



## ARCHITECTURAL SERVICES AGREEMENT

This AGREEMENT is made and entered into this 18th day of December in the year 2024 by and between the BEAUMONT UNIFIED SCHOOL DISTRICT, hereinafter referred to as “DISTRICT,” and PBK Architects, Inc., hereinafter referred to as “ARCHITECT.” This AGREEMENT shall include all terms and conditions set forth herein. The DISTRICT and the ARCHITECT are sometimes referred to herein individually as a “PARTY” and collectively as the “PARTIES.” This AGREEMENT is made with reference to the following facts:

**WHEREAS**, DISTRICT desires to obtain architectural services for the Beaumont Educational Support Facilities Portables, hereinafter referred to as “PROJECT”; and

**WHEREAS**, ARCHITECT understands that state funding for this PROJECT is a condition precedent to the effectiveness of this AGREEMENT. If state funding is not received for the PROJECT, this AGREEMENT may be voided by the DISTRICT except to the extent services have been rendered pursuant to the approval of the DISTRICT’s Board; and

**WHEREAS**, ARCHITECT employs architects and engineers who are fully licensed to provide architectural services in conformity with the laws of the State of California;

**NOW, THEREFORE**, the PARTIES hereto agree as follows:

### **ARTICLE I - ARCHITECT’S SERVICES AND RESPONSIBILITIES**

1. The ARCHITECT’s services shall consist of those services performed by the ARCHITECT, ARCHITECT’s employees and ARCHITECT’s consultants, as enumerated in Articles II and III of this AGREEMENT.

2. The ARCHITECT’s services shall be performed in a manner which is consistent with professional skill and care and the orderly progress of the work. The ARCHITECT represents that it will follow the standards of its profession in performing all services under this AGREEMENT. The ARCHITECT shall submit for the DISTRICT’s approval a schedule for the performance of the ARCHITECT’s services. The schedule may be adjusted as the PROJECT proceeds by mutual written agreement of the PARTIES and shall include allowances for time required for the DISTRICT’s review and for approval by authorities having jurisdiction over the PROJECT. The time limits established by this schedule shall not, except for reasonable cause, be exceeded by the ARCHITECT.

3. The schematic design, design development and construction document services covered by this AGREEMENT shall be completed and submitted to the DISTRICT on or before a date to be agreed upon in writing by the DISTRICT. The construction document services covered by this AGREEMENT shall be completed and submitted to the Division of the State Architect (“DSA”) for review and approval on or before a date to be agreed upon in writing by the DISTRICT.

4. If the PROJECT includes the replacement or repair of more than 25% of a roof or the replacement or repair of a roof that has a total cost of more than \$21,000, the ARCHITECT shall comply with the requirements set forth in Public Contract Code section 3000, et seq., including signing the required certification.

5. The ARCHITECT has been selected based on ARCHITECT's knowledge of California public schools and ARCHITECT's knowledge of the educational system for funding and construction and is thoroughly familiar with the requirements of the OPSC for state funding, DSA for approvals of plans and specifications, and of the CDE for site approvals and educational requirements that are applicable to a public school project.

6. The ARCHITECT shall coordinate its services with the Contractor, Project Inspector, its consultants and other parties to ensure that all requirements under DSA's Inspection Card (Form 152) and any subsequent revisions, supplements or updates thereto issued or required by DSA, or any other/alternate processes that are within ARCHITECT's reasonable control, are being met in compliance with DSA requirements and in compliance with the PROJECT schedule. The ARCHITECT and its consultants shall take all reasonable action to not delay progress in meeting any DSA requirements. The ARCHITECT shall meet all requirements set forth in DSA's Construction Oversight Process Procedure (PR 13-01) and any subsequent revisions, supplements or updates thereto issued or required by DSA. Any references to the DSA requirements, DSA forms, documents, manuals applicable to the PROJECT shall be deemed to include and incorporate any revisions or updates thereto.

7. The ARCHITECT shall provide the following hard copies to the DISTRICT at no additional cost: one (1) full set of Construction Documents during the Schematic Design Phase; one (1) full set of Construction Documents during the Design Development Phase; one (1) full set of Construction Documents at fifty percent (50%) completion of Construction Documents; one (1) full set of Construction Documents at ninety percent (90%) completion of Construction Documents; and two (2) full complete biddable Construction Documents after DSA approval of Construction Documents at no cost to the DISTRICT.

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

1. The ARCHITECT shall provide to the DISTRICT, on the terms herein set forth, all of the architectural, design and/or engineering services necessary to complete the PROJECT. The ARCHITECT's services shall include those described in this AGREEMENT including all structural, civil, mechanical and electrical engineering, and landscape architecture services, and any other services necessary to produce a reasonably complete and accurate set of "Construction Documents," and will also be in accordance with ARCHITECT's proposal dated October 22, 2024 and attached hereto as Exhibit A and incorporated herein by this reference. The ARCHITECT's proposal is attached to this AGREEMENT only for the purpose of further describing the scope of work that may be performed by the ARCHITECT, unless otherwise agreed to by the PARTIES in writing. The PARTIES agree that the terms of this AGREEMENT shall be controlling over any of the terms contained within the ARCHITECT's proposal and scope of work/services. Any conflicts, discrepancies, or other ambiguities between Exhibit A and this AGREEMENT shall be governed by, and interpreted in favor of this AGREEMENT. "Construction Documents" are defined as including, but not limited to, the following: the contract between the DISTRICT and the "Contractor" awarded the PROJECT (the "Contract"),

general and supplementary conditions of the Contract between the DISTRICT and Contractor, drawings, specifications, Addenda, Revisions and other documents listed in the Contract, and modifications issued after execution of the Contract between the DISTRICT and Contractor.

2. The ARCHITECT shall assist the DISTRICT in obtaining required approvals from governmental agencies (for both on and off-site approvals) and any other entities including, but not limited to, those responsible for electrical, gas, water, sanitary or storm sewer, telephone, cable/TV, antenna-based services (e.g., Dish Network), internet providers, public utilities, the fire department, as well as the County Health Department, California Department of Education (“CDE”), the Office of Public School Construction (“OPSC”), State Water Resources Control Board (SWRCB), and DSA. If necessary, the ARCHITECT shall secure preliminary agency approvals and notify the DISTRICT in writing as to the actions the DISTRICT must take to secure formal approvals.

3. The ARCHITECT shall be responsible for determining the capacity of existing utilities, and/or for any design or documentation required to make points of connection to existing utility services that may be located on or off the PROJECT site and which are required for the PROJECT. The ARCHITECT and its consultants are also solely responsible for performing field investigations/ “boots on ground” analysis to evaluate existing conditions of all site and building systems related to the scope of work, including but not limited to:

- a. All existing underground lines including gas, sewer, water, fire water, electrical, low voltage;
- b. Roofing components;
- c. Above acoustical ceiling investigations for HVAC and Tbar compliance;
- d. Civil engineer is to coordinate and confirm all existing utility invert elevations are correct;
- e. Proposed tie-in locations for all utilities and existing line sizes to be verified in the field and not based off of record drawings;
- f. Irrigation controller and wiring;
- g. When recommended by the ARCHITECT and its consultants, the District may choose to perform destructive testing or camera underground lines when necessary.

If at any time during the field investigation, the ARCHITECT or its consultants encounter a condition that is not code compliant or will not be able to perform and/or if the ARCHITECT’s design will require a “tie-in”, the ARCHITECT and its consultants shall bring the issue to the attention of the DISTRICT and provide a formal recommendation in writing.

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

5. The ARCHITECT shall assist the DISTRICT in determining the phasing of the PROJECT that will most efficiently and timely complete the PROJECT in accordance with the approved PROJECT schedule. This includes phasing the PROJECT’s construction and the inspection approval process so Incremental Approvals as required under DSA’s Construction Oversight Process Procedure can be obtained during the completion of the PROJECT.

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

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

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

9. The ARCHITECT shall make revisions in Drawings, Specifications, the Project Manual, or other documents when such revisions are necessary due to the ARCHITECT's failure to comply with approvals or instructions previously given by the DISTRICT, including revisions made necessary by adjustments in the DISTRICT's Program or Budget as defined in Article IV.

10. The ARCHITECT shall provide services required due to programmatic changes in the PROJECT including, but not limited to, size, quality, complexity, method of bidding or negotiating the contract for construction, so long as such changes are not inconsistent with prior DISTRICT written directives and approvals. The ARCHITECT shall be prepared to prioritize and prepare a priority list to address critical Program and PROJECT needs for DISTRICT's review, direction, and approval as opposed to optional items that may be dropped if there is inadequate Budget for the PROJECT. In some instances, additive and/or deductive bid scope items may be incorporated into the PROJECT upon written approval by the DISTRICT. In the case where there are Budget constraints, the ARCHITECT, shall prepare a priority list of critical programmatic needs and items that may be of lesser priority and review the Program with the DISTRICT for DISTRICT's approval.

11. The ARCHITECT shall coordinate its services with the work of the Construction Manager or other consultants retained by DISTRICT.

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

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

14. The ARCHITECT shall provide interior design and other services required for, or in connection with code compliant graphics and signage. All other interior design services are addressed under Article III as an Additional Service.

15. To the extent the ARCHITECT is not familiar or does not have experience with any materials or systems designed or specified for the PROJECT, the ARCHITECT shall visit suppliers, fabricators, and manufacturers' facilities, such as for carpet, stone, wood veneers, standard or custom

furniture, to review the quality or status of items being produced for the PROJECT.

16. The ARCHITECT shall cooperate and consult with DISTRICT in use and selection of manufactured items on the PROJECT, including, but not limited to, paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials, and floor coverings. All such manufactured items shall be standardized to the DISTRICT's criteria to the extent such criteria do not interfere with PROJECT design and are in compliance with the requirements of Public Contract Code §3400. If available, the DISTRICT will provide the ARCHITECT with the DISTRICT's standardized criteria.

17. The ARCHITECT shall certify to the best of its knowledge, pursuant to 40 Code of Federal Regulations §763.99(a)(7), that no asbestos-containing material was specified as a building material in any Construction Document for the PROJECT and will require as a part of the general conditions, Construction Documents and specifications, that contractors provide the DISTRICT with a certification that all materials used in the construction of any school building are free from any asbestos-containing building materials ("ACBM's"). ARCHITECT shall include statements in the PROJECT's specifications that materials containing ACBM's shall not to be included or incorporated into the PROJECT. The ARCHITECT shall incorporate requirements into the PROJECT's specifications that indicate the above certification shall be part of the Contractor's final PROJECT submittal to the DISTRICT.

18. The ARCHITECT shall consider operating or maintenance costs when selecting systems for the DISTRICT. The ARCHITECT work with the DISTRICT to utilize and consider available funding from grants and alternative or other funding sources.

19. The ARCHITECT shall prepare for and make formal presentations to the Governing Board of the DISTRICT, attend public hearings and other public meetings. The ARCHITECT shall be prepared to address concept and programmatic requirements for the PROJECT in such presentations, public hearings and public meetings. In addition, the ARCHITECT shall attend and assist in legal proceedings that arise from the errors or omissions of the ARCHITECT. However, with regard to matters in which the ARCHITECT is made a party to litigation and there is an actual legal conflict of interest as between the DISTRICT and the ARCHITECT, the ARCHITECT's assistance and attendance will be determined by counsel for the ARCHITECT.

