreement at any time during the performance of this Master Agreement, Architect shall, upon notice of such cancellation, immediately cease all work under this Agreement. In such event, Architect's total fee for all services performed shall be computed as set forth in Section 12.1.

4.7 Architect shall not accept compensation or other benefits from other persons related to the Project, including payments from manufacturers of construction materials that are specified in the design.

ARTICLE 5

BASIC SERVICES TO BE RENDERED BY ARCHITECT

5.1 General

5.1.1 Architect's Basic Services consist of the design services, including landscaping architectural services and landscape irrigation design, civil, structural, mechanical, and electrical engineering services, normally required to complete the Project. The Basic Services also include the services described in this Article 5, below, including but not limited to bid package preparation, bid handling, preparation and processing of change orders, requests for information, and other contract administration duties. The District shall have the right to add or delete from the Architect's scope of services as it may determine is necessary for the best interests of the Project and/or the District. Architect shall expeditiously and diligently perform all of its work and obligations under this Master Agreement. Architect may not cease, delay or reduce, or threaten to cease, delay or reduce, its performance based on a payment dispute with District under Section 4.4, above. The Architect acknowledges that its priority is to complete the Project and the Architect's services, and that any payment disputes with the District under Section 4.4, if not resolved during the Project, must wait for resolution after the Project.

5.1.2 The Architect shall review the estimate described more fully hereinafter at each phase of Architect's services, also as defined hereinafter. If such estimates are in excess of the project budget, the Architect shall revise the type or quality of construction to come within the budgeted limit.

5.1.3 Whenever the Architect's services include the presentation to the District of Project Construction Cost, the Architect shall include a reasonable amount for contingency costs arising from, among other things, higher bids than anticipated, future increase in construction costs, and change orders based on unforeseen site conditions. However, any such contingency for change orders shall not affect Architect's compensation.

5.1.4 The Architect shall notify the District if there are any indicated adjustments in previously provided Project Construction Cost arising from market fluctuations or approved changes in scope or requirements based upon a mutually agreed upon index. Any such adjustments shall not affect Architect's compensation until bids are received and accepted.

5.1.5 At the District's request, the Architect and Architect's consultants shall cooperate with District and the District's consultants in verifying that Architect's plans, specifications, studies, drawings, estimates or other documents relating to the Project are constructible and otherwise comply with the Contract Documents. If there are project meetings during the design and construction phases, Architect shall attend those meetings.

5.1.6 The Architect shall investigate existing conditions of facilities and thoroughly account for and list in the construction documents any pertinent conditions of such facilities, all in a manner that satisfies the standard of care and level of performance required by this Master Agreement. Architect's investigation required by this provision shall be limited to non-destructive evaluation.

5.1.7 Architect shall provide a list of employees who will be dedicated to delivering the project on time and within budget. All personnel provided by Architect shall be qualified to perform the services for which they are hired. Architect shall obtain District's approval of each employee of Architect who provides services under this Master Agreement, and approval of each change of employees who are providing such services. District may, upon 24 hours written notice, cause Architect to remove a person from the Project if he/she has failed to perform to District's satisfaction. Should additional employees be required to timely perform all of the services required under this Master Agreement and/or to avoid delay, Architect shall provide them immediately.

5.1.8 Architect is an agent of District and shall reasonably represent the District at all times in relation to the Project.

5.1.9 Architect shall be fully licensed as required by law at all times when providing services under this Master Agreement.

5.2 **Consultants**

5.2.1 Architect's Consultants. The Architect shall employ or retain at Architect's own expense, engineers and other consultants necessary to Architect's performance of this Master Agreement and licensed to practice in their respective professions in the State of California. Engineers and consultants employed by Architect for this Project shall be approved by District prior to their commencement of work. The Architect'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 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 must disclose to District all such consultants retained, and the compensation paid to them.

5.2.2 District's Consultants. Architect shall confer and cooperate with consultants retained by District as may be requested by District or as reasonably necessary. District may retain a construction manager to assist District in performance of District's duties for the Project.

5.2.3 The Architect shall assist the District in procuring a certified survey of the site if required, including grades and lines of streets, alleys, pavements, adjoining properties and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the building site, locations, dimensions and floor elevations of existing buildings, other improvements and trees; and full information as to available utility services and lines, both public and private above and below grade, including inverts and depths. All the information on the survey customarily referenced to a project benchmark shall be referenced to a Project benchmark. The

cost of any such survey shall be borne by the District, and the District shall own and, upon termination of this Master Agreement or completion of the Project, shall have returned to it by Architect any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the survey.

5.2.4 Architect shall assist the District in procuring chemical, mechanical or other tests required for proper design. Tests for hazardous materials and borings or test pits necessary for determining subsoil conditions will be the responsibility of the District, and the District shall own and, upon termination of this Master Agreement or completion of the Project, shall have returned to it by Architect any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the testing.

5.2.5 Architect shall assist the District and its consultants to apply for funding for the Project from the State Allocation Board. Architect shall be responsible for all submittals required of the Architect by the Division of the State Architect ("DSA"), Office of Public School Construction ("OPSC") and California Department of Education in connection therewith, including but not limited to: New Construction Program, Modernization Program, Career Technical Education, Critically Overcrowded Schools, Emergency Repair Program, Facility Hardship Program, High Performance Incentive, Joint-Use Program, Overcrowding Relief Grant and the Seismic Mitigation Program.

5.3 **Schematic Design Phase**

5.3.1 The Architect shall review all information concerning the Project delivered or communicated by the District to the Architect to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the District.

5.3.2 The Architect shall provide a preliminary evaluation of the District's Project, schedule and construction budget requirements, each in terms of the other.

5.3.3 The Architect 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.

5.3.4 Based on a mutual understanding of the District's budget and scope of work requirements, the Architect shall prepare for the District's written approval, schematic design documents, which include but are not limited to, schematic design studies, site utilization plans, a description of the Project showing, among other things, the scale and relationship of the components of the Project, preparation of a written estimated statement of Project Construction Cost and a written time schedule for the performance of the work that itemizes constraints and critical path issues. The schematic design documents shall represent a 15% complete design. The Project Construction Cost shall be based on current area, volume and other unit costs, shall conform to District's total construction cost budget, and shall include reasonable contingencies for all construction and construction management work. The written schedule shall conform to District's milestone and completion deadline requirements. Nevertheless, Architect is encouraged to make recommendations to District regarding additional benefits that could be realized by increasing the District's total construction cost budget, or by altering the District's completion deadlines. If District incorporates any recommended changes, then Architect shall revise the schematic design documents, including but not limited to the written statement of Project Construction Cost and written schedule for the performance of work, as necessary until the District approves them in writing. If requested by the District, Architect shall attend, and present at, as many meetings of the District's governing board as may be necessary to obtain written approval of the schematic design documents.

5.3.5 The Architect shall submit to the District a preliminary Project Construction Cost based on current area, volume and other unit costs.

