

ATTACHMENT "A"

MASTER AGREEMENT FOR ARCHITECTURAL SERVICES

This Agreement for Architectural Services ("Agreement") is made as of this XX day of XXX between the West Hills Community College District, 275 Phelps Avenue, Coalinga, CA 93210 ("District") and XXXXXXXXXX ("Architect"), (collectively hereinafter the "parties").

WHEREAS:

The District intends to develop and/or engage in new construction, additions/renovations, re-construction, modernization, master planning activities, and/or expansion of District's community college school site(s) and/or other academic and non-academic facilities, ("Project(s)"). From time to time, the District will authorize Architect to commence with Basic Services or Additional Services, as included in this Master Agreement for Architectural Services, for an identified Project by issuing a mutually acceptable Work Authorization to this Agreement for the identified project. District may elect to assign Architect to render architectural Services as set forth herein on one or more of the Projects, or any portion thereof, at District's sole discretion, and Architect agrees to render such Services as assigned by District.

Architect represents that Architect is fully licensed, qualified, and willing to perform the Services required by this Agreement (with the understanding that if Architect is a corporation or other organization, then the Project Architect specified herein is fully licensed to practice as an architect in the State of California).

NOW THEREFORE:

The parties agree as follows:

ARTICLE 1. DEFINITIONS.

The following definitions for words and phrases shall apply when used in this Agreement, including all Exhibits:

- 1.1 Agreement: The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
- 1.2 Architect: The Architect listed in the first paragraph of this Agreement, including all Consultants to the Architect unless herein indicated otherwise.
- 1.3 As-Built Drawings ("As-Builts"): Any document prepared and submitted by District's Contractor(s) that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by change orders.

- 1.4 Bid Set: The plans, drawings, and specifications at the end of the Construction Documents Phase that DSA has approved and that the District can use to go out to bid for construction of the Project.
- 1.5 Conforming Set: The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase. The Architect shall ensure that DSA has approved all revisions to the Bid Set that are incorporated into the Conforming Set and for which DSA approval is required.
- 1.6 Construction Budget: The total amount indicated by the District for the entire Project plus all other costs, including design, construction, administration, financing, and all other costs.
- 1.7 Construction Cost Budget: The total cost to District of all elements of the Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with this Agreement. The Construction Cost Budget does not include the compensation of the Architect and the Architect's Consultants, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the District, including construction management or any other soft costs.
- 1.8 Contractor(s): The Contractor(s) to whom the District has awarded a contract to construct the project.
- 1.9 Consultant(s): Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Architect.
- 1.10 District: West Hills Community College District
- 1.11 DSA: The Division of the State Architect.
- 1.12 Program Manager: District's consultant under separate agreement, assisting the District in the management of this Project. Any program manager on this Project would be the District's agent for communication to and from the District, and would be from time to time, authorized to give Architect instructions, information or authorizations and to issue written approvals and Notices to Proceed on behalf of District. The District reserves the right to designate a different Program Manager at any time. Any task, including, but not limited to, reviews or approvals that the District may perform pursuant to this Agreement may be performed by the Program Manager, unless that task indicates it shall be performed by the governing board of the District. The District may or may not have a Program Manager for each Project.
- 1.13 Project Manager: To the extent District does not utilize a Program Manager on this project, the District will identify a Project Manager who will perform the duties otherwise performed by a Program Manager, including without limitation being the contact person for the District.

- 1.14 Project Program Report (PPR). A District generated document that tracks the Project (s) scope during initial planning through completion to assure budgetary, schedule, and scope of work compliance. The PPR includes, without limitation, Project description, scope, budget, schedule, and funding sources, and should reflect any known soft costs such as DSA fees, Architect's fees, testing and inspection costs, contingency, furniture, and management fees, if applicable. It is updated throughout stages of the Project and is subject to District's approval at each phase or stage of the Project.
- 1.15 Record Drawings: A final set of drawings prepared by the Architect that incorporates all changes from all As-Builts, sketches, details, and clarifications.
- 1.16 Service(s): All labor, materials, supervision, services, tasks, and work that the Architect is required to perform and that are required by, and/or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.
- 1.17 Visually Verify: To verify to the fullest extent possible by timely and reasonable physical inspection and reasonable investigation without any intrusive action.

ARTICLE 2. EMPLOYMENT OF ARCHITECT / PROJECT ASSIGNMENT.

- 2.1 Any Services to be rendered by Architect will be assigned by District to Architect, in District's sole discretion, by execution of a Board approved Work Authorization, as further described below, at any time during a period of five (5) years commencing from the effective date of this Agreement as noted, above. For any such Project(s), Architect agrees to accept such employment and perform the specified professional architectural Services, to include, as applicable, the pre-design, design, technical documentation, agency approval, and construction administration Services (including the Services of all design professionals, special Consultants and engineers employed as Consultants by the Architect on the Project(s)), so as to provide District with site, building and related improvements designed and installed in a professional, structurally sound, timely and cost-effective manner, in accordance with applicable codes and laws, consistent with the highest standards of the profession at the time those Services are performed, all within the approved construction budget.
- 2.2 Work Authorizations. For purposes of this Agreement, Work Authorizations, a sample of which is attached hereto as **Exhibit A**, are District-generated documents which particularize and more fully describe each individual task, scope of work, and project to be performed, and the associated fee schedule, pursuant to the terms of this Agreement.
 - 2.2.1 Each Work Authorization is required to be approved by District's Board of Trustees and fully executed prior to the commencement of any Services by Architect. All references to Architect's Services on Project(s) hereunder are subject to and predicated upon executed Work Authorizations. In no event shall any language contained herein be construed to exempt such authorization and assignment by District to Architect as set forth in this Agreement. No Work

Authorization shall be binding on District unless it is executed by District and approved by the Board of Trustees. Each Work Authorization may be individually terminated even if this Agreement is not so terminated.