20. The duties, responsibilities and limitations of authority of the ARCHITECT shall not be restricted, modified, or extended without written agreement between the DISTRICT and ARCHITECT.

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

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

23. The ARCHITECT shall commit the same PROJECT representatives from the commencement of services under this AGREEMENT through the completion of the Project Close- Out Phase. Any change in staff will require the written approval of the DISTRICT.

## 24. Schematic Design Phase

a. The ARCHITECT shall meet with the DISTRICT to understand and verify the DISTRICT's requirements for its Program. In the cases where a Program is furnished to the ARCHITECT by the DISTRICT, the ARCHITECT shall review the DISTRICT's Program and address if the Program, in the ARCHITECT's professional opinion, is realistic. If there are issues with the Program that has been provided, as part of the Schematic Design Services, ARCHITECT shall rework the Program with the DISTRICT representative and the DISTRICT to establish a priority list of programmatic needs and items that may be within and outside of the DISTRICT's Budget. Once the Schematic Design, Program and Budget are reconciled with the DISTRICT representative, and the DISTRICT approves the Schematic Design, Program and Budget, the ARCHITECT may then move on to the Design Development Phase.

b. In the cases where the DISTRICT has not established a Program, the ARCHITECT shall work with the DISTRICT to help establish a Program and Budget based on available state funding, available grants, or available funds (in the cases where no funding or grants are available). The ARCHITECT's familiarity with how projects are funded by the state or through grants shall be part of the expertise the DISTRICT is relying upon in conjunction with the ARCHITECT's experiences with similar projects and programs for the establishment of the DISTRICT's Program and PROJECT under this AGREEMENT. The ARCHITECT shall not design for a Program or PROJECT that exceeds the DISTRICT's Budget unless the ARCHITECT obtains the written consent of the DISTRICT and an agreement that the ARCHITECT is permitted to exceed the available Budget.

c. The ARCHITECT shall prepare, for approval by the DISTRICT, Schematic Design Documents consisting of drawings, renderings, programmatic outlines, and other documents illustrating the scale and relationship of the PROJECT's components. These documents shall be prepared with the understanding that Design Development and Construction Documents Phases of this AGREEMENT shall be completed in accordance with the realistic understanding of and adherence to the Schematic Design. The Schematic Design Documents shall comply with all applicable laws, statutes, ordinances, codes, rules, and regulations of the State and local governmental agencies and/or authorities having jurisdiction over the PROJECT, including, but not limited to, the OPSC, the CDE, DSA, the County Health Department and the local fire marshal/department, which are required for the final approval of the PROJECT's completed Construction Documents.

d. The ARCHITECT shall prepare up to three (3) schematic design studies and site utilization plans leading to a recommended solution together with a general description of the PROJECT and PROJECT's priorities for approval by the DISTRICT. Schematic drawings shall include concepts for the completed PROJECT including, without limitation: preliminary circulation schemes for persons and vehicles and parking; areas for hardscape including, but not limited to, service drives, walkways, ramps, steps, stairs and light fixtures; site elevations variations which affect circulation paths and drainage; locations and dimensions for structures (new and existing), property lines, easements, setback requirements and depiction of the preliminary routing of utility lines to and proposed points of connection.

e. If directed by the DISTRICT at the time of approval of the Schematic Design Documents, the Construction Documents shall be prepared so that portions of the work of the PROJECT may be performed under separate construction contracts, phased construction contracts, or so that the construction of certain buildings, facilities, or other portions of the PROJECT may be deferred. Careful attention is directed to DSA requirements for phasing of projects and the likelihood that DSA or other agency approvals may expire during the phases. If there is an expiration and need to obtain additional DSA approvals for future phases, the ARCHITECT shall provide the DISTRICT with a written notification of the PROJECT approvals that may expire due to phasing. Alternate construction schemes made by the DISTRICT subsequent to the Design Development Phase shall be provided as an Additional Service pursuant to Article III unless the alternate construction scheme arises out of the PROJECT exceeding the estimated Budget constraint as a result of the ARCHITECT's services under this AGREEMENT.

f. The ARCHITECT shall submit a list of qualified engineers for the PROJECT for the DISTRICT's approval in conformance with Article XII. ARCHITECT shall ensure that each engineer places his or her name, seal, and signature on all drawings and specifications prepared by said engineer.

g. The ARCHITECT shall investigate existing conditions or facilities and verify drawings of such conditions or facilities including verifying ADA path of travel elevations.

h. The ARCHITECT shall perform Schematic Design services to keep the PROJECT within all Budget and scope constraints set by the DISTRICT, unless otherwise modified by written authorization by the DISTRICT.

i. The ARCHITECT shall prepare and submit to the DISTRICT a written estimate of the Construction Cost in conformance with Articles V and VI and shall advise the DISTRICT, in writing, of any adjustments to the estimate of Construction Cost.

j. The ARCHITECT shall conduct weekly meetings with the DISTRICT to develop the Program and Schematic Design for the PROJECT. The frequency of the meetings may be reduced by the DISTRICT in its discretion.

## **25. Design Development Phase (Preliminary Plans)**

a. Upon approval by the DISTRICT of the Schematic Design services set forth above, the ARCHITECT shall prepare Design Development Documents based on the Schematic Design and based on the Program that has been approved by the DISTRICT. Such documents shall consist of site and floor plans, elevations, cross-sections, and other documents necessary to depict the design of the PROJECT, and shall outline specifications to fix and illustrate the size, character, and quality of the entire PROJECT as to the Program requirements, landscapes, architecture, civil, structural, mechanical, and electrical systems, materials, and such other essentials as may be appropriate. The ARCHITECT shall prepare the Design Development Documents to comply with the requirements of all governmental agencies having jurisdiction over the PROJECT including, but not limited to, the OPSC, the CDE, DSA, the County Health Department and the local fire marshal/department.

b. The ARCHITECT shall prepare and submit to the DISTRICT a written estimate of the Construction Cost in conformance with Articles V and VI and shall advise the DISTRICT, in writing, of any adjustments to the estimate of Construction Cost.

c. The ARCHITECT shall perform all Design Development Services to keep the PROJECT within all Budget and scope constraints set by the DISTRICT, unless otherwise modified by written authorization by the DISTRICT.

d. The ARCHITECT shall conduct bi-weekly meetings with the DISTRICT to develop the Design Development phase of the PROJECT.

## **26. Construction Document Phase (Final Plans)**

a. The ARCHITECT shall prepare, from the Design Development Documents approved by the DISTRICT, Construction Documents (in an acceptable Building Informational Modeling format, such as Autodesk® Revit® and AutoCAD® Civil 3D®) including, but not limited to, all drawings and specifications for the PROJECT setting forth, in detail, the requirements for the construction of the entire PROJECT in conformity with all applicable (on and off site) governmental and code requirements including, but not limited to, the requirements of the OPSC, DSA, the local fire marshal/department, the County Health Department and any other governmental agency having jurisdiction over the PROJECT. The Construction Documents shall show all the work to be done in a minimum of LOD 250, as well as the materials, workmanship, finishes, and equipment required for the completion of the PROJECT. All Construction Documents prepared by the ARCHITECT shall be properly coordinated including, but not limited to, the various disciplines, dimensions, terminology, details, etc. ARCHITECT shall perform its own quality assurance and quality control prior to submitting 100% Construction Documents of the quality assurance and quality control.

b. The ARCHITECT shall prepare and file all documents required for, and obtain the required approvals of, all governmental agencies having jurisdiction over the PROJECT including, but not limited to, the OPSC, CDE, DSA, local fire marshal/department, City Design Review, County Health Department, Department of Public Works, and any other governmental agencies or authorities which have jurisdiction over the PROJECT. The DISTRICT shall pay all fees required by such governmental agencies and/or authorities. ARCHITECT shall, whenever feasible, establish beforehand the exact costs due any governmental agencies and/or authorities in order to submit such cost information to the DISTRICT so payments can be prepared by the DISTRICT.

c. The ARCHITECT shall identify all tests and special inspections on the Statement of Structural Tests and Special Inspections (Form DSA 103) that are required for the completion of the PROJECT as designed and submit such DSA 103 to DSA for approval along with all other Construction Documents. Upon DSA's approval of the Construction Documents, including the approved DSA 103 for the PROJECT, the ARCHITECT shall ensure that a copy of the approved DSA 103 for the PROJECT is provided to the DISTRICT, the Laboratory of Record, each Special Inspector working on the PROJECT, the Project Inspector and the

Contractor.

d. When the ARCHITECT is preparing the Construction Documents, the ARCHITECT shall include provisions that require the Contractor to:

- (1) Provide the DISTRICT with five (5) complete sets of operation manuals;
- (2) Provide adequate training and consultation to DISTRICT personnel in the operation, testing, start-up, adjusting and balancing of mechanical, electrical, heating, air conditioning, and other systems installed by Contractor or its subcontractors; and
- (3) Prepare a marked set of prints which indicate the dimensioned location of buried utility lines and which show changes in the work made during construction (“as-built documents”). All as-built documents shall be provided to the DISTRICT in a format approved by the DISTRICT.

e. The ARCHITECT and its consultants shall not include any verbiage or items in their drawings or other documents that require Contractors to “field verify” or take similar action with the exception of the Contractors’ responsibility to field verify dimensions such as casework. Due to the public bidding process, all design and investigation must be done during the design process, not subsequent to the bidding process.

f. The ARCHITECT shall immediately notify the DISTRICT of adjustments in previous estimates of the Construction Cost arising from market fluctuations or approved changes in scope or requirements.

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

h. As part of the ARCHITECT’s professional services, ARCHITECT has coordinated the drawings on the PROJECT. If requested by the DISTRICT, the ARCHITECT shall perform a clash detection review of the final Construction Documents prior to submission to DSA. However, if the Construction Manager performs a clash check, ARCHITECT shall work with the Construction Manager to perform reasonable clash check resolution meetings and make revisions as necessary prior to DSA submission, during DSA review, and after DSA review (followed by CCD submission or Addenda submission to document any necessary changes). The initial clash check, if performed, must be completed and delivered to the ARCHITECT at least ten (10) days in advance of DSA submission.

i. If the estimated PROJECT Construction Cost exceeds the Budget, the ARCHITECT shall make all necessary design revisions at no cost to the DISTRICT to comply with the Budget and scope set by the DISTRICT in conformance with Articles V and VI, unless otherwise modified by written authorization of the DISTRICT.

i. The ARCHITECT shall conduct up to bi-weekly not less than monthly meetings

as needed with the DISTRICT to develop the Construction Documents phase of the PROJECT.