5.4 **Design Development Phase**

5.4.1 Following District's written approval of the schematic design documents, including the estimate of Project Construction Cost and schedule, Architect shall provide all necessary architectural and engineering services to prepare design development documents for the District's written approval, which fix and describe the size and character of the project and which shall include, but are not limited to, site and floor plans, elevations and other approved drawings and shall outline the specifications of the entire Project as to kind and quality of materials, categories of proposed work such as architectural, structural, mechanical and electrical systems, types of structures and all such other work as may be required. During the design development phase, Architect will keep the Project within all budget and scope constraints set by the District. The design development documents shall represent a 50% complete design. The design development documents shall include a revised Project Construction Cost, and a revised construction schedule. The revised Project Construction Cost shall be based on current area, volume and other unit costs. The revised Project Construction Cost shall conform to District's total construction cost budget and shall include reasonable contingencies for all construction and construction management work, and the revised construction schedule shall conform to District's milestone and completion deadline requirements. Nevertheless, Architect is encouraged to make recommendations to District regarding additional benefits that could be realized by altering the District's total construction cost budget or completion deadlines. If District incorporates any recommended changes or otherwise does not approve the submitted design development documents, then Architect shall revise the design development documents, including but not limited to the written statement of Project Construction Cost and written schedule for the performance of work, as necessary until District approves them in writing. If requested by the District, Architect shall attend, and present at, as many meetings of the District's governing board as may be necessary to obtain written approval of the design development documents.

5.4.2 The Architect 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 this Project.

5.4.3 Architect shall provide necessary documents for and oversee the processing of District's application for and obtaining of required approvals from the DSA, the OPSC (if applicable), the California Department of Education, the State Fire Marshall and other agencies exercising jurisdiction over the Project. Architect shall also be responsible for the preparation and submission of any required applications, notices or certificates to public agencies as required by law. Architect shall provide a copy of all such documents to the District.

5.4.4 The Architect shall advise the District of any adjustments to the preliminary Project Construction Cost.

5.4.5 Architect shall identify areas of construction for which unit pricing shall be required as part of the Contractor's bid.

5.4.6 Architect shall provide at no expense to the District one complete set of preliminary plans for the review and written approval of the District and one set for each public agency having approval authority over such plans for their review and approval at no expense to the District.

5.5 Contract Documents Phase

5.5.1 Following the District's written approval of the design development documents, including the Project Construction Cost and construction schedule, the Architect shall prepare Contract Documents consisting of 100% complete working drawings and specifications setting forth the work to be done in detail sufficient for construction, including but not limited to the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system and utility-service-connected equipment and site work. Architect shall ensure that the drawings and specifications are, among other things, complete, accurate, and coordinated so as to eliminate errors, omissions and conflicts, especially between the work of a subconsultant and other subconsultants or the Architect; and Architect may not shift its responsibility for completeness, accuracy and coordination to the Contractor, except on a clearly designated design-build project. Architect shall also update the construction schedule and the Project Construction Cost for District approval. The Contract Documents shall conform to, comply with, and satisfy all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the Americans with Disabilities Act ("ADA"). As part of the Contract Documents, Architect shall prepare an accurate set of drawings indicating dimensions and locations of existing buried utility lines, which shall be included in the bid packages. If the project is intended to be split into multiple prime contracts, then the Contract Documents shall be structured in order to maximize the ability to create multiple prime bid packages for the Project, and shall identify the bid packages to be created.

5.5.2 Architect shall consult with and involve the District in development of the bid documents and bid package, and shall forward them to the District for written approval prior to their use. If the District is using a multiple prime delivery method for the Project with multiple bid packages, then Architect shall consult with and involve the District in identification and development of the bid documents and bid packages, and shall forward them to the District for written approval prior to their use.

5.5.3 Prior to submission of the Contract Documents to DSA for plan check, the Architect shall submit the Contract Documents to the District for an opportunity to review them for various issues, including but not limited to constructability, scheduling, general completeness, clarity, consistency, coordination, cost-effectiveness, value engineering, identification of possible add/delete bid alternatives, time of construction, and suitability for separation of the Project design, plans and specifications into bid packages for various categories and/or portions of the work. However, such review by District is not required. In addition, and prior to submission of the Contract Documents to DSA for plan check, Architect shall advise the District of all elements of the design applicable to the Project or lawfully imposed upon the Project by the Americans with Disabilities Act ("ADA").

5.5.4 After approval by the District and any constructability review, the Architect shall submit the Contract Documents to DSA for plan check, and make the reasonably necessary corrections to secure DSA approval.

5.5.5 The Architect shall give the District, at the time of DSA approval of the final form of the Contract Documents, Architect's final estimate of Project Construction Cost and construction schedule, which shall be given final written approval by the District along with the Contract Documents. The revised Project Construction Cost shall be based on current area, volume and other unit costs, and on a mutually acceptable recognized building cost index, and shall include a reasonable contingency. In preparing the revised estimate of Project Construction cost and

construction schedule for the Contract Documents, the Architect shall consult with and involve the District in the process to maximize accuracy and completeness. If the District is intending to enter multiple prime contracts, the Project Construction Cost shall include separate bid estimates for each bid package, plus a reasonable contingency; and the construction schedule shall reflect the fact that multiple contractors will be performing separate bid packages, including a general conditions bid package. The revised Project Construction Cost estimate shall conform to District's total Project budget, and the revised construction schedule shall conform to District's milestone and completion deadline requirements. If requested by the District, Architect shall attend, and present at, as many meetings of the District's governing board as may be necessary to obtain written approval of the Contract Documents.

5.6 **Bidding and Negotiations Phase**

5.6.1 Following DSA's and District's written approval of Contract Documents and the District's written acceptance of Architect's final estimate of Project Construction Cost and Construction schedule, Architect shall continue to work with the District in finalizing the bid documents and bid package, as described in Section 5.5.2, above. Architect shall reproduce the bid documents as requested by the District and shall assist the District in evaluating contract proposals or bids, as well as substitutions proposed by contractors, and in awarding the bids. All sets of Contract Documents requested by the District, which does not include those for the use of the Architect or its consultants, shall be reproduced at District's expense.

5.6.2 Architect's estimate of Project Construction Cost at the time of DSA approval of the Contract Documents shall be current as of that date. Should bids be received more than ninety (90) days after the date of that Project Construction Cost, the Architect's total construction cost shall be escalated by the cost-of-construction in the then current mutually agreed upon recognized building cost index.

5.6.3 Should the lowest responsible and responsive bid received on a bid package exceed Architect's most recent approved estimate of Project Construction Cost for that bid package (or amount adjusted according to the then current mutually agreed upon recognized building cost index) as accepted by District by more than ten percent (10%), Architect shall, on request by District and as part of Architect's Basic Services, make such changes in the plans and specifications as shall be necessary to bring new bids within ten percent (10%) of such Project Construction Cost. In making such changes, Architect will exercise Architect'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 Architect's Project Construction Cost. To avoid the potential for bids to exceed the estimate by more than 10% at bid opening, the Architect may, as an alternative, include in the Contract Documents one or more deductive alternatives so that Architect and District may evaluate different means to achieve a satisfactory project within ten percent (10%) of the Architect's Project Construction Cost.

5.6.4 If requested by the District, Architect shall assist in the review of the qualifications of all bidders for the construction of the Project, and shall make recommendations to the District as to whether, in the Architect's professional opinion, a bidder meets the minimum requirements.

5.6.5 If, in the District's discretion, the District will seek total or partial State funding for this Project, the Architect shall also assist in the preparation and submittal of the appropriate documentation to the OPSC.

5.7 Construction Phase

5.7.1 The construction phase shall begin on the date stated in the official Notice to Proceed and, solely for purposes of payment of the Architect, shall be deemed complete upon District's written approval of Architect's final certificate for payment to Contractor, provided that such certification and payment shall not constitute an admission by Architect or District that the Project has been completed in accordance with Contract Documents or in conformance with this Master Agreement.

5.7.2 All instructions to the Contractor shall be forwarded through the Architect unless otherwise directed by the District. The Architect shall advise and consult with the District in the general administration of the Project. The Architect will have authority to act on behalf of the District only to the extent provided in the Contract Documents, unless the District grants additional authority in writing.