- 2.2.2 In the event that any Services under individual Work Authorizations continue after the date of expiration of this Agreement, i.e., where a project is started but not completed within the terms of this Agreement, such Services shall continue under the terms and conditions of this Agreement until completion, unless specific notice of termination for those Services is provided in accordance with this Agreement.
- 2.2.3 The basic scope of Services of the Architect hereunder (including the Services of all design professionals, special Consultants and engineers employed as Consultants by the Architect on any Project(s) hereunder) will vary from one Work Authorization to another and will be specifically defined by each such Work Authorization and by the terms of this Agreement.
- 2.3 This Agreement includes a performance evaluation of Architect at the conclusion of each phase of a Capital Outlay Project. The evaluation will occur between the Architect and the District evaluator. Evaluations are used to give the Architect feedback and will influence future District assignments of Architectural Services.
- 2.4 Upon assignment of any Project(s) to Architect hereunder, Architect shall timely submit to District for approval the name of the Project Architect who is fully licensed to practice as an architect in the State of California. The Project Architect shall maintain personal oversight of the Project and act as principal contact with District, the Contractor, Architect's Consultants, engineers, and with all inspectors on the Project(s). The Project Architect shall not be changed without the express written consent of the District, which consent shall not be unreasonably withheld.
- 2.5 Time of the Essence. In this Agreement, Architect shall perform all Services hereunder as expeditiously as is consistent with professional skill and care and the orderly progress of the work.
 - 2.5.1 On request of District, Architect shall prepare an estimated time schedule for the performance of Architect's Services, to be adjusted as the Project proceeds. Such schedule shall include allowances for periods of time required for District's review and approval of submissions and for approvals of authorities having jurisdiction over the Project(s) approval and for funding. The schedule shall not be exceeded by Architect, without the prior written approval of District.
 - 2.5.2 Any delays in Architect's work because of the actions of District or its employees, those in direct contractual relationship with District, by a governmental agency having jurisdiction over the Project(s), or by an

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

2.5.3 Should Architect make an application for an extension of time, Architect shall submit evidence that the insurance policies required by this Agreement will remain in effect during the requested additional period of time.

2.6 Architect understands that the exact scope of Services may be changed should District elect to utilize other delivery methods. In that event, the Matrix attached hereto as **Exhibit B** shall further clarify the scope of Services, and shall govern in instances of inconsistencies with language, herein.

ARTICLE 3. ARCHITECT'S BASIC SERVICES.

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

3.1 Architect shall provide Services that shall comply with all applicable requirements of federal, state, and local law.

3.2 Storm Water Requirements. Architect acknowledges that all California school districts are now or will soon be obligated to develop and implement the following storm water requirements, without limitation:

3.2.1 A municipal Separate Storm Sewer System (MS4). An MS4 is a system of conveyances used to collect and/or convey storm water, including; without limitation, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

3.2.2 A Storm Water Pollution Prevention Plan (SWPPP) at:

3.2.2.1 Sites where the District engages in maintenance (e.g., fueling, cleaning, repairing) of transportation activities.

3.2.2.2 Construction sites where:

3.2.2.2.1 One (1) or more acres of soil will be disturbed, or

3.2.2.2.2 The project is part of a larger common plan of development that disturbs more than one (1) or more acres of soil.

3.2.3 Architect shall conform its design work with the District's storm water requirements indicated above, that are approved by the District and applicable to the Project, at no additional cost to the District. In addition as required, Architect shall develop a grading and drainage plan and a site plan from architectural information showing a final development of the site. This drawing will also include a horizontal and vertical control plan and a utility

infrastructure plan. The Services described in this part shall be provided by a professional civil engineer who contracts with or is an employee of the Architect. The District shall separately contract for the Storm Water Management Plan and the Master SWPP, if and when required. The Architect shall prepare the SWPP and will submit the SWPP to the City, or the applicable local jurisdiction, and obtain permits. The Architect shall cooperate with the District and the Contractor in the performance of these Services. The District, at its sole discretion, may pay the Architect for Extra Services to comply with the provision if the Services required are in excess of those normally required for Services of the type in this Agreement.