**27. Bidding & Award Phase**

a. The ARCHITECT, following the DISTRICT's approval of the Construction Documents and of the latest estimate of Construction Cost, shall assist the DISTRICT in obtaining bids and awarding the Contract for the construction of the PROJECT.

b. The ARCHITECT shall assist the DISTRICT and Construction Manager in preparing all the necessary bidding information and bidding forms required to bid the PROJECT. The Construction Manager, along with the ARCHITECT, shall also assist the DISTRICT with the preparation of the Contractor's Contract form, the general conditions, the supplementary conditions, and all other contract documents necessary to bid the PROJECT and award a complete Contract to the lowest responsible responsive bidder. The DISTRICT will provide the standard general conditions and supplementary conditions to the Construction Manager and ARCHITECT that must be incorporated into the Contract with the Contractor. The Construction Manager, with the ARCHITECT, shall review the general conditions, supplementary conditions, and all other contract documents provided by the DISTRICT for incorporation into the Contract with the Contractor and shall coordinate such documents with all other Construction Documents that are prepared by the ARCHITECT pursuant to this AGREEMENT. The ARCHITECT's coordination obligations under this Section include, but are not limited to, verifying that any and all bid instructions and requirements set forth in the specifications prepared by the ARCHITECT are also set forth in the Instructions to Bidders and the Bid Form that are distributed to the bidders in connection with the PROJECT. The ARCHITECT shall prepare and sign all written Addendums that are necessary to incorporate changes into the DSA approved Construction Documents prior to the award of the PROJECT. The Construction Manager, with the ARCHITECT, shall assist the DISTRICT in distributing all Addendums to each bidder that has obtained a set of the DSA-approved Construction Documents. The ARCHITECT shall ensure that all Addendums are submitted to and approved by DSA prior to certification of the PROJECT.

c. The ARCHITECT shall provide the DISTRICT an electronic and hard copy set of Construction Documents including, but not limited to, all drawings and specifications for the PROJECT. In accordance with the requirements of this Section, the ARCHITECT shall forward all plans, drawings, specifications, record drawings, models, mock-ups, renderings and other documents (including all computer files and/or BIM files) prepared by the ARCHITECT or the ARCHITECT's consultants during the course of the PROJECT to the reprographics company specified by the DISTRICT at no additional cost to the DISTRICT. The DISTRICT may request that such documents be delivered to the reprographics company selected by the DISTRICT in CADD, PLOT, TIFF or other format approved by the DISTRICT. In addition, the ARCHITECT shall provide the DISTRICT with a BIM format diskette file with all layers unprotected so the DISTRICT may utilize the documents with the Construction Manager for clash detection. It is expressly understood that the release of the underlying BIM documents is for the limited use only as a general reference document for the PROJECT (unless otherwise agreed to in writing) and that the accuracy of the information provided and any changes that are made to the underlying BIM documents are not the responsibility of ARCHITECT. It is understood that the BIM files are not contractual Construction Documents, and only the printed Construction Documents approved by DSA are to be utilized for the purpose of construction of the PROJECT. In addition, the

Construction Manager, the contractors or any of their subcontractors are required to sign the Acknowledgement of Conditions to the Receipt of 3D Building Information in the format as set out on Exhibit “B”. For documentation purposes, one record set of the transmitted documents shall be placed on a CD (or other acceptable electronic media) properly labeled as the record set of documents transmitted to the DISTRICT. Reasonable costs for producing this record document shall be reimbursed to the ARCHITECT and ARCHITECT’s consultants. ARCHITECT is also advised to make a record set of clash detection checks to record the clashes that are encountered on the set of documents distributed for future record purposes and this clash detection shall also be placed on the CD.

d. Upon the DISTRICT’s request, the ARCHITECT shall recommend an acceptable plan room, or blueprinting shop, or, in the alternative and if requested by the DISTRICT, ARCHITECT shall print (as an Additional Service pursuant to Article III) the necessary bidding information, Contract forms, general conditions, supplementary general conditions and all other Construction Documents necessary to bid the PROJECT and award a complete Contract to a successful bidder and shall deliver/distribute such printed copies to all interested bidders.

e. The ARCHITECT shall make subsequent revisions to drawings, specifications, and other DSA approved Construction Documents that result from the approval of any substitution request, RFI, or submittal received in accordance with the Contract Documents. All Revisions shall be prepared in writing and signed by the ARCHITECT. The ARCHITECT shall ensure that all Revisions are submitted to and approved by DSA prior to certification of the PROJECT.

f. If the lowest bid exceeds the Budget for the PROJECT by more than ten percent (10%), the ARCHITECT, in consultation with, and at the direction of, the DISTRICT, shall provide such modifications in the Construction Documents as necessary to bring the cost of the PROJECT within its Budget as set forth in Articles V and VI.

## 28. **Construction Phase**

a. Prior to the start of construction, the ARCHITECT shall certify that the following two documents have been submitted to DSA:

(1) Contract Information Form DSA-102.

(2) Inspector Qualification Record Form DSA-5 should be submitted 10 days prior to the time of starting construction.

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

c. The ARCHITECT shall reproduce two (2) sets of Construction Documents for the DISTRICT’s and the DISTRICT’s consultant’s use at the ARCHITECT’s expense.

d. The ARCHITECT shall provide technical direction to a full-time Project Inspector

employed by, and responsible to, the DISTRICT, as required by applicable law. The ARCHITECT shall direct and monitor the work of the Laboratory of Record as required by applicable law and provide code required supervision of Special Inspectors not provided by the Laboratory of Record. Upon the DISTRICT's award of a Construction Contract to the Contractor, the ARCHITECT shall obtain the necessary Project Inspection Cards ("PIC") (Form DSA 152) from the DSA that are needed for the Project Inspector's use in approving and signing off work on the PROJECT as it is completed by the Contractor. The ARCHITECT shall verify that the Project Inspector has the appropriate amount of PIC's that are needed for the inspection and completion of the entire PROJECT prior to the commencement of any work by the Contractor on the PROJECT. The ARCHITECT shall provide the Project Inspector, Laboratory of Record and each Special Inspector with a copy of the DSA approved Construction Documents including, but not limited to, the approved Statement of Structural Tests and Special Inspections (Form DSA 103) prior to the commencement of any work on the PROJECT at the ARCHITECT's expense.

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

f. The ARCHITECT shall prepare Interim Verified Reports (Form DSA 6-AE) and submit such Interim Verified Reports to DSA, the Project Inspector and the DISTRICT prior to the Project Inspector's approval and sign off of any of the following sections of the PROJECT's PIC's as applicable:

- (1) Initial Site Work and Foundation Preparation;
- (2) Vertical and Horizontal Framing;
- (3) Appurtenances;
- (4) Finish Site Work and Other Work; and
- (5) Final

If the ARCHITECT has delegated responsibility for any portion of the PROJECT's design to other engineers, the ARCHITECT shall ensure that such engineers submit the necessary Interim Verified Reports (Form DSA 6-AE) to DSA, the Project Inspector and the DISTRICT during the course of construction and prior to the Project Inspector's approval and sign off of the above sections of the PIC as they relate to the portions of the PROJECT that were delegated to such engineers.

g. The ARCHITECT shall be responsible for reviewing and verifying, on a monthly basis, that the Contractor is maintaining an up-to-date set of as-built documents which will be furnished to the DISTRICT upon completion. The ARCHITECT shall review the as-built documents prepared by the Contractor on a monthly basis and report whether they appear to be up to date, based upon the ARCHITECT's observations of the PROJECT. If it appears the as-built documents are not being kept up to date by the Contractor, the ARCHITECT shall recommend to the DISTRICT, in writing, an appropriate withholding from the Contractor's monthly payment application to account for the Contractor's failure to maintain such as-built documents.

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

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

(1) Visiting the PROJECT site to maintain such personal contact with the PROJECT as is necessary and render architectural observations, which is distinguished from the continuous personal inspection of the PROJECT by the Project Inspector, to assure the ARCHITECT that the Contractor's work is being completed, in every material respect, in compliance with the DSA approved Construction Documents (in no case shall the number of visits be less than once every week or as necessary to observe work being completed in connection with each block/section of a PIC so the ARCHITECT can verify that the work does or does not comply with the DSA approved Construction Documents, whichever is greater) in order to:

i. Become familiar with, and to keep the DISTRICT informed about, the progress and quality of the portion of the work completed and for the preparation of the weekly written reports the ARCHITECT will prepare and submit to the DISTRICT for its review;

ii. Become familiar with, and to keep DSA and Project Inspector informed about, the progress and quality of the portion of the work completed and for the preparation of the necessary Interim Verified Reports the ARCHITECT will prepare and submit to DSA and Project Inspector as necessary for the timely inspection of the PROJECT and for the approval and sign off of each block/section of the PIC's during the course of the PROJECT's construction;

iii. Endeavor to guard against nonconforming work and deficiencies in the work;

iv. Determine if the work is being performed in a manner indicating that the work, when fully completed, will be in accordance with the approved DSA Construction Documents;

v. Attend weekly on-site construction meetings, and being otherwise available to the DISTRICT and the Project Inspector for site meetings on an "as-needed" basis. The frequency of the meetings may be reduced by the DISTRICT in its discretion;

vi. Review and approve Contractor applications for payment and to issue certificates for payment in amounts approved by the necessary parties; and

vii. Verify, at least monthly, in coordination with the Project Inspector, that all as-built documents are being updated pursuant to the Contract between the DISTRICT and the Contractor.

- (2) Making regular reports as may be required by all governmental agencies or authorities having jurisdiction over the PROJECT;
- (3) Reviewing schedules and shop drawings for compliance with the design intent of the Construction Documents;
- (4) Reviewing, approving and providing professional opinions and recommendations and taking appropriate action on the substitution of materials, equipment, and the laboratory reports thereof for conformance to the DISTRICT's standards subject to DISTRICT knowledge and approval;
- (5) Responding to DSA field trip notes;
- (6) Preparing Construction Change Documents for approval by DSA;
- (7) Preparing Immediate Change Directives or other directives to the Contractors as directed by the DISTRICT
- (8) Preparing change orders, with assistance from the Construction Manager, for written approval by the DISTRICT;
- (9) Making Punch List observations when the PROJECT reaches Substantial Completion;
- (10) Determining date of Substantial Completion and the date of final completion of the PROJECT;
- (11) Providing a color schedule of all materials for the PROJECT for the DISTRICT's review and approval;
- (12) Reviewing and delivering to the DISTRICT written guarantees, instruction books, diagrams, charts, and as-built documents that will be assembled and provided by the Contractor pursuant to the Contract between the DISTRICT and the Contractor;
- (13) Issuing the ARCHITECT's Certificate of Substantial Completion, Certificate of Completion and final certificate for payment; and
- (14) Providing any other reasonable architectural services to fulfill the requirements of the Construction Documents and this AGREEMENT.

j. ARCHITECT shall provide the DISTRICT with written reports, as necessary, to inform the DISTRICT of any problems arising during construction of which ARCHITECT has personally observed or has actual knowledge thereof, changes contemplated as a result of each problem, and the progress of work.

k. The ARCHITECT, as part of the ARCHITECT's Basic Services, shall advise the

DISTRICT of any deficiencies observed by, known, or should have been known by, the ARCHITECT in construction following the acceptance of the work and prior to the expiration of the guarantee period of the PROJECT.