5.7.3 The Architect shall timely provide District with copies of all of its correspondence with the Contractors.

5.7.4 The Architect shall provide prompt and timely direction to the District's Project inspectors and/or contractors as to the interpretation of Contract Documents. Architect shall respond to all requests for information ("RFI's") from a Contractor within fourteen (14) calendar days of receipt, unless the subject of the RFI is impacting, or may impact, the critical path of the project and is causing, or may cause, delay, in which case the Architect shall respond as soon as reasonably possible, if not immediately. If the Architect is not able to take action within the time required due to reasons beyond Architect's control, the Architect may take action within a reasonable period of time under the circumstances; however, the Architect shall make such determination within seven (7) calendar days of receipt of the RFI, and shall notify the District and Contractor immediately after such determination with an explanation as to why the Architect cannot take action within the time required, what the Architect is doing to expedite its response, when the Architect expects to be able to issue a response, and what action, if any, should be taken by District or Contractor in the meantime to mitigate delays and/or costs.

5.7.5 Based on information provided by the Contractor and Architect's own knowledge of the Project (including documents in Architect's possession or reasonably available to it), Architect shall prepare an accurate set of as-built record drawings indicating dimensions and locations of all work, including but not limited to buried utility lines and mechanical, electrical and plumbing layouts, which shall be forwarded to the District upon completion of the Project in both DWG and PDF formats. Architect will also provide the District with revised "1A's" as part of the Close Out Phase.

While Architect cannot guarantee precise accuracy of such drawings, Architect shall exercise reasonable care in reviewing such drawings to determine their general compliance with the Contract Documents. Architect shall have no responsibility for their conformity to field conditions. Except that in the event that the Architect, consistent with standards of due care, becomes aware of non-conformity with field conditions, Architect shall have a duty immediately to notify the District in

writing. Architect shall also assemble and deliver to District all written guarantees, instruction books, operation and maintenance manuals, diagrams, charts and other documents required of Contractors.

5.7.6 The Architect shall be responsible for the preparation and submission of any notifications regarding excavation in areas which are known or suspected to contain subsurface installations pursuant to Government Code section 4216, *et seq.* The Architect may delegate this responsibility to a Contractor if such power to delegate was included in the Contract Documents and bid package, but Architect shall remain responsible for supervising such Contractor to ensure performance of this task. Architect shall provide a copy of all such notifications to the District.

5.7.7 The Architect shall, at all times, have access to the Project wherever it is in preparation and progress. To the extent reasonably possible given Contractor's work in progress, the District shall provide such access so that the Architect may perform its functions under the Master Agreement and Contract Documents.

5.7.8 In the discharge of its duties of observation and interpretation, the Architect shall require Contractors to comply with the Contract Documents, and shall guard the District against defects and deficiencies in the work of the Contractor. The Architect shall advise and consult with the District and inspectors concerning the Contractor's compliance with the Contract Documents and shall assist the District and inspectors in securing the Contractor's compliance.

Architect has the primary responsibility for the Project to coordinate the compliance of the DSA Construction Oversight Process ("DSA Oversight Process"). The Architect must comply with the applicable requirements of the DSA Construction Oversight Process, including but not limited to (a) Submitting the inspection card request, DSA Form 102-IC); (b) Providing a verified report (DSA 6-AE) at the completion of each block and section of each inspection card; (c) Directing and monitoring the IOR and the laboratory of record; and (d) Coordinating with the Owner, Contractor, Construction Manager, and laboratories, and the IOR to meet the DSA Construction Oversight Process requirements without delay or added costs to the Project.

Architect shall be responsible for any additional DSA fees related to review of proposed changes to the DSA-approved construction documents, to the extent required under Section 5.7.20.2.

5.7.9 The Architect shall visit the site enough times to adequately perform its professional duties and comply with DSA requirements, but under no circumstances less than one time per week (unless fewer visits are authorized by the District), to maintain familiarity with the quality and progress of the Project, to determine that the Contractor's work substantially complies with all documents, drawings, plans and specifications and that the Project is progressing in substantial accordance with the Contract Documents. Such observations are to be distinguished from the continuous inspection provided by the Project Inspector unless Architect has agreed in writing to serve as the District's Project Inspector.

5.7.10 The Architect shall notify the District promptly of any significant defect in materials, equipment or workmanship, and of any default by any Contractor in the orderly and timely prosecution of the Project. Architect will exercise reasonable care in the discharge of Architect's obligation to discover significant defects and faults.

5.7.11 The Architect shall review and approve, take exception to, or take other appropriate action upon all schedules, shop drawings, samples and other submissions of the Contractor

to determine general conformance with the Project design and specifications as set forth in the Contract Documents. All such action shall be taken within fourteen (14) days of receipt of the submittals, unless the critical path of the Project is impacted in which case Architect shall take such action as soon as possible. If Architect is not able to take such action within the required time due to reasons beyond Architect's control, the Architect may take action within a reasonable period of time under the circumstances; however, the Architect shall make such determination within four (4) calendar days of receipt of the submission, and shall notify the District and Contractor immediately after such determination with an explanation as to why the Architect cannot take action within the time required, what the Architect is doing to expedite its response, when the Architect expects to be able to issue a response, and what action, if any, should be taken by District or Contractor in the meantime to mitigate delays and/or costs. The Architect will have the authority to reject work and materials which do not conform to the Contract Documents. The Architect's approval of a specific item shall not be an approval of an assembly of which the item is a component. Whenever, in the Architect's reasonable judgment, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the work or materials in accordance with the Contract Documents whether or not such work or materials be then fabricated, installed or completed. The Architect will also recommend substitution of materials or equipment when, in the Architect's reasonable judgment, such action is necessary to the accomplishment of the intent and purpose of the Contract Documents. Such actions as are described in this paragraph shall be taken with reasonable promptness.

5.7.12 Architect shall assist the District in requiring Contractor to provide assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals and training personnel for operation and maintenance.

5.7.13 The Architect shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions or programs in connection with the work. The Architect shall not be responsible for acts or omissions of the Contractor, subcontractors, or their agents or employees or of any other persons performing portions of the Project not employed or retained by Architect, unless due to Wrongful Acts or Omissions.

5.7.14 The Architect shall make such regular reports as shall be required by agencies having jurisdiction over the Project and keep the District informed in writing of the progress of the Project.

5.7.15 The Architect will, consistent with standards of due care, make reasonable professional efforts to exclude hazardous materials from new construction. In the event the District or Architect 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 nor the District is trained or licensed in the recognition or remediation of Hazardous Substances.

When the Project Authorization Form identifies this language as applicable to the Project, with respect to asbestos and asbestos containing materials, the parties acknowledge that the Architect 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 Master 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 shall include consultant's recommendations and specifications in the appropriate design documents for modernization and shall, as part of its Basic Services, provide designs and other bid documents consistent therewith.

When construction is properly completed, Architect shall provide such certification as to Hazardous Substances to the District.

5.7.16 Based on the Architect's observations, and an evaluation of each Project Application for Payment, the Architect will estimate the amount of work completed by Contractor, and assist the District in (a) determining the amount owing to the Contractor, and (b) issuing Project Certificates for Payment incorporating such amount, all in accordance with the Contract Documents. The Architect's estimation of the amount of work completed by Contractor shall constitute representations by the Architect to the District that the quality of the completed work is in accordance with the Contract Documents based upon Architect's observations of the completed work and that the Contractor is entitled to payment for the completed work.