- 3.3 Consultants. Architect shall contract for or employ at Architect's expense, all consultant(s) to the extent Architect deems necessary for completion of the Project including, but not limited to, architects, mechanical, electrical, plumbing, structural, or civil engineers, landscape architects, and interior designers, licensed as such by the State of California. The names of consultant(s) shall be submitted to the District for approval prior to commencement of Services, as indicated below. The District reserves the right to reject the Architect's use of any particular consultant. Nothing in the foregoing procedure shall create any contractual relationship between the District and any consultant employed by, or under contract to, the Architect under terms of the Agreement.
- 3.3.1 Architect may delegate to such Consultants such duties as Architect is permitted by law to delegate without relieving Architect from administrative or other responsibility under law or this Agreement. Architect shall be responsible for the coordination and cooperation of Architect's Consultants. Architect shall notify District of the identity of all Consultants prior to their commencement of work.
- 3.3.2 Engineers and other Consultants retained by Architect in performance of this Agreement may be required to show, maintain and provide evidence of a policy of professional liability and/or project insurance, if available, meeting the same requirements as set for the Architect. District may consider reduced limits for sub-consultants when requested in writing.
- 3.3.3 Any changes in Architect's engineers, Consultants, or other staff or key personnel working on the Project(s) shall be subject to prior written approval by District.
- 3.3.4 Draftsmen and other clerical personnel shall be retained by Architect at Architect's sole expense.
- 3.3.5 If any designated lead or key person fails to perform to the satisfaction of the District, then the District shall notify the Architect of the District's dissatisfaction with those person(s). The Architect shall have five (5)

days to remove that person from the Project and replace that person with one acceptable to the District. All lead or key personnel for any consultant must also be designated by the consultant and are subject to all conditions previously stated in this paragraph.

- 3.3.6 Architect shall comply with Education Code section 81138(a) and agrees that any plans and/or specifications included in the Services shall be prepared under the supervision of licensed personnel, and that licensed personnel shall be in “responsible charge” of persons who observe the construction.
- 3.4 Architect shall coordinate the performance of its Services with District personnel and its designated representatives as may be necessary, including with other professionals employed by the District for the design, coordination, or management of other work related to the Project. This shall include, without limitation, coordination with the persons responsible for operation of the District’s Labor Compliance Program, if any. If the Architect employs consultant(s), the Architect shall ensure that its contract(s) with its consultant(s) include language notifying the consultant(s) of the District’s Labor Compliance Program, if any.
- 3.5 Architect shall identify the regulatory agencies that have jurisdiction over essential building and design elements and coordinate with and implement the requirements of the regulatory agencies, including, without limitation, California Department of Education (CDE), the Office of Public School Construction (OPSC), the Department of General Services (DGS), DSA Fire/Life Safety, DSA Access Compliance Section, DSA Structural Safety, State Fire Marshal, the Community College Chancellors Office, and any regulatory office or agency that has authority for review and supervision of school district or community college construction projects. Architect shall cause any and all drawings and specifications to conform to applicable requirements of law, (local, regional, and state), and to requirements of the identified regulatory agencies whose approval of the drawings and specifications must be obtained, and shall cause the necessary copies of such drawings and specifications to be filed with these bodies for approval.
- 3.6 Architect shall provide Services required to assist the District in its efforts to obtain local agencies’ approval for off-site work related to the Project including review by regulatory agencies having jurisdiction over the Project.
- 3.7 Architect shall coordinate with, and provide technical direction of the work of, the District’s DSA Project Inspector(s), also referred to as Inspector(s) of Record (IORs).
- 3.8 As part of the basic Services pursuant to this Agreement, Architect is NOT responsible for the following services which, if necessary, shall be procured by the District:
 - 3.8.1 Ground contamination or hazardous material analysis.

- 3.8.2 Any asbestos and/or lead testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
- 3.8.3 Compliance with the California Environmental Quality Act ("CEQA"), except that Architect agrees to coordinate its work with that of any CEQA Consultants retained by the District, to provide current elevations and schematic drawings for use in CEQA compliance documents, and to incorporate any mitigation measures adopted by the District into the Project design at no additional cost to the District. If the District and/or its CEQA consultant does not provide mitigation measures to the Architect when reasonably required for incorporation into the Project Design, the Architect may invoice the District for the work required to incorporate those mitigation measures as Extra Services.
- 3.8.4 Historical significance report.
- 3.8.5 Soils investigation.
- 3.8.6 Geotechnical hazard report.
- 3.9 Communication with District. Architect shall participate in consultations and conferences with authorized representatives of District and/or other local, regional, or state agencies concerned with the Project(s) necessary for the development of the drawings, specifications, and documents in accordance with the applicable standards and requirements of law and District. Such consultations and conferences shall continue, as required, through the planning and construction of the Project(s) and the Contractor's warranty period, as may be required pursuant to this Agreement.
- 3.10 Scope of Basic Services. The full scope of Architect's Basic Services include, without limitation, all items discussed below, in relation to Design, Project Initiation, Architectural Program, Basis of Design, Schematic Design, Design Development, Final Working Drawings and Specifications, Project Manual, Construction Documents, Bidding Services, Construction Administration, Project Closeout, DSA closeout, and others, as indicated in this Agreement.
- 3.11 Architect will use its best professional efforts to interpret applicable ADA requirements and California law to inform District of any inconsistencies between federal and state accessibility regulations and of requirements which are subject to conflicting interpretations of the law.

ARTICLE 4. PROJECT INITIATION

Upon final execution of the Work Authorization with the District, the Architect shall:

- 4.1 Within six (6) weeks following execution of the Work Authorization, review the proposed Schedule of Work and prepare a detailed scope of work list and work plan for

documentation in a computer-generated Project schedule to the District's satisfaction. This scope of work list and work plan will identify specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, planning, architectural programming, concepts and schematic design preparation and estimating that are part of the work of the Project. Architect shall also identify milestone activities or dates, specific task responsibilities, required completion times necessary for the review and approval by the District and by all regulatory agencies and additional definition of deliverables.

- 4.2 Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.