l. The ARCHITECT shall be the interpreter of the requirements of the Construction Documents and advise the DISTRICT as to the performance by the Contractor thereunder.

m. The ARCHITECT shall make recommendations to the DISTRICT on claims relating to the execution and progress of the work and all matters and questions relating thereto. The ARCHITECT's recommendations in matters relating to artistic effect shall be consistent with the intent of the Construction Documents.

n. The ARCHITECT shall advise the DISTRICT to reject work which does not conform to the Construction Documents. The ARCHITECT shall promptly inform the DISTRICT whenever, in the ARCHITECT's opinion, it may be necessary to stop the work to avoid the improper performance of the Construction Contract. The ARCHITECT does not have the authority to stop work, but has authority to notify DSA and require additional inspection or testing of the work in accordance with the provisions of the Construction Documents, whether work is fabricated, installed, or completed.

o. The ARCHITECT shall not issue orders to the Contractor that might commit the DISTRICT to extra expenses, or otherwise amend the Construction Documents, without first obtaining the written approval of the DISTRICT.

p. The ARCHITECT shall be the DISTRICT's architectural representative during construction and shall advise and consult with the DISTRICT. The ARCHITECT shall have authority to act on behalf of the DISTRICT only to the extent provided in this AGREEMENT, unless otherwise modified in writing. The ARCHITECT, however, shall not have control over or charge of and shall not be responsible for the Contractor's construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Contractor's work, since these are solely the Contractor's responsibility under the Contract with the Contractor. Without in any way limiting the ARCHITECT's responsibilities and obligations under the law, or this AGREEMENT, and to the extent not arising from or related to the ARCHITECT's errors, omissions or negligence, the ARCHITECT shall not be responsible for the Contractor's schedules, but the ARCHITECT must review and provide opinions regarding any schedules prepared by the Contractor.

q. The ARCHITECT shall prepare all documents and/or drawings made necessary by errors and omissions in the originally approved drawings or specifications at no additional cost or expense to the DISTRICT. In addition, the ARCHITECT shall, at no additional cost, provide services made necessary by defect or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the ARCHITECT and promptly reported to the DISTRICT and Contractor, but which ARCHITECT failed to do, so long as discovery would have made such additional services and costs unnecessary.

r. The ARCHITECT shall review, verify, and approve the Contractor's applications

for payment and issue certificates for payment for the work and materials provided by the Contractor which also reflect the ARCHITECT's recommendation as to any amount which should be retained or deducted from those payments under the terms of the Construction Documents or for any other reason. The ARCHITECT's certification for payment shall constitute a representation to the DISTRICT, based on the ARCHITECT's observations at the site, that the work has progressed to the level certified, that quality of the work is in accordance with the DSA approved Construction Documents, that the as-built documents are up to date, and that the Contractor is entitled to payment in the amount certified. The issuance of a certificate for payment shall not be a representation that the ARCHITECT has: (1) made exhaustive or continuous on-site inspections to check the quality of quantity of Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the DISTRICT to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

s. The ARCHITECT shall review, provide comments or recommendations or take other appropriate action, upon the Contractor's submittals of shop drawings, product data, and samples for the purpose of checking for conformance with the design intent expressed in the Construction Documents. The ARCHITECT's actions shall not delay the work, but should allow for sufficient time, in the ARCHITECT's professional judgment, to permit adequate review. The ARCHITECT shall ensure that all deferred approval submittals, subject to the reasonable cooperation of the Contractor in providing the information and documents required by the DSA, are resolved and approved by DSA prior to certification of the PROJECT.

t. After the PROJECT has been let, all changes to the DSA approved Construction Documents shall be made by means of a Construction Change Document ("CCD") unless otherwise approved by the DISTRICT in writing. The ARCHITECT shall be responsible for preparing each CCD related to the PROJECT and shall determine which changes affect the Structural, Access or Fire & Life Safety (collectively "SAFLS") portions of the PROJECT and ensure that such changes are documented and implemented through a written CCD-Category A (Form DSA 140). All CCD-Category A's must be submitted to DSA by the ARCHITECT with all supporting documentation and data and must be approved by DSA before such work can commence on the PROJECT. The ARCHITECT shall obtain the DISTRICT's approval of all CCD-Category A's before they are submitted to DSA for review and approval. All other changes to the DSA approved Construction Documents not involving SAFLS portions of the PROJECT are not required to be submitted to DSA unless DSA specifically requires such changes to be submitted to DSA in the form of a written CCD-Category B (Form DSA 140) inclusive of all supporting documentation and data. Changes that are not determined by the ARCHITECT and/or DSA to require documentation through an approved CCD-Category A or CCD-Category B shall be documented through an alternative CCD form or other document approved by the DISTRICT.

u. The ARCHITECT shall prepare and issue Immediate Change Directives or other directives to the Contractor ("ICD") to the Contractor when directed by the DISTRICT to complete the work that is necessary due to the Contractor's failure to complete the PROJECT in accordance with the DSA approved Construction Documents. The ARCHITECT shall provide the Project Inspector with a copy of the ICD and direct the Project Inspector to inspect the work

as it is completed in accordance with the ICD.

v. All changes to the DSA approved Construction Documents, whether set forth in a CCD, ICD, or any other document approved by the DISTRICT, shall be incorporated into change orders by the ARCHITECT, with the assistance of the Construction Manager, for the DISTRICT's approval. Each change order shall identify: (1) the description of the change in the work; (2) the amount of the adjustment to the Contractor's Contract sum, if any; and (3) the extent of the adjustment in the Contractor's Contract Time, if any. The ARCHITECT, with the assistance of the Construction Manager, shall prepare change orders, with supporting documentation and data, for the DISTRICT's review in accordance with the Construction Documents, and may authorize minor changes in the work not involving an adjustment in the contract sum or an extension of time. The ARCHITECT, with the assistance of the Construction Manager, shall evaluate and make written recommendations regarding Contractor's proposals for possible change orders. Change Orders resulting from DISTRICT directed changes and/or unforeseen conditions and not related to or the result of the ARCHITECT's error, omissions, or negligence shall be processed by the ARCHITECT as an Additional Service pursuant to Article III. The ARCHITECT shall obtain prior written approval from DISTRICT before performing such Additional Services. Costs for Change Orders relating to or resulting from the errors, omissions, or negligence of the ARCHITECT shall be deducted from the ARCHITECT's fee.

w. The ARCHITECT shall, at the ARCHITECT's expense, provide the DISTRICT with a pdf file of all record drawings showing significant changes in the work made during construction based on the marked-up prints, drawings and other data furnished by the Contractor to the ARCHITECT.

x. The ARCHITECT shall observe and review the PROJECT to determine the date or dates of Substantial Completion and final completion. The ARCHITECT shall receive and forward to the DISTRICT for the DISTRICT's review all written warranties and related documents required by the Construction Documents, and issue a final certificate for payment upon Contractor compliance with the requirements of the Construction Documents. In the event the approved schedule for the PROJECT has been exceeded due to the fault of the Contractor, the ARCHITECT shall issue a written notice to the DISTRICT and the Contractor evaluating the cause of the delay(s) and shall advise the DISTRICT and the Contractor of the commencement of liquidated damages under the Contract between the DISTRICT and Contractor.

y. The ARCHITECT shall provide written evaluation of the Contractor's performance under the requirements of the Construction Documents when requested in writing by the DISTRICT. When the ARCHITECT has actual knowledge of any defects, errors, or deficiencies with respect to the Contractor's performance on the PROJECT, the ARCHITECT shall provide the DISTRICT and the Contractor with written notification of such defects, errors, or deficiencies.

z. The ARCHITECT shall:

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

(2) Determine the data criteria required to evaluate requests for substitutions;  
and

(3) Be responsible for ensuring that all RFI's, submittals and substitution requests by the Contractor are responded to not later than fourteen (14) days, or as soon as the circumstances require.

aa. The ARCHITECT shall be responsible for gathering information and processing forms required by any applicable governing agencies and/or authorities having jurisdiction over the PROJECT including, but not limited to, the County Health Department, the local building departments, local fire departments, the OPSC, and DSA, in a timely manner and ensure proper close-out of the PROJECT.

bb. The ARCHITECT shall obtain the DISTRICT's approval of all CCD immediately following the request for such changes by the Contractor or upon any other circumstances necessitating a change. Furthermore, the ARCHITECT shall maintain a log of all CCD's, ICD's, change orders or any other DISTRICT approved form documenting changes to the DSA approved Construction Documents (the "Changes Log"), including status, for the DISTRICT's review and approval. The ARCHITECT shall submit the Changes Log to the DISTRICT with its monthly invoice. Submission of the Changes Log is a requirement for payments to the ARCHITECT during the course of construction.

cc. The ARCHITECT shall evaluate and render written recommendations within a reasonable time on all claims, disputes, or other matters at issue between the DISTRICT and Contractor relating to the execution or progress of the work as provided in the Contract between the DISTRICT and the Contractor. Under no circumstances should this evaluation take longer than 20 calendar days from the date the claim is received by the ARCHITECT, unless additional time is requested by the ARCHITECT and approved by the DISTRICT.

dd. The ARCHITECT shall require in the Construction Documents that the Contractor provide assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.

ee. The ARCHITECT shall review the list of minor defects, deficiencies, and/or incomplete items (hereinafter the "Punch List") and the fully executed Verified Report (Form DSA-6) that are submitted to the DISTRICT by the Contractor when the Contractor considers the PROJECT to be Substantially Complete. The ARCHITECT shall attend a site punch list observation and review of the PROJECT, in conjunction with the Contractor, in order to verify the Contractor's Punch List, add any other items to the Punch List and to confirm that Substantial Completion has been reached on the PROJECT. In the event the Contractor does not submit a fully executed Verified Report with its proposed Punch List, the ARCHITECT shall reject the Contractor's Punch List, in writing, as premature. If Substantial Completion of the PROJECT is verified by the ARCHITECT and the required Verified Report has been submitted to the DISTRICT for review, the ARCHITECT shall finalize the Punch List and notify the Contractor

in writing that all Punch List items must be corrected prior to acceptance of the PROJECT and final payment, and that all Punch List items must be completed within the duration set forth in the Contract between the DISTRICT and the Contractor. The DISTRICT shall also be notified in writing of all Punch List items identified by the ARCHITECT and the Contractor. The ARCHITECT shall notify the DISTRICT when all Punch List items have been corrected by the Contractor for the DISTRICT's final acceptance of the PROJECT and final payment. In the event the Contractor fails to correct any Punch List item(s) within the duration set forth in the Contract between the DISTRICT and the Contractor, the ARCHITECT shall inform the DISTRICT of such default and provide the DISTRICT with a reasonable valuation of the cost to correct each outstanding Punch List item for deduction from the Contractor's final payment and/or retention. For purposes of this AGREEMENT, "Substantial Completion" shall mean the following five (5) conditions have been met: (1) all contractually required items have been installed with the exception of only minor and incomplete items on the Punch List; (2) All Fire/Life Safety Systems have been installed, and are working and signed off on the DSA Form 152 Inspection Card; (3) all building systems including mechanical, electrical and plumbing are functioning; (4) all other items DSA Form 152 Inspection Card requirements for the Project have been approved and signed off; and (5) the PROJECT is fit for occupancy and its intended use. Once the ARCHITECT has verified the Substantial Completion of the PROJECT, the ARCHITECT shall issue a Certificate of Substantial Completion to the Contractor and the DISTRICT. Upon the issuance of the Certificate of Substantial Completion, the ARCHITECT shall prepare and submit to DSA, Project Inspector and the DISTRICT a written Verified Report, on Form DSA 6AE, pursuant to Section 4-336 of Title 24 of the California Code of Regulations. The ARCHITECT shall also submit a signed Verified Report to DSA, Project Inspector and the DISTRICT upon any of the following events:

(1) Work on the PROJECT is suspended for a period of more than one month;

(2) The services of the ARCHITECT are terminated for any reason prior to the completion of the PROJECT;

(3) DSA requests a Verified Report.

ff. The ARCHITECT and its consultants shall verify that all defective, deficient, or incomplete work identified in any Notice(s) of Deviation or similar notice(s) issued by the ARCHITECT, Project Inspector, Special Inspector(s), Laboratory of Record and/or any governmental agency or authority, is fully corrected and closed before the ARCHITECT approves any final Punch List by the Contractor. As part of the ARCHITECT's Basic Services under this Section, the ARCHITECT shall direct the applicable Inspectors, Special Inspectors, and/or engineers on the PROJECT to visually verify that each defective, deficient and/or incomplete item of work referenced in each Notice of Deviation have been rectified and closed prior to the approval of the final Punch List and the issuance of any Certificate of Substantial Completion by the ARCHITECT. In the event the ARCHITECT and/or its consultants fail to verify that such work has been corrected by the Contractor before the ARCHITECT approves the final Punch-List and such work has in fact not been corrected, the ARCHITECT shall be responsible for performing all the architectural and/or engineering services necessary, at no

additional cost to the DISTRICT, to ensure such open and outstanding items in the Notice(s) of Deviation are addressed accordingly and that all work related to such notices is corrected in a manner acceptable to the DISTRICT and DSA.

## 29. **Project Close-Out**

a. Within thirty (30) days after the completion of the PROJECT's construction and the ARCHITECT's receipt of as-built documents from the Contractor, as required subject to Article II, Section 26.d.(3), ARCHITECT will review the as-built documents prepared by the Contractor and revise the record drawings and specifications so that they include all material changes made necessary by CCD's, ICD's, change orders, RFI's, change order requests ("COR's"), Bulletins, clarifications as noted by the Contractor in its as-built documents and/or any other DISTRICT approved document which details the changes that were made to the DSA approved Construction Documents. The ARCHITECT shall incorporate such changes into a complete BIM/AutoCAD as-built file, and pdf files, and provide all such documents, including five (5) hard copies, to the DISTRICT at no additional cost. In the event the Contractor fails to provide its as-built documents within 30 days of the PROJECT's completion, the ARCHITECT shall notify the DISTRICT, in writing, of the Contractor's failure and recommend the appropriate withholding from the Contractor's final payment under the Contract with the DISTRICT.

b. The ARCHITECT shall assist the DISTRICT in securing the delivery of any and all applicable documents described in Sections c and d below, to DSA for review prior to issuance of a "Certificate of Completion." The ARCHITECT shall submit all documents prepared by, or in control of, the ARCHITECT to DSA without delay.

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

- (1) Addenda, deferred approvals and revisions;
- (2) Copies of the Project Inspector's semi-monthly reports;
- (3) Construction deviation notices;
- (4) Copies of the laboratory reports on all tests or laboratory inspections as returned and done on the PROJECT;
- (5) Special inspection reports;
- (6) Construction Change Directives;
- (7) Copies of all the necessary PIC's which have been approved and signed off by the Project Inspector for the submission to and certification by DSA; and
- (8) All other documents required to be submitted to DSA in accordance with Title 24 and the Construction Oversight Process Procedure set forth in DSA's PR

13-01.

The ARCHITECT shall notify the DISTRICT, in writing, if any of the above forms are not promptly submitted to DSA by the responsible parties. If necessary, the ARCHITECT shall assist the DISTRICT in obtaining the delivery of the above documents to DSA.

d. Upon the completion of all construction, including all Punch List items, the ARCHITECT shall assist the DISTRICT in securing the delivery of the following documents to DSA:

- (1) Copy of the Notice of Completion.
- (2) Final Verified Report Form DSA-6A/E certifying all work is 100% complete from the ARCHITECT, structural engineer, mechanical engineer, and electrical engineer.
- (3) Final Verified Report Form DSA-6 certifying all work is 100% complete from the Contractor or Contractors, Project Inspector, and Special Inspector(s).
- (4) Verified Reports of Testing and Inspections as specified on the approved drawings and specifications, i.e., Final Laboratory Report, Welding, Glued-Laminated Timber, etc.
- (5) Weighmaster's Certificate (if required by approved drawings and specifications). Copies of the signature page of all Addenda as approved by DSA.
- (6) Copies of the signature pages of all deferred approvals as approved by DSA.
- (7) Copies of the signature pages of all Revisions as approved by DSA.
- (8) Copies of the signature page of all applicable Construction Change Documents as approved by DSA.
- (9) Verification by the Project Inspector that all items noted on any "Field Trip Notes" have been corrected.

The ARCHITECT shall notify the DISTRICT, in writing, if any of the above items are not promptly submitted to the ARCHITECT and/or the DISTRICT by the responsible parties for submittal to DSA. If necessary, the ARCHITECT shall assist the DISTRICT in obtaining the above documents for delivery to DSA.

### **ARTICLE III - ADDITIONAL ARCHITECT'S SERVICES**

1. The ARCHITECT shall notify the DISTRICT in writing of the need for additional services required due to circumstances beyond the ARCHITECT's control ("Additional Services"). The

ARCHITECT shall obtain written authorization from the DISTRICT before rendering Additional Services. Compensation for all valid Additional Services shall be negotiated and approved in writing by the DISTRICT before such Additional Services are performed by the ARCHITECT. No compensation shall be paid to the ARCHITECT for any Additional Services that are not previously approved by the DISTRICT in writing. Additional Services may include:

a. Making material revisions in drawings, specifications or other documents when such revisions are required by the enactment or revision of laws, rules, or regulations subsequent to the preparation and completion of the Construction Documents;

b. Preparing drawings, specifications and other documentation and supporting data, and providing other services in connection with change orders required by causes beyond the control of the ARCHITECT which are not the result of the direct or indirect negligence, errors, or omissions on the part of the ARCHITECT;

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

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

e. If the DISTRICT requests the PROJECT be let on a segregated basis after the completion of Design Development Phase where segregation does not arise from ARCHITECT exceeding the estimated Budget constraint, then plan preparation and/or contract administration work to prepare the segregated plans is an Additional Service subject to prior negotiation and written approval by the DISTRICT.

f. Providing contract administration services after the construction Contract time (including any Governmental Delay Float as addressed in the General Conditions of the Construction Contract with Contractor) has been exceeded through no fault of the ARCHITECT, where it is determined that the fault is that of the Contractor or any other party for whom ARCHITECT is not legally liable. The ARCHITECT's compensation is expressly conditioned on the lack of fault of the ARCHITECT;

g. Providing BIM documents that exceeds LOD 200;

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

2. If authorized in writing by the DISTRICT, the ARCHITECT shall provide one or more PROJECT representatives to assist in carrying out more extensive representation at the site than is described in Article II. The PROJECT representative(s) shall be selected, employed, and directed by the ARCHITECT, and the ARCHITECT shall be compensated therefor as agreed by the DISTRICT and ARCHITECT. Through the observations of such PROJECT representative(s), the ARCHITECT shall endeavor to provide further protection for the DISTRICT against defects and deficiencies in the work, but the furnishing of such PROJECT representation shall not modify the rights, responsibilities, or

obligations of the ARCHITECT as described elsewhere in this AGREEMENT. Such services shall be negotiated and approved in writing by the DISTRICT.

#### **ARTICLE IV - DISTRICT'S RESPONSIBILITIES**

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

2. Prior to the Schematic Design Phase, the ARCHITECT shall confirm the current overall budget for the PROJECT which shall include the Construction Cost budget for the PROJECT. The overall budget shall be based upon the DISTRICT's objectives, schedule, budget constraints, and any other criteria that are provided to the ARCHITECT by the DISTRICT pursuant to Article IV, Section 1 above. The estimated budget for this PROJECT as approved by the DISTRICT is \$7,400,000.00, and this shall be the "Budget" for the PROJECT as set forth in this AGREEMENT.

3. The DISTRICT shall notify the ARCHITECT of administrative procedures required and name a representative authorized to act on its behalf. The DISTRICT shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the PROJECT. The DISTRICT shall observe the procedure of issuing any orders to Contractors only through the ARCHITECT.

4. The DISTRICT shall give prompt written notice to the ARCHITECT if the DISTRICT becomes aware of any fault or defect in the PROJECT or nonconformance with the Construction Documents. However, the DISTRICT's failure or omission to do so shall not relieve the ARCHITECT of the ARCHITECT's responsibilities under Title 21, Title 24, and the Field Act hereunder. The DISTRICT shall have no duty to observe, inspect, or investigate the PROJECT.

5. The proposed language of certifications requested of the ARCHITECT or ARCHITECT's consultants shall be submitted to the ARCHITECT for review and approval at least fourteen (14) days prior to execution. The DISTRICT shall not request certifications that would require knowledge or services of the ARCHITECT beyond the scope of this AGREEMENT.

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

7. The DISTRICT shall furnish the services of geotechnical engineers when such services are required and/or requested by the ARCHITECT. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations.

8. DISTRICT shall make payment to the ARCHITECT of approved charges within forty-five (45) days of submission of ARCHITECT's approved invoices for services completed to the date of the invoice. DISTRICT shall notify ARCHITECT within fourteen (14) days of submission of ARCHITECT's invoices of any disputes over the invoice amount, and in no case shall DISTRICT delay releasing payment of any undisputed amounts. DISTRICT may retain 150% of the disputed amounts and the PARTIES shall endeavor to resolve such disputes in a mutually agreeable manner.

9. At DISTRICT’s discretion, DISTRICT may provide standards for security and/or a security consultant and ARCHITECT will incorporate into the PROJECT such standards and/or advice of the security consultant. A consultation and recommendation for school security systems to prevent acts of terrorism are not the responsibility of the ARCHITECT.

10. Environmental/Hazardous Material Consultant: The DISTRICT shall provide ARCHITECT with a copy of any mitigation measures for the PROJECT adopted by the DISTRICT pursuant to the California Environmental Quality Act. DISTRICT shall retain hazardous materials consultant(s) to prepare necessary contract drawings, and/or specifications for bidding and the ARCHITECT shall coordinate such documents into the final Construction Documents for the PROJECT.