5.7.17 Notwithstanding anything else in this Master Agreement, as a part of its Basic Services, the Architect shall assist the District in evaluating and responding to claims, disputes and other matters in question between the Contractor and the District, including but not limited to claims made against the District as a result of alleged or claimed Wrongful Acts or Omissions, and shall in all instances provide such truthful testimonial assistance as may be required by the District at no cost to the District. Architect agrees to toll all statutory periods of limitations for District's claims, lawsuits or other proceedings against Architect which arise out of, or related to, any claims by Contractors against District until Contractors' claims are fully and finally resolved. This tolling period commences upon a Contractor's initial submission of a notice of claim, change order request or claim. At any time, District may terminate the tolling period effective ten (10) days after written notice to Architect, and after such termination, District may pursue claims, lawsuits or other proceedings against Architect.

5.7.18 The Architect will provide construction advice to the District on apparent deficiencies in construction, both during construction and after acceptance of the Project.

5.7.19 The Architect shall recommend, prepare and process the necessary change orders. Payment of fees to the Architect as a result of change orders shall be handled as follows:

5.7.19.1 District-initiated change orders. If a change order is initiated by the District, the Architect'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 prior to commencement of work on the change order. If a change order is solicited by the District but not subsequently authorized by the District, the Architect shall be paid for time spent on the proposed change order as an Additional Service.

5.7.19.2 Change orders due to Architect. When a change order is necessitated as a result of Wrongful Acts or Omissions, the Architect's fees shall not be calculated by reference to the cost of any change order work which would not have been necessary in the absence of such Wrongful Acts or Omissions.

5.7.19.3 Change orders beyond District or Architect 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.

5.7.20 Notwithstanding any other provision of this Master Agreement, in the event a change order is caused by, or necessitated as a result of Wrongful Acts or Omissions, or the District otherwise incurs costs or damages as a result of Wrongful Acts or Omissions, the Architect shall be responsible for the cost of the following:

5.7.20.1 In the event of such a change order, Architect shall be responsible for the difference between (a) what the contractor would have added to its original bid for the Project if the Wrongful Act or Omission had not occurred (i.e., the “added value” portion of the change order), and (b) what the contractor charges the District in the change order. The amount of added value of any change order work shall be based on the circumstances of the Architect’s Wrongful Act or Omission and the change order work necessitated by the Wrongful Act or Omission. It is the parties’ intent that the District should pay no more than what the District would have paid if the Wrongful Act or Omission had not occurred.

5.7.20.2 In addition, Architect shall be responsible for any other costs or damages which the District incurs as a result of Wrongful Acts or Omissions including but not limited to any delay damages the District pays to, or cannot collect from, Contractor or any third party.

The District may backcharge, and withhold payment from the Architect for these costs and damages, and may seek reimbursement for any amount which exceeds any retention of the contract amount at the time of collection. When District so backcharges and withholds, upon Architect’s request, District and Architect shall meet and confer in good faith in an effort to reach agreement on (a) whether a Wrongful Act or Omission occurred, (b) whether it caused the change order expense, (c) what damages have been incurred by District, and (d) what portion of the damages are attributable to Architect as described above. If District and Architect do not reach agreement on all four of these items when meeting and conferring, then District and Architect shall use mediation in good faith to resolve the dispute. If mediation fails, then either District or Architect can initiate a court action to resolve the dispute.

5.7.21 The Architect shall assist the District in determining the date of final completion and make a final detailed on-site review of the job with representatives of the District and the Contractor. Architect shall also perform a warranty review with District 30-60 days before expiration of the specified warranty on the Project.

5.7.22 The Architect shall assist the District in issuing the final certificate for payment and any other documents required to be recorded by law or generally accepted architectural or construction contract practice upon compliance with the requirements of the Contract Documents, provided that such certification shall not constitute an admission that the Project has been completed in accordance with Contract Documents or in conformance with this Master Agreement.

5.7.23 The Architect shall provide a color schedule of all finish materials in the Project for the District’s review and approval.

5.7.24 Architect shall make reasonable professional efforts to ensure 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 and applicable to the Project. The Architect's final detailed on-site review of the finished project conducted pursuant to Section 5.7.22 shall include a field inspection to ensure compliance with such requirements. If a court, administrative agency or other trier of fact later determines that Architect has violated any of the above-referenced laws, or District, because of Wrongful Acts or Omissions, has violated any of the above-referenced laws, Architect shall work with the District to remedy the violation at Architect's own cost. **Architect shall indemnify, defend and hold the District harmless pursuant to Article 18.1 of this Master Agreement for any breach of this paragraph due to Architect's negligence, recklessness or willful misconduct.** The Architect 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, nor shall Architect 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 design is reviewed by DSA. In the event that the Architect is or becomes aware of possible non-compliance with the foregoing standards, Architect shall have a duty immediately to notify the District in writing of the possible non-compliance.

5.8 Close Out Phase

5.8.1 Architect will assist the District with securing and submitting all documents from the Contractor and any third parties necessary to achieve DSA certification and formal close out of project.

5.8.2 Architect shall submit a written checklist to the District identifying any work completed on the Project that satisfies work required under the District's ADA Transition Plan.

5.9 Use of Previously Prepared Materials

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, whether supplied by District or by Architect, which are relied upon, altered or otherwise utilized by Architect, Architect shall be responsible for giving appropriate recognition to such other design professionals in any materials prepared by Architect pursuant to this Master Agreement.

ARTICLE 6

ADDITIONAL SERVICES TO BE RENDERED BY ARCHITECT

6.1 "Additional Services" shall be provided by Architect if authorized in writing by District. No additional compensation shall be paid to Architect for performing these Additional Services unless the District and the Architect agree in writing as to the amount of compensation for such services prior to such services being rendered. Such compensation shall be computed as set forth in Article 4.2.1 and as otherwise set forth in this Master Agreement. Any work performed by Architect without written authorization OR without written agreement on compensation shall be presumed to be Basic Services.

6.2 The following list of services are not included in the Basic Services to be provided under this Master Agreement, and they will be performed only in accordance with Article 6.1, above:

6.2.1 Providing financial feasibility or other special studies;

6.2.2 Providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase;

6.2.3 Providing coordination of Project performed by separate contractors or by the District's own forces;

6.2.4 Providing analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment and labor;

6.2.5 Making revisions in drawings, specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the District's approval of Contract Documents or are due to other causes not within the control of the Architect;

6.2.6 Providing consultation concerning replacement of any work damaged by fire or other cause during construction of the Project, and furnishing services as may be required in connection with the replacement of such work;

6.2.7 Providing services made necessary by the default of the Contractor;

6.2.8 Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding, other than when resulting from Architect's or its consultants' alleged Wrongful Acts or Omissions;

6.2.9 Providing services of consultants for other than the normal architectural, civil, soils, structural, mechanical and electrical engineering services for the Project;

6.2.10 At the District's request, selecting moveable furniture, equipment or articles which are not included in the Contract Documents;

6.2.11 Providing services related to change orders requested by the District but which are not subsequently authorized (see the second sentence of Section 5.7.19.1, above); and

6.2.12 Providing any other services not otherwise included in the Master Agreement and not customarily furnished in accordance with generally accepted architectural practice.