ARTICLE 5. DEVELOPMENT OF ARCHITECTURAL PROGRAM

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

- 5.1 Perform pre-design investigations to establish appropriate guidelines around which and within which the Project is to be designed, including:
 - 5.1.1 Identify design issues relating to functional needs, directives and constraints imposed by regulatory codes.
 - 5.1.2 Review all data pertinent to the Project including: surveys, site maps, geotechnical reports and recommendations, soil testing results reports, pertinent historical data, and other relevant information provided by District.
 - 5.1.3 Review DSA requirements pertaining to the proposed Project design.
 - 5.1.4 Based on survey and topography data provided by the District, input into computer and develop existing conditions base for the Schematic Design Phase
 - 5.1.5 Administer Project as required to coordinate work with the District and among subconsultants.
- 5.2 Develop Construction Cost Budget Estimate. Architect shall have responsibility to further develop, review, and to work with the Program Manager to reconcile the Construction Cost Budget within the parameters of the Construction Project Program Report (PPR) established in the District's implementation plan. The estimates forming the basis of the Construction Cost Budget are to be based on the developed functional architectural programs as approved by the District.
 - 5.2.1 The following conditions apply to the Construction Cost Budget Estimate prepared by the Architect:
 - 5.2.1.1 All costs are to be based on current bid prices, with escalation rate and duration clearly identified as a separate line item; rate of cost

escalation and projected bid and construction dates are to be as approved by the District and its representatives.

5.2.1.2 Format shall be in the format that the Contractor(s) are using in their estimates and preparation of the Construction Cost Budget, or as dictated by the District Representative.

5.2.1.3 Contingencies for design, bidding, and construction are to be included as individual line items, with the percentage and base of calculation clearly identified.

5.2.1.4 The Architect shall include all information and estimates from the District Program Manager that are intended to be part of the Construction Cost Budget.

5.2.2 One week prior to submittal of documents, the Architect shall submit its proposed Construction Cost Budget Estimate to the District Program Manager for review and approval. At that time, the Architect shall coordinate with the District, the Program Manager, and the Contractor(s) to further develop, review, and reconcile the Construction Cost Budget.

5.2.3 Mechanical, electrical, civil, landscape and estimating consultant(s) shall participate in the progress meeting as appropriate and shall provide input and feedback into the development of the Construction Cost Budget Estimate.

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

5.4 Deliverables and Numbers of Copies. Architect shall provide to the District a hard copy of the following items produced in this Phase, together with one copy of each item in electronic format:

5.4.1 Two copies of Architectural Program and Basis of Design (Include comparison between developed program and "model" program, include narrative explaining any substantial deviations);

5.4.2 Two copies of Site Plan;

5.4.3 Two copies of revised Construction Cost Budget;

5.4.4 Two copies of final Schedule of Work plus electronic version;

5.4.5 Two copies of meeting Reports/Minutes from Kick-off and other meetings;

- 5.4.6 Two copies of renderings provided to District for public presentation.
- 5.5 Meetings. During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops.

ARTICLE 6. SCHEMATIC DESIGN PHASE

Upon District's acceptance of Architect's work in the previous Phase and assuming District has not delayed or terminated the Agreement, the Architect shall prepare for the District's review a Schematic Design Study, containing all the following items as are applicable to the Project scope, reflecting and taking into account the District's comments on the prior deliverables.

- 6.1 Prepare and review with District staff a scope of work list and work plan identifying specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, planning, architectural programming, concepts and schematic design preparation and all estimates that are part of the work of the Project. Also identified will be milestone activities or dates, specific task responsibilities of the Architect, required completion times necessary for the review, approval by the District and by pertinent regulatory agencies and additional definition of deliverables.
- 6.2 Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.
- 6.3 Architectural. Prepare the following:
 - 6.3.1 Scaled floor plans showing overall dimensions, identifying the various major areas and their relationship. Include circulation and room-by-room tabulation of all net usable floor areas and a summary of gross floor area.
 - 6.3.2 Typical layouts of major equipment or operational layout.
 - 6.3.3 Preliminary building exterior elevations and sections in sufficient detail to demonstrate design concept indicating location and size of fenestration.
 - 6.3.4 As applicable, identification of proposed roof system, deck, insulation system and drainage plan.
 - 6.3.5 Identification of minimum finish requirements, including ceilings, floors, walls, doors, windows, and types of hardware.
 - 6.3.6 Identification of code requirements, including occupancy classification(s) and type of construction.
- 6.4 Structural. Prepare the following:
 - 6.4.1 Layout of structural systems with dimensions and floor elevations.