11. Technology: The DISTRICT shall furnish technology guidelines to provide the information needed by the ARCHITECT and the ARCHITECT’s electrical engineer to provide a comprehensive technology “backbone” infrastructure for the PROJECT.

12. Testing: The DISTRICT shall furnish the services of other consultants and Division of State Architect approved inspectors to provide the various tests required by law.

13. Additional Consultants: The DISTRICT shall furnish the services of additional consultants, above and beyond basic service consultants provided by this AGREEMENT, as determined necessary by the ARCHITECT and DISTRICT, and approved by the DISTRICT.

14. The services, information, surveys and reports required of DISTRICT under Article IV shall be furnished at the DISTRICT’s expense, and the ARCHITECT shall be entitled to reasonably rely upon the accuracy and completeness thereof. If the ARCHITECT, in its professional opinion, has any concerns or questions regarding the accuracy or completeness of any of the services, information, surveys and reports provided by the DISTRICT, the ARCHITECT shall notify the DISTRICT in writing and provide recommendations on what additional documents or information is needed or required.

## **ARTICLE V - COST OF CONSTRUCTION**

1. During the Schematic Design, Design Development, and Construction Document Phases, the ARCHITECT’s estimates of Construction Cost shall be reconciled against the Budget approved by the DISTRICT pursuant to Article IV, Section 2.

2. The PROJECT’s “Construction Cost,” as used in this AGREEMENT, means the total cost to the DISTRICT of all work designed or specified by the ARCHITECT, which includes the total award from the initial construction Contract(s) plus the work covered by approved change orders and/or any alternates approved by the DISTRICT. The Construction Cost shall not include any costs that are not specifically referenced in this Article as approved costs. Costs excluded from the Construction Cost include, but are not limited to, payments to the ARCHITECT or other DISTRICT consultants, costs of inspections, surveys, tests, and landscaping not included in PROJECT.

3. If the PROJECT is using the multiple-prime delivery method of construction, no additional fees or costs shall be paid to the ARCHITECT, and all costs are included in the ARCHITECT’s

fixed fee set forth in Exhibit “B.”

4. When labor or material is furnished by the DISTRICT below its market cost, the Construction Cost shall be based upon current market cost of labor and new material.

5. The Construction Cost shall be the acceptable estimate of Construction Costs to the DISTRICT as submitted by the ARCHITECT until such time as bids have been received, whereupon it shall be the bid amount of the lowest responsible responsive bidder.

6. Any Budget or fixed limit of Construction Cost shall be adjusted if the bidding has not commenced within ninety (90) days after the ARCHITECT submits the Construction Documents to the DISTRICT to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the DISTRICT and the date on which bids are sought for the PROJECT.

7. If the lowest bid received exceeds the Budget by more than ten percent (10%):

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

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

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

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

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

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

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

1. Estimates referred to in Article II shall be prepared on a square foot/unit cost basis, or more detailed computation if deemed necessary by the DISTRICT, considering prevailing construction costs and including all work for which bids will be received. It is understood that the PROJECT Construction Cost is affected by the labor and/or material market as well as other conditions beyond the control of the ARCHITECT or DISTRICT.

2. The ARCHITECT shall prepare and review the ARCHITECT's estimates of Construction Cost at each phase of the ARCHITECT's services. The ARCHITECT shall provide the DISTRICT with a written evaluation of the estimates at each phase of the ARCHITECT's services. The ARCHITECT's written evaluations shall, among other things, evaluate how the estimates compare to the Budget. If such estimates are in excess of the Budget, the ARCHITECT shall revise the type or quality of construction to come within the Budget at no additional cost to the DISTRICT. The ARCHITECT's initial budget and scope limitations shall be realistic and be reviewed with the DISTRICT prior to formalization.

3. The ARCHITECT, upon request of the DISTRICT, shall prepare a detailed estimate of Construction Costs in addition to those estimates required in Article II as an Additional Service. The ARCHITECT shall obtain prior written approval from the DISTRICT before performing such Additional Service.

## **ARTICLE VII - ARCHITECT'S DRAWINGS AND SPECIFICATIONS**

1. All documents including, but not limited to, plans, drawings, specifications, record drawings, models, mock-ups, renderings and other documents (including all computer files, BIM files and/or AutoCAD files) prepared by the ARCHITECT or the ARCHITECT's consultants for this PROJECT, shall be and remain the property of the DISTRICT pursuant to Education Code section 17316 for the purposes of repair, maintenance, renovation, modernization, or other purposes as they relate to the PROJECT. The DISTRICT, however, shall not be precluded from using the ARCHITECT's or ARCHITECT's consultant's documents enumerated above for the purposes of additions, alignments, or other development on the PROJECT site.

2. If DISTRICT intends to reuse ARCHITECT's plans, specifications, or other documents for a project or projects other than that which is the subject of this AGREEMENT, and for which the ARCHITECT is not the architect of record, a fee of three percent (3%) of the Construction Costs shall be paid to the ARCHITECT for such reuse. In the event of such reuse or modification of the ARCHITECT's drawings, specification, or other documents by any person, firm, or legal entity, the DISTRICT agrees to indemnify, defend, and hold the ARCHITECT harmless from and against any and all claims, liabilities, suits, demands, losses, costs, and expenses, including, but not limited to, reasonable attorneys' fees accruing to, or resulting from, any and all persons, firms, or any other legal entity, on account of any damage or loss to property or persons including, but not limited to, death arising out of such unauthorized use, reuse or modification of the ARCHITECT's drawings, specifications, or other documents. The DISTRICT further agrees to remove the names and seals of the ARCHITECT and the ARCHITECT's consultants from the title block and signature pages. The DISTRICT, however, may use the ARCHITECT's plans and documents as enumerated in this Article as reference documents for the purposes of additions, alignments, or other development on the PROJECT site. Prior to reuse of the ARCHITECT's documents for any project other than an addition, alignment, or other development on the PROJECT site, the DISTRICT agrees to notify the ARCHITECT in writing of such reuse.

## **ARTICLE VIII - TERMINATION**

1. This AGREEMENT may be terminated by either PARTY upon fourteen (14) days' written notice to the other PARTY in the event of a substantial failure of performance by such other PARTY, including insolvency of the ARCHITECT, or if the DISTRICT should decide to abandon or indefinitely

postpone the PROJECT.

2. In the event of a termination based upon abandonment or postponement by DISTRICT, the DISTRICT shall pay the ARCHITECT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records and expense reports, up until the date of the abandonment or postponement, plus any sums due the ARCHITECT for Board approved Additional Services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents, whether delivered to the DISTRICT or in the possession of the ARCHITECT. In the event termination is for a substantial failure of performance, all damages and costs associated with the termination, including increased consultant and replacement architect costs, shall be deducted from payments due the ARCHITECT.

3. In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience in accordance with Article VIII, Section 4, below, and ARCHITECT shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense, or liability may be claimed, requested, or recovered by ARCHITECT.

4. This AGREEMENT may be terminated without cause by the DISTRICT upon fourteen (14) days' written notice to the ARCHITECT. In the event of a termination without cause, the DISTRICT shall pay the ARCHITECT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records and expense reports, up until the date of notice of termination plus any sums due the ARCHITECT for Board-approved Additional Services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents, whether delivered to the DISTRICT or in the possession of the ARCHITECT. In addition, ARCHITECT will be reimbursed for reasonable termination costs through the payment of 3% beyond the sum due the ARCHITECT under this Section through 50% completion of the ARCHITECT's portion of the PROJECT and, if 50% completion is reached, payment of 3% of the unpaid balance of the contract to ARCHITECT as termination cost. This 3% payment is agreed to compensate the ARCHITECT for the unpaid profit ARCHITECT would have made under the PROJECT on the date of termination and is consideration for entry into this termination for convenience clause.

5. In the event of a dispute between the PARTIES as to performance of the work or the interpretation of this AGREEMENT, or payment or nonpayment for work performed or not performed, the PARTIES shall attempt to resolve the dispute. Unless the PARTIES can resolve the dispute amicably within thirty (30) calendar days of written notification of a dispute, the PARTIES shall prepare a written basis for the dispute, and a subsequent meeting shall be convened within fifteen (15) calendar days to discuss the issues among the executive leadership for each PARTY. Pending resolution of this dispute, ARCHITECT agrees to continue the work diligently to completion so long as the DISTRICT continues to make progress payments on all undisputed invoices submitted under this AGREEMENT. If the dispute is not resolved, ARCHITECT agrees it will neither rescind the AGREEMENT nor stop the progress of the work subject to the DISTRICT continuing to make undisputed progress payments, but ARCHITECT's sole remedy shall be to submit such controversy to determination by a court having

competent jurisdiction of the dispute after the PROJECT has been completed, and not before.

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

1. Records of the ARCHITECT’s direct personnel and reimbursable expenses pertaining to the services performed on this PROJECT and records of accounts between the DISTRICT and Contractor shall be kept on a generally recognized accounting basis and shall be available to the DISTRICT or his authorized representative at mutually convenient times.

**ARTICLE X - COMPENSATION TO THE ARCHITECT**

The DISTRICT shall compensate the ARCHITECT as follows:

1. The ARCHITECT’s fees for performing Additional Services related to change orders are paid as approved by the DISTRICT’s Board. If a change order is approved without ARCHITECT fee, no additional fees, if any, will be paid to the ARCHITECT unless negotiated and approved prior to commencing the change order-related services.

2. The ARCHITECT’s compensation for performing all the Basic Services required by this AGREEMENT including, but not limited to, those services detailed in Articles I and II, shall be as follows:

- Schematic Design Phase: No more than 10% of the fixed Architect Fee set forth in Exhibit “B” to this AGREEMENT, to be paid monthly based on actual level of completion
- Design Development Phase: No more than 15% of the fixed Architect Fee set forth in Exhibit “B” to this AGREEMENT, to be paid monthly based on actual level of completion
- Construction Docs Phase No more than 35% of the fixed Architect Fee set forth in Exhibit “B” to this AGREEMENT, to be paid monthly based on actual level of completion
- DSA Approval Phase: No more than 5% of the fixed Architect Fee set forth in Exhibit “B” to this AGREEMENT, to be paid upon DSA approval of the PROJECT including incorporation and approval of any back-check comments
- Bidding Phase: No more than 2% of the fixed Architect Fee set forth in Exhibit “B” to this AGREEMENT, to be paid monthly based on actual level of completion
- Construction Admin. Phase: No more than 28% of the fixed Architect Fee set forth in Exhibit “B” to this AGREEMENT and the accepted bid, to be paid monthly based on actual level of completion

Project Close-Out Phase: Balance of fixed Architect Fee set forth in Exhibit “B” to this AGREEMENT to be paid as follows: 2.5% upon submission of all required close-out documents to DSA and the final 2.5% upon receipt of close-out and DSA certification of the entire PROJECT and the Notice of Completion has been recorded.

3. The ARCHITECT and its consultants shall maintain time sheets detailing information including, but not limited to, the name of the employee, date, a description of the task performed in sufficient detail to allow the DISTRICT to determine the services provided, and the time spent for each task. The DISTRICT and ARCHITECT may otherwise mutually agree, in writing, on alternative types of information and levels of detail that may be provided by the ARCHITECT and its consultants pursuant to this Article X.