ARTICLE 7

RESPONSIBILITIES OF DISTRICT

It shall be the duty of District to:

7.1 Pay all fees required by any reviewing or licensing agency;

7.2 Designate a representative authorized to act as a liaison between the Architect and the District in the administration of this Master Agreement and the Contract Documents;

7.3 Furnish, at the District's expense, the services of a Project Inspector;

7.4 Review all documents submitted by the Architect and advise the Architect of decisions thereon within a reasonable time after submission;

7.5 Issue appropriate orders to Contractors through the Architect;

7.6 Furnish existing soil investigation or geological hazard reports, which the District shall own and, upon termination of this Master Agreement or completion of the Project, shall have returned to it by Architect;

7.7 Furnish the services of a hydrologist or other consultants not routinely provided by the Architect when such services are reasonably required by the scope of the Project and are requested by the Architect;

7.8 Provide asbestos review and abatement, identifying materials which may qualify for same;

7.9 Furnish available as-built drawings for buildings and utilities systems related to the Project, which the District shall own and, upon termination of this Master Agreement or completion of the Project, shall have returned to it by the Architect. The District will also provide information regarding programmatic needs and specific equipment selection data;

7.10 Furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents, which the District shall own and, upon termination of this Master Agreement or completion of the Project, shall have returned to it by the Architect; and

7.11 Furnish prompt notice of any fault or defects in the Project or nonconformance with the Contract Documents of which the District becomes aware (however, the District's failure to do so shall not relieve the Architect of Architect's responsibilities under Title 21, Title 24, and the Field Act for this Project and under this agreement).

ARTICLE 8

GENERAL LIABILITY AND PROPERTY DAMAGE INSURANCE

8.1 Prior to the commencement of services under this Master Agreement, the Architect shall furnish to the District a Certificate of Insurance, Additional Insured Endorsement and Declarations Page for the period covered by this Master Agreement, for public liability and property damage with an insurance carrier satisfactory to the District, under forms satisfactory to the District, to protect the Architect and District against loss from liability imposed for damages (1) on account of bodily or personal injuries, including death, disease and sickness, accidentally suffered or alleged to have been suffered by any person or persons that may be caused directly or indirectly by the performance of this Master Agreement, and (2) on account of injury to or destruction of property, including the resultant loss of use of the Project or other District facilities or equipment, resulting from acts of commission or omission by the Architect, or otherwise resulting directly or indirectly from the Architect's operations in the performance of this Master Agreement. The District shall be named as an additional insured on all such policies.

8.2 The following insurance shall be maintained by the Architect in full force and effect during the entire period of performance of this Master Agreement, including any extensions, and shall be written on an "occurrence" basis, with specific limits set forth in the Project Authorization Form: Commercial general liability insurance, excluding coverage for motor vehicles, personal and advertising injury aggregate, Automobile liability insurance covering motor vehicles. Such insurance or liability coverage shall at least include "broad form" commercial general liability, errors and omissions (exclusive of design professional liability), and automobile liability (owned, non-owned, and hired) coverages. Each party, and their respective directors, officers and employees, shall be listed as "additional insureds" under such coverages, as evidenced by an Additional Insured Endorsement. Each party also represents that for the period of this agreement, they will also purchase and maintain insurance or liability coverage as required by law or regulation, including worker's compensation and employers' liability coverage (coverages A and B).

8.3 The Architect's insurance policies shall contain a provision for thirty (30) days written notice to the District of cancellation or reduction of coverage. The Architect shall name, on any policy of insurance required, the District as an additional insured. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the insurer's liability shall not be reduced by the existence of such other insurance. Architect shall not commence work under this Master Agreement until all required insurance certificates, declarations pages and additional insured endorsements have been obtained and delivered in duplicate to the District for approval subject to the following requirements. Thereafter Architect shall produce a certified copy of any insurance policy required under this section upon written request of the District.

8.4 At the time of making application for any extension of time, Architect shall submit evidence that insurance policies will be in effect during the requested additional period of time.

8.5 If the Architect fails to maintain such insurance, the District may, but shall not be required to, take out such insurance to cover any damages of the above-mentioned classes for which the District might be held liable on account of the Architect's failure to pay such damages, and deduct and retain the amount of the premiums from any sums due the Architect under this Master Agreement.

8.6 Nothing contained in this Master Agreement shall be construed as limiting, in any way, the extent to which the Architect may be held responsible for the payment of damages resulting from the Architect's operations.

8.7 Each of Architect's consultants shall comply with this Article, and Architect shall include such provisions in its contracts with them.

ARTICLE 9

WORKER'S COMPENSATION INSURANCE

Prior to the commencement of services under this Master Agreement, the Architect shall furnish to the District satisfactory proof that the Architect and all engineers, experts, consultants and subcontractors the Architect intends to employ have taken out, for the period covered by this Master Agreement, workers' compensation insurance with an insurance carrier satisfactory to the District for

all persons whom they may employ in carrying out the work contemplated under this Master Agreement in accordance with the Workers' Compensation Laws of the State of California.

If the Architect employs any engineer, expert, consultant or subcontractor which it did not intend to employ prior to commencement of services, it must furnish such proof of workers' compensation insurance to the District immediately upon employment. Such insurance shall be maintained in full force and effect during the period covered by this Master Agreement including any extensions of time. If the Architect is self-insured, the Architect shall furnish a Certificate of Permission to Self-Insure and a Certificate of Self-Insurance satisfactory to the District.

Prior to the commencement of services under this Master Agreement, the Architect shall furnish to the District satisfactory proof that the Architect and all engineers, experts, consultants and subcontractors the Architect intends to employ have taken out employer's liability insurance with an insurance carrier satisfactory to the District. During the course of Architect's services, if Architect ever intends to employ additional or different engineers, experts, consultants or subcontractors, before so employing them Architect shall furnish such satisfactory proof of insurance to the District. Such insurance shall be maintained in full force and effect during the period covered by this Master Agreement including any extensions of time. If the Architect is self-insured, the Architect shall furnish a Certificate of Permission to Self-Insure and a Certificate of Self-Insurance satisfactory to the District.

ARTICLE 10

PROFESSIONAL LIABILITY INSURANCE

10.1 Prior to the commencement of services under this Master Agreement, the Architect shall furnish to the District satisfactory proof that the Architect has purchased professional liability coverage, on a claims made basis, extending protection to Architect in an amount no less than Two Million Dollars (\$2,000,000) per claim, and Two Million Dollars (\$2,000,000) in the annual aggregate, with a deductible of no more than Seventy Five Thousand Dollars (\$75,000). Such coverage shall be in effect, as evidenced by a valid Certificate of Insurance, no later than (i) the date any plans and specifications for a specific project are submitted to any required regulatory agency for review and approval, and/or (ii) the date the Architect agrees that the plans may be submitted for bid or bid consideration to any general contractor or group of contractors. Coverage for alleged wrongful acts, errors or omissions will remain in effect until three (3) years after the Notice of Completion has been filed and the project has been accepted by the District. At all other times, the Architect shall purchase professional liability insurance of no less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) in the aggregate.

10.2 Each of Architect's professional sub-consultants (including consultants of Architect's) shall comply with this Article, and Architect shall include such provisions in its contracts with them. The District may, at its discretion and according to the circumstances, approve a variation in the foregoing insurance requirement, upon a determination that the coverage, scope, limits, and/or forms of such insurance are not commercially available.

ARTICLE 11

COMPLIANCE WITH LAWS

Architect shall be familiar with, and Architect and Architect's design shall comply with all State and Federal laws and regulations applicable to the Project or lawfully imposed upon the Project by agencies having jurisdiction over the Project, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, prevailing wage law, and the Americans with Disabilities Act ("ADA") in effect at the time of this Master Agreement.