- 6.4.2 Identification of structural systems (including pre-cast, structural steel with composite deck, structural steel bar joists); with preliminary sizing identified.
- 6.4.3 Identification of foundation systems (including fill requirements, piles, caissons, spread footings); with preliminary sizing identified.
- 6.5 Mechanical. Prepare the following:
 - 6.5.1 Calculate block heating, ventilation, and cooling loads including skin versus internal loading.
 - 6.5.2 Select a minimum of two (2) HVAC systems that are compatible with loading conditions for subsequent life cycle costing. Show selected system on drawings as follows:
 - 6.5.2.1 Single line drawing(s) of all mechanical equipment spaces, duct-work and pipe chases.
 - 6.5.2.2 Location and preliminary sizing of all major equipment and duct work in allocated spaces.
 - 6.5.2.3 Schematic piping.
 - 6.5.2.4 Temperature control zoning.
 - 6.5.3 Provide design criteria to include the Basis of Design of for the projects.
 - 6.5.4 Evaluate and confirm the load requirements of all equipment and systems, with utilities being brought to the Project site. Include impact related to subsequent phases of Project.
- 6.6 Electrical. Prepare the following:
 - 6.6.1 Calculate overall approximate electrical loads.
 - 6.6.2 Identify proposed electrical system for service, power, lighting, low voltage and communication loads, including proposed or planned additional buildings or other facilities on the Project site.
 - 6.6.3 Show system(s) selected on drawings as follows:
 - 6.6.3.1 Single line drawing(s) showing major distribution system.
 - 6.6.3.2 Location and preliminary sizing of all major electrical systems and components including load centers, main panels, and switch gear.

- 6.6.4 Provide design criteria to include the Basis of Design for the projects.
- 6.6.5 Evaluate and confirm the load requirements of all equipment and systems, with utilities being brought to the Project site. Include impact related to subsequent phases of Project.
- 6.7 Civil. Prepare the following:
 - 6.7.1 Develop on and off site utility systems such as sewer, water, storm drain, firewater lines and fire hydrants. This shall not include any off-site work that relates to traffic impacts that are not within three hundred (300) feet of the Project site.
 - 6.7.2 Identify surface improvements including roadways, walkways, parking (with assumed wheel weights), preliminary finish grades and drainage.
 - 6.7.3 Coordinate finish floor elevations with architectural site plan.
- 6.8 Technology Backbone. Architect shall be responsible for the coordination of the design and the layout of the technology backbone system with the District's technology consultant, and lay out any included technology backbone system. The coordination effort shall include location and routing of raceways, conduits and outlets and the required spaces to accommodate electrical, data and communication wiring. Architect and consultant(s) shall prepare and be responsible for documents prepared by the Architect based on the information provided by the District's technology consultant and in house IT Representative as appropriate to the level of design completion.
- 6.9. Interior Design. Architect shall provide interior design and other similar Services required for or in connection with selection and color coordination of materials. Architect is required to coordinate the placement of furniture, equipment layout, or schematic space allocation. The District shall procure furnishings and moveable equipment. Architect shall advise the District of any information which may materially affect lead times and availability of all Project equipment, materials, supplies, and furnishings.
- 6.10 Landscape. Develop and coordinate landscape design concepts entailing analysis of existing conditions, proposed components and how the occupants will use the facility. Include location and description of planting, ground improvements and visual barriers.
- 6.11 Specifications. Prepare the following:
 - 6.11.1 Outline specifications of proposed architectural, structural, mechanical and electrical materials, systems and equipment, and their criteria and quality standards.

- 6.11.2 Architect is to use District's standardized equipment/material list for new construction and modernization in development of the Project design and specifications.
- 6.11.3 Architect shall review and comment on District's construction bid contracts and contract documents ("Division 0" documents) and Division "1" documents as part of its work under this Agreement.
- 6.12 Construction Cost Budget. Revise the Construction Cost Budget for the Project.
 - 6.12.1 The Construction Cost Budget for the Project must not exceed the District's Construction Budget, as that may be revised at the District's discretion. The Architect is responsible for the accuracy of the Construction Cost Budget which shall not exceed the District's Construction Budget.
 - 6.12.2 The Architect shall submit its proposed Construction Cost Budget to the District and the Program Manager for review and approval. At that time, the Architect shall coordinate with the District and the Program Manager to further develop, review, and reconcile the Construction Cost Budget.
 - 6.12.3 Along with the conditions identified in the preceding Phase, the following conditions apply to the revised Construction Cost Budget:
 - 6.12.3.1 Schematic Estimates:
 - 6.12.3.2 This estimate consists of unit cost applied to the major items and quantities of work.
 - 6.12.3.3 The unit cost shall reflect the complete direct current cost of work.
 - 6.12.3.4 Complete cost includes; labor, material, waste allowance, sales tax and subcontractor's mark-up.
 - 6.12.3.5 General conditions shall be applied separately. This estimate shall be prepared by specification section and summarized by the CSI categories.
 - 6.12.3.6 The estimate shall separate the Project's building cost from site and utilities cost. Architect shall submit to the District the cost estimating format for prior review and approval.
 - 6.12.3.7 Escalation: all estimates shall be priced out at current market conditions. The estimates shall incorporate all adjustments as appropriate, relating to mid-point construction and contingency.

6.12.8 At the end of this Phase, the Construction Cost Budget may include design contingencies of no more than ten percent (10%) in the cost estimates.

6.13 Meetings. During this Phase, Architect shall attend, take meeting minutes, take part in and, when indicated, conduct meetings, site visits, and workshops as necessary to accomplish the task.

6.14 Deliverables and Numbers of Copies. Architect shall provide to the District a hard copy of the following items produced in this phase, together with one copy of each item in electronic format:

6.14.1 Two copies of breakdown of Construction Cost Budget as prepared for this Phase;

6.14.2 Two copies of meeting Reports/Minutes;

6.14.3 Two copies of Schematic Design Package with alternatives;

6.14.4 Two copies of a statement indicating changes made to the Architectural Program and Schedule;

6.14.5 Two copies of DSA file, including all correspondence and meeting notes to date, or notification in writing that Architect has not met or corresponded with DSA.