4. The ARCHITECT shall invoice all fees and/or costs monthly for the Basic Services that are provided in accordance with this AGREEMENT from the time the ARCHITECT begins work on the PROJECT. The ARCHITECT shall submit one (1) invoice monthly to the DISTRICT detailing all the fees associated with the applicable progress to completion percentage, reimbursable expenses (if any), and Additional Services (if any) incurred for the monthly billing period. Invoices requesting reimbursement for expenses incurred during the billing period must clearly list items for which reimbursement is being requested and be accompanied by proper documentation (e.g., receipts, invoices), including a copy of the DISTRICT’s authorization notice for the invoiced item(s), if applicable. Invoices requesting payment for Additional Services must reflect the negotiated compensation previously approved by the DISTRICT and include a copy of the DISTRICT’s written authorization notice approving the Additional Services and the additional compensation approved by the DISTRICT. No payments will be made by the DISTRICT to the ARCHITECT for monthly invoices requesting reimbursable expenses or Additional Services above agreed upon amounts in Article XI, Section 2 absent the prior written authorization of the DISTRICT. The DISTRICT’s prior written authorization is an express condition precedent to any payment by the DISTRICT for Additional Services or reimbursable expenses and no claim by the ARCHITECT for additional compensation related to Additional Services or reimbursable expenses shall be valid absent such prior written approval by the DISTRICT.

5. When any portions of the PROJECT are deleted or otherwise not constructed, compensation for those portions of the PROJECT shall be likewise correspondingly adjusted, to the extent actual services are performed, in accordance with the schedule set forth in Article X, Section 2 above. If the PROJECT is deleted in its entirety prior to bid, this AGREEMENT may be voided by the DISTRICT except to the extent services have been rendered pursuant to the approval of the DISTRICT’s Board.

6. To the extent that the time initially established for the completion of ARCHITECT’s services is exceeded or extended through no fault of the ARCHITECT, compensation for any services rendered during the additional period of time shall be negotiated and subject to the prior written approval of the DISTRICT.

## **ARTICLE XI - REIMBURSABLE EXPENSES**

1. Reimbursable expenses are in addition to compensation for basic and extra services, and

shall be paid to the ARCHITECT at one and one-tenth (1.1) times the expenses incurred by the ARCHITECT, the ARCHITECT's employees and consultants for the following specified items as required herein:

- a. Approved reproduction of drawings and specifications in excess of the copies provided by this AGREEMENT which includes all the sets of the Construction Documents and all progress prints;
- b. Approved agency fees;
- c. Messenger and/or delivery service costs if requested by the DISTRICT

2. Approved reimbursable expenses are estimated to be as follows: in an amount not to exceed Twenty Four Thousand Two Hundred Fifty Dollars (\$24,250.00). These amounts shall not be exceeded without the prior written approval of the DISTRICT.

3. Reimbursable Expenses shall not include the following specified items or any other item not specifically identified in this Article:

- a. Travel expenses;
- b. Check prints;
- c. Prints or plans or specifications made for ARCHITECT's consultants and all progress prints;
- d. Preliminary plans and specifications;
- e. ARCHITECT's consultants' reimbursable expenses except for plotting or printing to meet requirements for governing agencies as approved by the DISTRICT;
- f. Study models or mock-ups; and
- g. Meetings with Cities, planning officials, fire departments, DSA, State Allocation Board or other public agencies.

4. The DISTRICT's prior written authorization is an express condition precedent to any reimbursement to ARCHITECT of such costs and expenses for items not included in this Article as an allowable reimbursable expense, and no claim for any additional compensation or reimbursement shall be valid absent such prior written approval by DISTRICT. Payment for these reimbursable expenses shall be made as set forth in Article X.

## **ARTICLE XII - EMPLOYEES AND CONSULTANTS**

1. The ARCHITECT, as part of the ARCHITECT's basic professional services, shall furnish the consultant services necessary to complete the PROJECT including, but not limited to: landscape architects; structural, mechanical, electrical and civil engineers; and any other necessary design professionals and/or consultants as determined by the ARCHITECT and acceptable to the DISTRICT. All consultant services shall be provided at the ARCHITECT's sole expense. The ARCHITECT shall be responsible for the coordination and cooperation of all architects, engineers, experts or other consultants employed by the ARCHITECT. The ARCHITECT shall ensure that its engineers and/or other consultants file the required Interim Verified Reports, Verified Report and other documents that are necessary for the PROJECT's timely inspection and close-out as required by the applicable governmental agencies and/or

authorities having jurisdiction over the PROJECT including, but not limited to, DSA. The ARCHITECT shall ensure that its engineers and consultants observe the construction of the PROJECT during the course of construction, at no additional cost to the DISTRICT, to maintain such personal contact with the PROJECT as is necessary to assure such engineers and consultants that the Contractor's work is being completed, in every material respect, in compliance with the DSA approved Construction Documents (in no case shall the number of visits be less than once every week or as necessary to observe work being completed in connection with each block/section of a PIC so such engineers and consultants can verify that the work does or does not comply with the DSA approved Construction Documents, whichever is greater).

2. The ARCHITECT shall submit, for written approval by the DISTRICT, the names of the consultants and/or consultant firms proposed for the PROJECT. The ARCHITECT shall notify the DISTRICT of the identity of all design professionals and/or consultants in sufficient time prior to their commencement of services to allow the DISTRICT a reasonable opportunity to review their qualifications and object to their participation on the PROJECT if necessary. The ARCHITECT shall not assign or permit the assignment of any design professionals, engineers, or other consultants to the PROJECT to which DISTRICT has a reasonable objection. Approved design professionals and/or consultants shall not be changed without the prior written consent of the DISTRICT. Nothing in this AGREEMENT shall create any contractual relation between the DISTRICT and any consultants employed by the ARCHITECTS under the terms of this AGREEMENT.

3. ARCHITECT's consultants shall be licensed to practice in California and have relevant experience with California school design and construction during the last five years. If any employee or consultant of the ARCHITECT is not acceptable to the DISTRICT, then that individual shall be replaced with an acceptable competent person at the DISTRICT's request.

4. The construction administrator or field representative assigned to the PROJECT by the ARCHITECT shall be licensed as a California Architect and able to make critical PROJECT decisions in a timely manner and shall be readily available and provide by phone, facsimile, and through correspondence, design direction and decisions when the construction administrator is not at the site.

### **ARTICLE XIII – MISCELLANEOUS**

1. The ARCHITECT shall make a written record of all meetings, conferences, discussions, and decisions made between or among the DISTRICT, ARCHITECT, and Contractor during all phases of the PROJECT and concerning any material condition in the requirements, scope, performance and/or sequence of the work. The ARCHITECT shall provide a copy of such record to the DISTRICT.

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

a. Workers' Compensation and Employer's Liability. Any and all claims under Workers' Compensation acts and other employee benefit acts with respect to ARCHITECT's employees or ARCHITECT's subcontractor's employees arising out of ARCHITECT's work under this AGREEMENT; and

b. General Liability. To the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the ARCHITECT, the ARCHITECT shall indemnify and hold the DISTRICT harmless from any liability for damages for (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law; or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the ARCHITECT or the DISTRICT, or any person, firm or corporation employed by the ARCHITECT or the DISTRICT upon or in connection with the PROJECT, except for liability resulting from the sole or active negligence, or willful misconduct of the DISTRICT, its officers, employees, agents, or independent Architects who are directly employed by the DISTRICT or other third parties for which the ARCHITECT is not legally liable. The ARCHITECT, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the DISTRICT (other than professional negligence covered by Section c below), its officers, agents, or employees, to the extent such claims, actions, suits, or other proceedings arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the ARCHITECT, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents, or employees, in any action, suit or other proceedings as a result thereof. Any costs to defend under this Section b shall not exceed the ARCHITECT's proportionate percentage of fault; and

c. Professional Liability. To the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the ARCHITECT, the ARCHITECT shall indemnify and hold the DISTRICT harmless from any loss, injury to, death of persons, or damage to property caused by any act, neglect, default, or omission of the ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm, or corporation, including the DISTRICT, arising out of, or in any way connected with, the PROJECT, including injury or damage either on or off DISTRICT property; but not for any loss, injury, death, or damages caused by sole or active negligence, or willful misconduct of the DISTRICT or other third parties for which the ARCHITECT is not legally liable. With regard to the ARCHITECT's obligation to indemnify for acts of professional negligence, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought against the DISTRICT, but rather to reimburse the DISTRICT for attorneys' fees and costs incurred by the DISTRICT in defending such actions or proceedings brought against the DISTRICT, and such fees and costs shall not exceed the ARCHITECT's proportionate percentage of fault.

d. The PARTIES understand and agree that Article XIII, Section 2, of this AGREEMENT shall be the sole indemnity, as defined by California Civil Code § 2772, between the DISTRICT and the ARCHITECT related to the PROJECT. Any other indemnity that is attached to this AGREEMENT as part of any EXHIBIT shall be void and unenforceable between the PARTIES.

e. Any attempt to limit the ARCHITECT's liability to the DISTRICT in any of the exhibits or attachments to this AGREEMENT shall be void and unenforceable between the PARTIES.

3. ARCHITECT shall purchase and maintain policies of insurance with an insurer or insurers

qualified to do business in the State of California and acceptable to DISTRICT, which will protect ARCHITECT and DISTRICT from claims which may arise out of, or result from, ARCHITECT's actions or inactions relating to the AGREEMENT, whether such actions or inactions be by themselves or by any subconsultant, subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

a. The ARCHITECT shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California. However, such amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).

b. Commercial general and auto liability insurance, with limits of not less than TWO MILLION DOLLARS (\$2,000,000.00) combined single limit, bodily injury and property damage liability per occurrence, including:

1. Owned, non-owned, and hired vehicles;
2. Blanket contractual;
3. Broad form property damage;
4. Products/completed operations; and
5. Personal injury.

c. Professional liability insurance, including contractual liability, with limits of TWO MILLION DOLLARS (\$2,000,000.00) per claim. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that ARCHITECT subcontracts any portion of ARCHITECT's duties, ARCHITECT shall require any such subcontractor to purchase and maintain insurance coverage as provided in this Section. Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

d. Valuable Document Insurance. The ARCHITECT shall carry adequate insurance on all drawings and specifications as may be required to protect the DISTRICT in the amount of its full equity in those drawings and specifications, and shall file with the DISTRICT a certificate of that insurance. The cost of that insurance shall be paid by the ARCHITECT, and the DISTRICT shall be named as an additional insured.

e. Each policy of insurance required under Article XIII, Section 3(b) above, shall name the DISTRICT and its officers, agents, and employees as additional insureds; shall state that, with respect to the operations of ARCHITECT hereunder, such policy is primary and any insurance carried by DISTRICT is excess and non-contributory with such primary insurance; shall state that not less than thirty (30) days' written notice (ten (10) days-notice for cancellation based upon non-payment of premiums) shall be given to DISTRICT prior to cancellation; and, shall waive all rights of subrogation. ARCHITECT shall notify DISTRICT in the event of material change in, or failure to renew, each policy. Prior to commencing work, the ARCHITECT shall deliver to DISTRICT certificates of insurance as evidence of compliance with the requirements herein. In the event the ARCHITECT fails to secure or maintain any policy of insurance required

hereby, the DISTRICT may, at its sole discretion, secure such policy of insurance in the name of, and for the account of, ARCHITECT, and in such event ARCHITECT shall reimburse DISTRICT upon demand for the cost thereof.

f. In the event that the ARCHITECT subcontracts any portion of the ARCHITECT's duties, the ARCHITECT shall require any such subcontractor to purchase and maintain insurance coverage for the types of insurance referenced in Article XIII, Sections 3(a), (b), (c) and (d), in amounts which are appropriate with respect to that subcontractor's part of work which shall in no event be less than \$500,000 per occurrence. The ARCHITECT shall not subcontract any portion of the ARCHITECT's duties under this AGREEMENT without the DISTRICT's prior written approval. Specification processing consultants are the only subcontractors exempt from maintaining professional liability insurance.

g. All insurance coverage amounts specified hereinabove shall cover only risks relating to, or arising out of, the PROJECT governed by this particular AGREEMENT. The insurance and required amounts of insurance specified above shall not be reduced or encumbered on account of any other projects of the ARCHITECT.