ARTICLE 12

TERMINATION OF AGREEMENT

12.1 **Termination by District.** This Master Agreement may be terminated or the Project may be canceled by the District for the District's convenience and without cause at any time immediately upon written notice to the Architect. In such event, the Architect shall be compensated for (a) all Basic and Additional services completed, and Reimbursable Expenses incurred, pursuant to this Master Agreement through the date of termination, (b) such Basic or Additional Services performed, and Reimbursable Expenses incurred, after termination which are authorized by the District, and (c) any costs incurred by reason of such termination; but less any amounts the District is entitled to withhold under law or this Master Agreement. Upon the District's request and authorization, Architect shall perform any and all Basic and Additional Services necessary to complete the work in progress as of the date of termination.

For any material breach of contract by the Architect, the District may also terminate the Master Agreement for cause by delivering written Notice of Intent to Terminate to the Architect. Such Notice shall include the following: (1) A description of such material breach, and (2) a date not less than fourteen days (14) after delivery of the notice by which the Architect must cure such breach. In response to such Notice, if the Architect fails to cure, and fails to reasonably commence to cure, the breach(es) by the deadline set by the Notice, then the District may terminate the Master Agreement by written notice delivered to the Architect, which shall be effective upon such delivery. In such event, the Architect shall be compensated for all services completed pursuant to this Master Agreement through the date of termination, together with compensation for such services performed after termination which are authorized by the District, but less any amounts the District is entitled to withhold under law or this Master Agreement. Upon the District's request and authorization, Architect shall perform any and all services necessary to complete the work in progress as of the date of the termination.

12.2 **Termination by Architect.** For any material breach of contract by the District other than one related to a payment or invoice dispute as described in Section 4.4 of this Master Agreement, the Architect may terminate the Master Agreement by delivering written Notice of Intent to Terminate to the District. Such Notice shall include the following: (1) A description of such material breach, (2) a date not less than fourteen (14) days after delivery of the notice by which the District must cure such breach or reasonably commence to cure such breach, (3) the status of work completed as of the date of the Notice of Intent to Terminate, and (4) a description and cost estimate of the effort necessary to complete the work in progress. In response to such Notice, if the District fails to cure, and fails to reasonably commence to cure, the breach by the deadline set by the Notice, then Architect may terminate the Agreement by written notice delivered to the District within ten (10) days of the cure deadline, which shall be effective upon such delivery.

In the event of such termination by Architect, Architect shall be compensated for all Basic and Additional Services completed, and Reimbursable Expenses incurred, pursuant to this Master

Agreement through the date of termination, together with compensation for such Basic and Additional Services performed, and Reimbursable Expenses incurred, after termination which are authorized by the District. Upon the District's request and authorization, Architect shall perform any and all Basic and Additional Services necessary to complete the work in progress as of the date of termination.

12.3 Miscellaneous Provisions

12.3.1 Following the termination of this Master 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 Master Agreement by the Architect, 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/revisions to this Project) under Education Code Section 17316. Architect shall promptly make any such documents or materials available to the District upon request without additional compensation.

12.3.2 In the event of the termination of this Master 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 prepared or caused to be prepared by the Architect or any of its agents pursuant to this Master Agreement shall immediately upon request by the District be delivered to the District. Architect 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 may have against the District or a claim by the Architect to an ownership interest in the intellectual property embodied in the documents or materials.

ARTICLE 13

ARCHITECT AN INDEPENDENT CONTRACTOR

It is specifically agreed that in the making and performance of this Master Agreement, the Architect is an independent contractor and is not and shall not be construed to be an officer or employee of the District.

ARTICLE 14

STANDARDIZED MANUFACTURED ITEMS

The Architect shall consult and cooperate with the District in the use and selection of manufactured items to be used in the Project. Manufactured items, including but not limited to paint, finish hardware, plumbing fixtures and fittings, mechanical equipment, electrical fixtures and equipment, roofing materials, and floor coverings, shall be standardized to the District's criteria so long as the same does not interfere seriously with the building design or cost.

ARTICLE 15

OWNERSHIP OF DOCUMENTS

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 pursuant to this Master 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 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 in formats including both DWG and PDF, or other writings prepared or caused to be prepared by the Architect pursuant to this Master 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 files for a period of no less than fifteen (15) years. Architect shall promptly make available to District any original documents it has retained pursuant to this Master Agreement upon request by the District.

ARTICLE 16

LICENSING OF INTELLECTUAL PROPERTY

This Master Agreement creates a non-exclusive and perpetual license for the 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 the Architect pursuant to this Master 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. The Architect shall require any and all subcontractors and consultants to agree in writing that the District is granted a similar non-exclusive and perpetual license for the work of such subcontractors or consultants performed pursuant to this Master Agreement.

The compensation for this Project includes compensation not only for any use in connection with this Project and use or re-use for 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 re-use shall be that if the District re-uses the plans

prepared by the Architect and retains another certified architect or structural engineer for the preparation of those plans for the re-use, the District shall indemnify and hold harmless the Architect 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 to the extent required by Education Code section 17316, subdivision (c).

Architect represents and warrants that Architect 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 or its consultants prepares or causes to be prepared pursuant to this Master Agreement. **Architect shall indemnify, defend and hold the District harmless pursuant to Article 18.1 of this Master Agreement for any breach of Article 16 due to Architect's negligence, recklessness or willful misconduct.** The Architect 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 and provided to Architect by the District.

ARTICLE 17

ACCOUNTING RECORDS OF ARCHITECT

Architect's records of accounts regarding the Project shall be kept in accordance with generally accepted accounting principles and shall be available to the District or its authorized representative at mutually convenient times.

ARTICLE 18

INDEMNITY

18.1 Architect Indemnification

The Architect shall defend, indemnify, and hold harmless the District, the governing Board of the District, each member of the Board, and their officers, agents and employees against claims to the extent caused by the negligence, recklessness or willful misconduct of the Architect, the Architect's officers, employees, or consultants in performing or failing to perform any work, services, or functions provided for, referred to, or in any way connected with any work, services, or functions to be performed under this Master Agreement. For purposes of this Article 18.1 only, "claims" means any and all claims, demands, actions and suits brought by third parties for any and all losses, liabilities, costs, expenses, damages and obligations, and the defense obligation shall include but not be limited to payment of the District's attorneys' fees, experts' fees, and litigation costs incurred in defense of a claim.

18.2 District Indemnification for Use of Third Party Materials

The District shall defend, indemnify, and hold harmless the Architect and its employees against any and all copyright infringement claims by any design professional formerly retained by the District arising out of Architect's completion, use or re-use of that former design professional's designs or contract documents in performing this Master Agreement. Architect shall be entitled to such

indemnification only if each of the following conditions are met: (a) Architect actually re-draws or completes such other designs or contract documents; (b) Architect complies with the provisions of Article 5.8 regarding use of materials prepared by other design professionals; (c) District has supplied Architect with the previously prepared documents or materials; and (d) District expressly requests that the Architect utilize the designs or contract documents in question. By providing this or any other indemnification in this Master Agreement, District does not waive any immunities.

ARTICLE 19

TIME SCHEDULE

19.1 Time for Completion

Time is of the essence of this Master Agreement. The Architect shall timely complete its Basic and Additional Services as expeditiously as possible and according to the schedule attached as Exhibit "B" to this Master Agreement.