6.14.6 Two copies of an estimated time schedule for Project completion.

6.15 Presentation and Revision. Architect shall present and review with the District the detailed Schematic Design. The Schematic Design shall be revised within the accepted program parameters until a final concept, within the accepted Construction Cost Budget, has been accepted and approved by the District at no additional cost to the District.

ARTICLE 7. DESIGN DEVELOPMENT PHASE

7.1 Upon District's acceptance of Architect's work in the previous Phase, and assuming District has not delayed or terminated the Agreement, the Architect shall, from the accepted deliverables produced during the Schematic Design Phase, prepare the Design Development Phase documents for each proposed system within Architect's scope of work, reflecting and taking into account the District's comments on the prior deliverables.

7.2 Architectural. Prepare the following:

7.2.1 Scaled, dimensioned floor plans with final room locations including all openings.

7.2.2 1/8" scale building sections drawings showing dimensional relationships, materials and component relationships.

- 7.2.3 Identification of all fixed equipment to be installed in contract.
 - 7.2.4 Site plan completely drawn with beginning notes and dimensions including grading and paving.
 - 7.2.5 Preliminary development of details and large scale blow-ups.
 - 7.2.6 Legend showing all symbols used on drawings.
 - 7.2.7 Floor plans identifying all fixed and major movable equipment and furniture.
 - 7.2.8 Further refinement of Outline Specification for architectural, structural, mechanical, electrical, civil and landscape manuals, systems and equipment.
 - 7.2.9 Typical reflected ceiling development including ceiling grid and heights for each ceiling to be used, showing:
 - 7.2.9.1 Light fixtures.
 - 7.2.9.2 Ceiling registers or diffusers.
 - 7.2.9.3 Access Panels.
 - 7.2.10 Architect shall provide a preliminary color schedule of all materials and selections of textures, finishes, and other matters requiring an aesthetic decision at this phase of the Project for District's review and approval.
- 7.3 Structural. Prepare the following:
- 7.3.1 Structural drawings with all major elements located and sized.
 - 7.3.2 Establish final building and floor elevations.
 - 7.3.3 Preliminary specifications.
 - 7.3.4 Identify foundation requirements (including fill requirement, piles) with associated soil pressure, water table and seismic center.
- 7.4 Mechanical. Prepare the following:
- 7.4.1 Heating and cooling load calculations as required and major duct or pipe runs sized to interface with structural.
 - 7.4.2 Major mechanical equipment should be scheduled indicating size and capacity.
 - 7.4.3 Ductwork and piping should be substantially located and sized.

- 7.4.4 Devices in ceiling should be located.
 - 7.4.5 Legend showing all symbols used on drawings.
 - 7.4.6 More developed Outline Specifications indicating quality level and manufacture.
 - 7.4.7 Control Systems to be identified.
 - 7.4.8 Further evaluation and confirmation of the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.
- 7.5 Electrical. Prepare the following:
- 7.5.1 All lighting fixtures should be located and scheduled showing all types and quantities of fixtures to be used, including proposed lighting levels for each usable space.
 - 7.5.2 All major electrical equipment should be scheduled indicating size and capacity.
 - 7.5.3 Complete electrical distribution including a one line diagram indicating final location of switchboards, communications, controls (high and low voltage), motor control centers, panels, transformers and emergency generators, if required. Low voltage system includes fire alarm system, security, clock, public address system, voice data system, and telecom/technology system.
 - 7.5.4 Legend showing all symbols used on drawings.
 - 7.5.5 More developed and detailed Outline Specifications indicating quality level and manufacture.
 - 7.5.6 Further evaluation and confirmation of the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.
- 7.6 Civil. Prepare the following:
- 7.6.1 Further refinement of Schematic Design Phase development of on and off site utility systems for sewer, electrical, water, storm drain and fire water. Includes, without limitation, pipe sizes, materials, invert elevation location and installation details.
 - 7.6.2 Further refinement of Schematic Design Phase roadways, walkways, parking and storm drainage improvements. Includes details and large scale drawings of curb and gutter, manhole, thrust blocks, paved parking and roadway sections.

- 7.7 Landscape. Prepare further refinement of Schematic Design concepts, including coordination of hardscape, landscape planting, ground cover, and irrigation main distribution lines.
- 7.8 Bid Documents. Architect shall review and comment in writing on District's construction bid and contract documents ("Division 0" documents and "Division 1" documents).
- 7.9 Construction Cost Budget. Further develop review, and work with the District and Program Manager to reconcile the Construction Cost Budget for the Project. Along with the conditions identified in the preceding Phase, the following conditions apply to the revised Construction Cost Budget.
 - 7.9.1 The Construction Cost Budget for the Project must not exceed the District's Construction Budget, as that may be revised at the District's discretion. The Architect is responsible for the accuracy of the Construction Cost Budget which shall not exceed the District's Construction Budget.
 - 7.9.2 Design Development Estimate: This further revised estimate shall be prepared by specification section, summarized by CSI category and divided by trade and work item. The estimate shall include individual item unit costs of materials, labor, and equipment. Sales tax, Contractor's mark-ups, and general conditions shall be listed separately.
 - 7.9.3 At this stage of the design, the Construction Cost Budget may include design contingencies of no more than ten percent (10%) in the cost estimates.
 - 7.9.4 Escalation: all estimates shall be priced out at current market conditions. The estimates shall incorporate all adjustments as appropriate, relating to mid-point construction and contingency.
- 7.10. Deliverables and Numbers of Copies
 - 7.10.1 Two copies of Design Development drawings set from all professional disciplines necessary to deliver the Project;
 - 7.10.2 Two copies of Specifications;
 - 7.10.3 Two copies of revised Construction Cost Budget;
 - 7.10.4 Two copies of DSA file, including all correspondence and meeting notes to date, or notification in writing that Architect has not met or corresponded with DSA.
 - 7.10.5 Two copies of an estimated time schedule for Project completion.