4. The ARCHITECT, in the performance of this AGREEMENT, shall be and act as an independent contractor. The ARCHITECT understands and agrees that the ARCHITECT and all of the ARCHITECT's employees shall not be considered officers, employees, or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT's employees are normally entitled including, but not limited to, State Unemployment Compensation or Workers' Compensation. ARCHITECT assumes the full responsibility for the acts and/or omissions of the ARCHITECT's employees or agents as they relate to the services to be provided under this AGREEMENT. The ARCHITECT shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security, and income taxes for the respective employees of the ARCHITECT.

5. Notices. All notices or demands to be given under this AGREEMENT by either PARTY to the other shall be in writing and given either by: (a) personal service; or (b) U.S. Mail, mailed either by registered, overnight, or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either PARTY may be changed by written notice given in accordance with the notice provisions of this Section. At the date of this AGREEMENT, the addresses of the PARTIES are as follows:

DISTRICT:

**Beaumont Unified School District**  
350 Brookside Avenue  
Beaumont, CA 92223  
Attn: Carmen Ordonez, Director of Fiscal Services  
Telephone: (951) 845-1631 ext.005360  
Email:

ARCHITECT:

**PBK Architects, Inc.**  
8163 Rochester Ave., Ste. 100  
Rancho Cucamonga, CA 91730  
Attn: Gilbert Baez  
Telephone: 909-987-0909  
Email: gilbert.baez@pbk.com

6. The ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, shall be prohibited from using tobacco products (smoking, chewing, etc.) on DISTRICT property at all times.

7. The ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, shall be prohibited from using profanity on DISTRICT property including, but not limited to, all school sites and this prohibition shall include, but is not limited to, all racial, ethnic and/or sexual slurs or comments which could be considered harassment.

8. Appropriate dress by the ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, is mandatory. Therefore, tank tops, cut-offs and shorts shall not be allowed. Additionally, what is written or pictured on clothing must comply with the requirements of acceptable language as set forth above in Section above.

9. During the entire term of this AGREEMENT, the ARCHITECT, if applicable, shall fully comply with the provision of Education Code section 45125.1 (Fingerprint Requirements) when it is determined that the ARCHITECT will have contact with the DISTRICT's pupils while performing any services under this AGREEMENT.

10. Nothing contained in this AGREEMENT shall create a contractual relationship with, or a cause of action in favor of, any third party against either the DISTRICT or ARCHITECT.

11. The DISTRICT and ARCHITECT, respectively, bind themselves, their partners, officers, successors, assigns, and legal representatives to the other PARTY to this AGREEMENT with respect to the terms of this AGREEMENT. ARCHITECT shall not assign this AGREEMENT.

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

13. This AGREEMENT represents the entire AGREEMENT between the DISTRICT and ARCHITECT and supersedes all prior negotiations, representations, or agreements, either written or oral. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the DISTRICT and the ARCHITECT.

14. If either PARTY becomes involved in litigation arising out of this AGREEMENT or the performance thereof, each PARTY shall bear its own litigation costs and expenses, including reasonable attorneys' fees.

15. This AGREEMENT shall be liberally construed to effectuate the intention of the PARTIES with respect to the transaction described herein. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase, or provision of this AGREEMENT, neither this AGREEMENT nor any uncertainty or ambiguity herein will be construed or resolved against either PARTY (including the PARTY primarily responsible for drafting and preparation of this AGREEMENT), under any rule of construction or otherwise, it being expressly understood and agreed that the PARTIES have participated equally or have had equal opportunity to participate in the drafting hereof.

16. The ARCHITECT is prohibited from capturing on any visual medium images of any property, logo, student, or employee of the DISTRICT, or any image that represents the DISTRICT without express written consent from the DISTRICT.

17. In accordance with Education Code section 17604, this AGREEMENT is not valid, binding, or an enforceable obligation against the DISTRICT until approved or ratified by motion of the Governing Board, duly passed and adopted.

18. The Parties may execute this Agreement in two (2) or more counterparts, which shall, in the aggregate, be signed by all of the Parties; each counterpart shall be deemed an original instrument as against any Party who has signed it. The Parties further agree that signatures sent by electronic mail, in .PDF or similar format, shall be treated as original signatures to this Agreement.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

*[Signatures on the following page]*

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

**PBK Architects, Inc.**

**BEAUMONT UNIFIED SCHOOL  
DISTRICT**

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Gilbert Baez  
Partner

---

Carmen Ordonez,  
Director of Fiscal Services

**EXHIBIT “A”**

[INSERT ARCHITECT’S PROPOSAL, IF ANY]

**EXHIBIT “B”**  
**ARCHITECT’S FIXED FEE**

ARCHITECT shall be paid a fixed fee amount of One Hundred Eighty Three Thousand Seven Hundred Fifty Dollars (\$183,750.00) for all services to be provided under this AGREEMENT. This amount shall not be increased or otherwise changed unless set forth in a written amendment to the AGREEMENT and fully executed by the PARTIES and approved by the DISTRICT’s Board of Education. No other fees, costs or other expenses, other than approved reimbursable expenses under Article XI or approved Additional Services under Article III, shall be paid to the ARCHITECT.

**EXHIBIT “C”**

**ACKNOWLEDGMENT OF CONDITIONS TO THE RECEIPT OF  
3D BUILDING INFORMATION FILES**

Warnings and/or Conditions of Use are stated on the attached label and/or the enclosed media. Breaking this seal and using the enclosed electronic data is acknowledgment and acceptance of those terms.

The documentation and all ideas, aesthetics and designs incorporated herein are instruments of service and as such are the registered property of ARCHITECT, and cannot be lawfully used without permission. The recipient is granted a license for use, but only in the execution of “the project”. Use of these materials for modification, extension, alteration or expansion of this project or on any other project, unless under the direction of ARCHITECT is prohibited and neither ARCHITECT nor its consultants assumes any liability for such usage. ARCHITECT makes no representation concerning the accuracy of this documentation and is not responsible for any errors and/or omissions which may be incorporated herein. Because data stored in electronic media can be altered, either intentionally or unintentionally, by transcription, computer errors, environmental factors, or by operator error, it is agreed that by opening, installing, copying or otherwise using the attached files, you are agreeing to save, indemnify, defend and hold harmless ARCHITECT and its consultants from and against any and all claims, liabilities, losses, damages and costs, including but not necessarily limited to costs of defense, arising out of use, changes or modifications to the electronic media outside the license granted by this agreement.

Warning: This File is furnished without guarantee of compatibility with recipient’s hardware or software and may contain undetected viruses or other harmful material. It is recommended that this file be checked prior to use. ARCHITECT assumes no responsibility for damage to user’s property as a result of using this file and/or its contents.

October 22, 2024

VIA: Email



Ms. Ana Gonzalez  
Director of Planning and Development  
Beaumont Unified School District  
350 W. Brookside Ave.  
Beaumont, CA 92223

**Re: A/E Fee Amendment Proposal 01 – Beaumont USD – Beaumont Education Support Facilities Portables**

Dear Ms. Gonzalez:

PBK provided full design services to complete the initial site development scope of work. Initial scope of work included site design for a new Maintenance and Operations Yard extension. Construction documents were completed for review and approval by the District.

At the end of the construction documents phase of the initial scope of work, the District directed PBK to include three (3) staff portable buildings and 1 staff restroom portable building for training purposes. This added scope of work required the project to be submitted to the Division of the State Architect (DSA) for review and approval. The area of work limits had to be extended to include the existing ADA parking stalls at the existing parking lot and to public right of way. Scope of work required an additional topographic field survey to verify ADA compliance of the path of travel. Additionally, a field utility survey/ potholing locate to determine the capacity and depth of the sewer and water lines adjacent to the area of work was required. MEP and Technology services were required to be included in the design.

- Two staff office portable buildings
- One assembly/MPR portable building
- One staff restroom portable building
- Topographic Field Survey and Utility Locate (Reimbursement)

After completing the design for the above outlined added scope of work, the District decide to include two classroom portable buildings. This added scope of work required grading, utility, MEP and Technology redesign and CAL-Green requirements. Additionally, existing underground storm pipe was requested to be included in the design to be fixed. This scope of work and CAL-Green requirements required additional field survey of the existing basin adjacent to the projects area of work.

- Two classroom portable buildings
- Modified staff restroom portable building to staff and student restroom portable building
- CGS submittal fee to submit the Geotech Report (Reimbursement)
- Topographic Field Survey (Reimbursement)
- CDE submittal

This proposal is for a fee adjustment due to the added scope of work; Site redesign, utility design, topographic field surveys, utility locate survey, CAL-Green required to verify existing site grading and utility locations and capacity.

Exclusions:

Storm Water Pollution Plan (SWPP)  
Water Quality Management Plan (WQMP)  
Construction Management Services

Based on the increase of the project scope of work, our basic services fee structure shall be a fixed fee. The new increased fee associated is \$183,750.00.

The reimbursable expenses shall be consistent with those items as listed in the Agreement for Architectural Services.

**Contract Summary**

Basic Services:	\$ 58,500.00
Reimbursable Fee:	\$ 3,850.00
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Total Contract Value	\$ 62,350

Fee Reconciliation A/E (new):	\$ 183,750.00
Reimbursable Fee:	\$ 24,250.00
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Subtotal Contract Value	\$ 208,000.00

Grand Total Contract Value (excludes reimbursable fees)	
	\$ 58,500.00 (initial A/E fee)
	\$ 183,750.00 (increased A/E fee)
	\$ 242,250.00

Please do not hesitate to call at any time if you should have any questions.

Sincerely



Gerry Sandoval  
Senior Project Manager – Senior Associate, PBK

Cc: Stephanie Quintero