19.2 Delays

The District recognizes that circumstances may occur beyond the control of either the District or the Architect and extensions for such delays may be made to the schedule if approved by the District. Any time during which the Architect is delayed in the Architect's work by acts of District or its employees or those in a direct contractual relationship with District or by acts of nature or other occurrences which were not or could not have been reasonably foreseen and provided for, and which are not due to any Wrongful Acts or Omissions, shall be added to the time for completion of any obligations of the Architect. District shall not be liable for damages to the Architect on account of any such delay.

ARTICLE 20

MISCELLANEOUS PROVISIONS

20.1 This Master Agreement shall be governed by and construed in accordance with the laws of the State of California excluding its choice of law rules. Any action or proceeding seeking any relief under or with respect to this Master Agreement shall be brought solely in the Superior Court of the State of California for the County of Sacramento, subject to transfer of venue under applicable State law, provided that nothing in this Master Agreement shall constitute a waiver of immunity to suit by the School District.

20.2 The Architect shall not assign or transfer any or all of its rights, burdens, duties or obligations under this Master Agreement without the prior written consent of the District.

20.3 All notices, certificates, or other communications hereunder shall be deemed given when personally delivered or mailed by certified mail, postage prepaid, to the parties at the addresses set forth below:

District

Sacramento City Unified School District
5735 47th Avenue
Sacramento CA 95824
Attn: Kimberly Teague, Contracts

Architect

Vrilakas Groen Architects
1221 18th Street
Sacramento, CA 95811
Attn; Ron Vrilakas

20.4 This Master Agreement shall inure to the benefit of and shall be binding upon the Architect and the District and their respective successors and assigns.

20.5 If any provision of this Master Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

20.6 The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties.

20.7 Nothing contained in this Master Agreement shall create a contractual relationship with or cause of action in favor of a third party against either the District or the Architect.

20.8 This Master Agreement constitutes the entire agreement between the parties, and supersedes any prior agreement or understanding. There are no understandings, agreements, representations or warranties, expressed or implied, not specified in this Master Agreement. The Architect, by the execution of this Master Agreement, acknowledges that the Architect has read this Master Agreement, understands it, and agrees to be bound by its terms and conditions.

20.9 The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's professional materials. The Architect's materials shall not include the District's confidential or proprietary information if the District has previously advised the Architect in writing of the specific information considered by the District to be confidential or proprietary.

20.10 Prior to executing this agreement, the Architect shall submit a certification if required by Public Contract Code section 3006(b) for roofing projects.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as of the day and year first written above.

**SACRAMENTO CITY UNIFIED
SCHOOLDISTRICT**

VRILAKAS GROEN ARCHITECTS

By: _____
Gerardo Castillo, CPA
Chief Business Officer

By: _____
Ron Vrilakas, Principal

Date

Date



Sacramento City Unified School District

PROJECT AUTHORIZATION FORM

Installation of a Two Story Classroom Building at Theodore Judah Elementary School

Date: July 16, 2015

Pursuant to the Master Architect Agreement dated July 16, 2015 between Vrilakas Groen Architects and Sacramento City Unified School District, Architect hereby submits a scope of work upon the terms described below and in the Master Architect Agreement.

TERMS

A. Project Description

“Project” shall mean the work of improvement and the construction thereof, including the Architect's services as follows:

Architectural and Engineering Services as needed for the installation of a new two-story classroom building of approximately 11,250 square feet on the campus of Theodore Judah Elementary School, 3919 McKinley Blvd, Sacramento, 95819. The building will include nine (9) classrooms, restrooms, lobby with elevator, circulation, and ancillary spaces. The building will be designed to accommodate a future addition of four classrooms.

B. Compensation

For the Basic Services provided pursuant to the Master Agreement and this Project Authorization, Architect shall be compensated in the manner identified below:

Flat Fee

Architect shall be compensated Three Hundred Sixty Seven Thousand, Two Hundred Seventy One Dollars (\$367,271) for the Basic Services under this Master Agreement. Architect acknowledges that the flat fee price for the Basic Services includes contingency compensation in the event that more time and costs than originally anticipated may be necessary to complete the Basic Services.

C. Reimbursable Expenses

Pursuant to Section 4.3, Architect's total reimbursement for Reimbursable Expenses shall not exceed \$36,700 which is District's estimate of the maximum total cost of Reimbursable Expenses on the Project.

D. Asbestos

The language identified in Section 5.7.15 is is not applicable to this Project.

E. Section 8.2

Consistent with Section 8.2, the following insurance shall be maintained by the Architect in full force and effect during the entire period of performance of this Agreement, including any extensions, and shall be written on an "occurrence" basis, with specific limits set forth: Commercial general liability insurance, excluding coverage for motor vehicles, shall be in amounts not less than \$1,000,000 general aggregate; Personal and advertising injury aggregate, with a per occurrence limit of \$1,000,000; Automobile liability insurance covering motor vehicles shall be in an amount not less than \$1,000,000 combined single limit.

District hereby authorizes Architect to proceed with the work upon the terms described herein and in Master Agreement.

VRILAKAS GROEN ARCHITECTS

Dated: _____

Ron Vrilakas, Principal

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

Dated: _____

Gerardo Castillo, CPA
Chief Business Officer

HOURLY RATE / FEE SCHEDULE

Services not included in the basic services and changes to pre-approved work on the project are considered additional services and shall be compensated at the following rates:

Principal Architect - \$150

Senior Architect -\$125

Designer - \$100

**MEMORANDUM OF UNDERSTANDING
BETWEEN
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
AND
PIVOT LEARNING PARTNERS**

The Sacramento City Unified School District, hereinafter referred to as “DISTRICT” and PIVOT Learning Partners, hereinafter referred to as “PIVOT”, enter into this Memorandum of Understanding (“MOU”) for the express purpose of facilitating the development and execution of DISTRICT’S 2015-2020 STRATEGIC PLAN (“STRATEGIC PLAN.”) DISTRICT and PIVOT are referred to jointly as “the Parties” or singly as a “Party.”

RECITALS

- A. DISTRICT is a public school district in the County of Sacramento, State of California, and has its administrative offices located at the Serna Center, 5735 47th Avenue, Sacramento, CA 95824.
- B. PIVOT is non-profit organization that provides consulting services to address the challenges faced by school districts.
- C. DISTRICT desires to engage the services of PIVOT and work collaboratively with PIVOT to develop a highly effective STRATEGIC PLAN for DISTRICT.

NOW, THEREFORE, in consideration of the mutual promises contained in this MOU, the Parties agree as follows:

AGREEMENT

1. PIVOT SERVICES

PIVOT agrees to provide the following services:

- a. Support and facilitate the creation of DISTRICT’S 2015-2020 STRATEGIC PLAN, customized with DISTRICT’S specific needs as more fully set forth below and in the attached Appendix A, Updated Strategic Planning Timeline, hereby incorporated by reference.
- b. Identify no more than three to four high-leverage strategic goals.
- c. Ensure inclusion of all stakeholders (community, parents, students, and staff) that is proportionately representative of the DISTRICT, and ensure all have an opportunity to provide structured input.
- d. Involve Board of Education members as an integral part of the process providing input, support and commitment.
- e. Facilitate conversations with stakeholders.
- f. Support the strategic planning committees and subcommittees in gathering and organizing internal and external environmental assessments.
- g. Help communicate the work of the strategic planning committee and subcommittees and the outcomes of their work.
- h. Keep the process on track, on time and on budget.
- i. Review existing planning and assessment documents, including the most recent strategic plan.
- j. Align strategic plan process (including outreach efforts and data analysis) to existing LCAP activities and systems.