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

7.11 Meetings. During this Phase, Architect shall attend, take meeting minutes, take part in, and, when indicated, conduct meetings, site visits, and workshops as necessary to accomplish this task.

ARTICLE 8. CONSTRUCTION DOCUMENTS PHASE

8.1 General Scope. Upon District's acceptance of Architect's work in the previous Phase, and assuming District has not delayed or terminated the Agreement, the Architect shall prepare from the accepted deliverables from the Design Development Phase the Construction Documents for each proposed system within Architect's scope of work.

8.1.1 Architect shall be responsible for and obtaining required approvals from the Division of the State Architect and any other governmental agencies which approval is required, and shall furnish and process all architectural and engineering information required to prepare and process applications to applicable utilities for the securing of priorities, and materials, as an aid in the construction of the Project(s) and obtain final Project approval and acceptance by said agency as required.

8.1.2 The Architect shall make any changes to the Construction Documents which are required for issuance of all permits and legal authorizations needed to construct each particular Project(s) hereunder.

8.1.3 Architect shall prepare such complete working drawings and specifications as are necessary for obtaining complete bids and for efficient and thorough execution of work.

8.1.4 The final working drawings and specifications must be in such form as will enable Architect and District to secure the required permits and approvals from the required agencies, and for District to obtain, by competitive bidding, a responsible bid or bids.

8.1.5 The final working drawings shall be clear and legible so that uniform copies may be on standard architectural sized paper, properly indexed and numbered, and shall be capable of being clearly copied and assembled in a professional manner by Architect.

8.1.6 District shall review, study, and check the final working drawings and specifications presented to it by Architect and make any necessary revisions or obtain approval of such final plans by District's Governing

Board, subject to the approval of the required regulatory agencies. Architect shall, at no cost to District, make all District-requested changes, additions, deletions, and corrections in the final working drawings and specifications so long as they are not; in conflict with the requirements of public agencies having jurisdiction or prior approval, inconsistent with earlier District direction, or inconsistent with Architect's professional judgment. Architect shall bring any such conflicts and/or inconsistencies to the attention of District. The parties agree that Architect, and not District, possesses the requisite expertise to determine the constructability of the final working drawings and specifications.

8.1.7 Should it become evident that the total construction cost will exceed the specified Construction Cost Budget, Architect shall at once present a statement in writing to District setting forth this fact and giving a full statement of the cost estimates on which the conclusion is based.

8.1.8 In the event that bids received by District from Contractors for the construction of the work indicate the work cannot be constructed in accordance with the plans and specifications furnished by Architect for the stated Construction Cost Budget, Architect shall, if requested by District, and without extra compensation therefore, so revise the plans and specifications for the work that the construction may be completed for the total cost which does not exceed the specified sum or so that certain portions of the Project(s) may be omitted, deferred, or separately bid, as needed at District's discretion.

8.2 Construction Documents - 50% Completion Stage. Prepare the following:

8.2.1 Verify, with the cooperation of knowledgeable vendors and/or Contractors, the lead times and availability of all Project equipment, materials, and supplies and use best efforts so that all of these will be available to the Contractor, if one has been selected at this point, in a timely fashion so as to not delay the Project.

8.2.2 Architectural. Prepare the following:

8.2.2.1 Site plan developed to show building location, all topographical elements and existing/proposed contour lines.

8.2.2.2 Elevations (exterior and interior), sections and floor plans corrected to reflect design development review comments.

8.2.2.3 Architectural details and large blow-ups started.

8.2.2.4 Well developed finish, door, and hardware schedules.

- 8.2.2.5 Site utility plans started.
- 8.2.2.6 Fixed equipment details and identification started.
- 8.2.2.7 Reflected ceiling plans coordinated with floor plans and mechanical and electrical systems.
- 8.2.3 Structural. Prepare the following:
 - 8.2.3.1 Structural floor plans and sections with detailing well advanced.
 - 8.2.3.2 Structural footing and foundation plans, floor and roof framing plans with detailing well advanced.
 - 8.2.3.3 Completed cover sheet with general notes, symbols and legends.
- 8.2.4 Mechanical. Prepare the following:
 - 8.2.4.1 Mechanical calculations virtually completed with all piping and ductwork sized.
 - 8.2.4.2 Large scale mechanical details started.
 - 8.2.4.3 Mechanical schedule for equipment substantially developed.
 - 8.2.4.4 Complete design of Energy Management System (“EMS”).
- 8.2.5 Electrical. Prepare the following:
 - 8.2.5.1 Lighting, power, signal and communication plans showing all switching and controls. Fixture schedule and lighting details development started.
 - 8.2.5.2 Distribution information on all power consuming equipment; lighting and device branch wiring development well started.
 - 8.2.5.3 All electrical equipment schedules started.
 - 8.2.5.4 Special system components depicted on plans.
 - 8.2.5.5 Complete design of low voltage system. Low voltage system includes; fire alarm system, security system, clock, public address system, voice data system, and telecom/technology system.
- 8.2.6 Civil. Prepare all site plans, site utilities, parking, walkway, and roadway systems updated to reflect revisions from Design Development Phase Documents.