- k. Employ both Quantitative and Perceptive Data to guide DISTRICT in identifying priority goals/strategies.
- l. Outline a process to ensure implementation and evaluation of the plan with measurable key performance based indicators/metrics.
- m. Ensure alignment with the current plan and processes.
- n. Describe the process for renewal of the vision, mission and beliefs.
- o. Utilize effective practices and trends within the educational industry, e.g., online learning and effective integration of technology.
- p. Include guidelines for resource allocation in the strategic plan.

2. DISTRICT SERVICES

DISTRICT agrees to provide the following services:

- a. Adequate meeting space for PIVOT'S work, Design Team meetings, and committee meetings.
- b. Identification of an on-site sponsor (Project Sponsor).
- c. Identification of an on-site coordinator (Project Manager), to work in collaboration in the creation of the STRATEGIC PLAN.
- d. DISTRICT staff to serve as members of the Design Team and committees, and staff to support same, including staff to provide data processing and analysis support for the project and staff who can trained and support Public Education Volunteers on-going
- e. Information about the STRATEGIC PLAN project to DISTRICT employees and DISTRICT's greater community for the creation of advisory committees, recruitment of Public Education Volunteers, and for general education purposes

3. TERM OF MOU

This MOU shall commence on July 1, 2015, and continue through June 30, 2016, unless sooner terminated as provided in Section 4 below.

4. TERMINATION / NOTICES

Either Party may terminate this MOU for any reason by providing 30 days advance written notice to the other Party. Upon such termination without cause, PIVOT shall be entitled to payment for services rendered as of the date of termination, as set forth in Section 8. If the MOU is terminated prior to any "Milestone," the DISTRICT shall pay PIVOT a prorated portion of the compensation due at the next "Milestone" based upon the percentage of services completed by PIVOT for that Milestone, as set forth in written documentation of such work provided by PIVOT to the District upon notice of termination.

Either Party may also terminate this MOU for cause by providing written notice to the other Party for any material breach of this MOU. The breaching party shall have ten days to cure the material breach of the MOU; if the material breach is not cured within the ten-day notice period, the non-breaching party shall provide written notice of termination and the MOU shall immediately terminate. If the DISTRICT terminates the MOU for cause, PIVOT shall not be entitled to any further payment under the MOU.

Notice of termination or other notices required under this MOU shall be effective on the date of service if served personally on a Party, or on the third day after mailing if mailed by first class mail, registered or certified, postage prepaid, or on the day after dispatching by Federal Express or another overnight delivery service, and properly addressed as follows:

District:
Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824
Attn: Lisa Allen, Deputy Superintendent

PIVOT:
PIVOT Learning Partners
731 Market Street, Suite 400
San Francisco, CA 94610
Attn: Cheryl Dodge, Chief Business Officer

5. HOLD HARMLESS / INDEMNIFICATION

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

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

6. INDEPENDENT CONTRACTOR STATUS

The Parties agree that the relationship created by this MOU is of independent contractor. Each Party will be responsible for providing its own payroll taxes, withholding, insurance, workers' compensation coverage, and other benefits of any kind, as required by law, for its own employees.

7. INSURANCE

Throughout the term of this MOU, PIVOT shall all maintain all requisite insurance. PIVOT shall provide DISTRICT with a copy of its policy evidencing its comprehensive general liability insurance coverage in a sum not less than \$1,000,000 per occurrence.

8. INTELLECTUAL PROPERTY

The DISTRICT acknowledges that all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, work products and other materials (the "Materials") produced by PIVOT under this Agreement are proprietary to PIVOT. PIVOT grants the DISTRICT a non-exclusive, non-transferable, non-sub licensable, royalty-free license to use, reproduce, disclose, distribute, and transfer the Materials for educational and training purposes within the DISTRICT. The Materials produced, either in whole or in part, under this Agreement shall not be copyrighted or patented by the DISTRICT in the United States or in any country. PIVOT agrees not to publically share or distribute any confidential or personally identifiable information without prior written consent from the DISTRICT.

9. COMPENSATION and TIMELINE

The DISTRICT shall pay PIVOT \$153,145, for services provided under this MOU ("Compensation"), which shall be paid according to the following "Milestone" schedule, for the services set forth above and as further described in Appendix A, Updated Strategic Planning Timeline:

MILESTONE	DATE	STAFFING COSTS	ADDITIONAL COSTS	TOTAL AMOUNT
Pre-Work	July 2015	\$8,930	\$1,280	\$10,210
Discover and Interpret (Needs Assessment)	August-September 2015	\$17,859	\$2,560	\$20,419
Ideate and Prototype (Design Team)	October-December 2015	\$26,789	\$3,840	\$30,629
2 Cycles of Gathering Feedback and Refining Prototype (STRATEGIC PLAN Draft)	January-February; March-April	\$53,578	\$7,680	\$61,258
Finalizing, Approval, and Preparing for Implementation	May-June	\$26,789	\$3,840	\$30,629
TOTAL				\$153,145

The Compensation includes all services identified in this MOU, including but not limited to planning time and materials. Costs are based on the deliverables and services identified in the Services Section above, Section 1. DISTRICT requested changes or modifications to those deliverables and services might necessitate additional fees and a separate addendum to this MOU. Additional costs include travel and accommodations for at least 1 trip per month to Sacramento for multiple PIVOT staff members; meeting and/or other project costs such as materials and supplies.

10. CONFIDENTIAL RECORDS AND DATA

Each Party shall not disclose records received from the other Party, including personnel records and student records pursuant to FERPA, 20 U.S.C. § 1232g, *et seq.*, and California Education Code Section 49060, *et seq.* Each party shall maintain the confidentiality of said confidential records. In the event a Party receives a request for disclosure of such confidential records, whether under the California Public Records Act, a duly-issued subpoena, or otherwise, said Party shall tender the request to the other Party who shall be responsible for addressing said request, including the defense of its claim of confidentiality. The Party asserting its claim of confidentiality shall hold harmless and defend the Party receiving such request from any liability, claim, loss, cost, attorney's fees and damages, as adjudged by a court of competent jurisdiction, arising out of a refusal to disclose such confidential records.

11. NON-DISCRIMINATION

It is the policy of DISTRICT that in connection with all educational services and programs, there will be no discrimination against any pupil, employee, or contractor because of race, color, ancestry, national origin, handicap, religious creed, sex, sexual orientation, age, or marital status. PIVOT agrees to comply with all applicable state and federal laws in this regard.

12. SUCCESSORS AND ASSIGNS

All provisions of this MOU shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, if any, successors, and assigns. PIVOT shall not assign any of his/her rights under this Agreement, or delegate the performance of any of his/her duties hereunder, without prior written consent of the DISTRICT.

13. GOVERNING LAW AND VENUE

The interpretation and enforcement of this MOU shall be governed by the laws of the State of California, the state in which this MOU was signed by the DISTRICT and the services are to be provided. Venue of any litigation arising out of or connected with this MOU shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California.

14. ENTIRE AGREEMENT / MODIFICATIONS

This MOU contains the entire agreement between the parties and supersedes all prior understandings between them. There are no promises, terms, conditions or obligations, oral or written, between or among the parties relating to the subject matter of this MOU except as stated herein. This MOU may not be modified, changed, supplemented or terminated, nor may any obligations under this MOU be waived, except by written instrument signed by the party to be otherwise expressly permitted in this MOU.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of this MOU as of the day and year first written above. The Parties hereto agree that facsimile signature shall be as effective as if originals.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT:

Gerardo Castillo, CPA
Chief Business Officer

Date

PIVOT LEARNING PARTNERS:

Cheryl Dodge
Chief Business Officer

Date