8.2.7 Landscape. Prepare all landscape, hardscape, and irrigation plans, updated to reflect update revisions from Design Development Phase Documents.

8.2.8 Construction Cost Budget.

8.2.8.1 Further develop, review, and work with the District and Program Manager to reconcile the Construction Cost Budget for the Project. Along with the conditions identified in the preceding phases, Architect shall update and refine the Design Development Phase revisions to the Construction Cost Budget. Architect shall provide a Construction Cost Budget sorted by the Project Bid Packages, if applicable, or in other format as indicated.

8.2.8.2 The Construction Cost Budget for the Project must not exceed the District's Construction Budget, as that may be revised at the District's discretion. The Architect is responsible for the accuracy of the Construction Cost Budget which shall not exceed the District's Construction Budget.

8.2.8.3 The Architect shall submit its proposed Construction Cost Budget to the District and the Program Manager for review and approval. At that time, the Architect shall coordinate with the District and the Program Manager to further develop, review, and reconcile the Construction Cost Budget.

8.2.8.4 At this stage of the design, the Construction Cost Budget may include design contingencies of no more than 5% in the cost estimates.

8.2.8.5 Escalation: all estimates shall be priced out at current market conditions. The estimates shall incorporate all adjustments as appropriate, relating to mid-point construction and contingency.

8.2.9 Specifications. Prepare the following:

8.2.9.1 A written report verifying more than fifty percent (50%) complete development and preparation of technical specifications describing materials, systems and equipment, workmanship, quality and performance criteria required for the construction of the Project.

8.2.9.2 No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless:

8.2.9.2.1 The specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service, as required by Public Contract Code, section 3400, or;

8.2.9.2.2 The designation is allowable by a specific exemption or exception pursuant to Public Contract Code, section 3400.

8.2.9.3 Specifications shall not contain restrictions that will limit competitive bids other than those deemed and declared by the District Board of Trustees as proprietary.

8.2.9.4 Specifications shall be in CSI format.

8.2.10 Constructability Review. The Architect shall perform a constructability review at 50% Construction Documents and at 100% stages and shall incorporate the corrections into the set that shall be submitted to DSA. In addition, the District and/or its designee shall conduct a construction review of the Construction Documents at 50% and prior to 100% CDs, and provide the constructability reports to the Architect who shall make necessary changes along with providing written comments for each item listed in the reports.

8.2.11 Deliverables and Numbers of Copies. Prepare and provide to the District a hard copy of the following items produced in this phase, together with one copy of each item in electronic format:

8.2.11.1 Two copies of reproducible copies of working drawings;

8.2.11.2 Two copies of specifications;

8.2.11.3 Two copies of statement of requirements for testing and inspection for compliance with Construction Documents and applicable codes;

8.2.11.4 Two copies of a statement indicating any authorized changes made to the design from the last Phase and the cost impact of each change on the previously approved Construction Cost Budget. If no design changes occur but shifts of costs occur between disciplines, identify for District review.

8.3 Construction Documents – 100% Completion Stage.

8.3.1 Architectural. Prepare the following:

8.3.1.1 Completed site plan.

8.3.1.2 Completed floor plans, elevations, and sections.

8.3.1.3 Architectural details and large blow-ups completed.

8.3.1.4 Finish, door, and hardware schedules completed, including all details.

- 8.3.1.5 Site utility plans completed.
- 8.3.1.6 Fixed equipment details and identification completed.
- 8.3.1.7 Reflected ceiling plans completed.
- 8.3.2 Structural. Prepare the following:
 - 8.3.2.1 Structural floor plans and sections with detailing completed.
 - 8.3.2.2 Structural calculations completed.
- 8.3.3 Mechanical. Prepare the following:
 - 8.3.3.1 Large scale mechanical details complete.
 - 8.3.3.2 Mechanical schedules for equipment completed.
 - 8.3.3.3 Completed electrical schematic for environmental cooling and exhaust equipment.
 - 8.3.3.4 Complete energy conservation calculations and report.
- 8.3.4 Electrical
 - 8.3.4.1 Lighting and power plan showing all switches and controls. Fixture schedule and lighting details completed.
 - 8.3.4.2 Distribution information on all power consuming equipment, including lighting, power, signal and communication device(s). Branch wiring completed.
 - 8.3.4.3 All electrical equipment schedules completed.
 - 8.3.4.4 Special system components plans completed.
 - 8.3.4.5 Electrical load calculations completed.
- 8.3.5 Civil. All site plans, site utilities, parking and roadway systems completed.
- 8.3.6 Construction Cost Budget.
 - 8.3.6.1 Revise the Construction Cost Budget for the Project. Along with the conditions identified in the preceding phases, Architect shall update and refine the 50% Construction Documents Phase revisions to the Construction Cost Budget.

8.3.6.2 The Construction Cost Budget for the Project must not exceed the District's Construction Budget, as that may be revised at the District's discretion. The Architect is responsible for the accuracy of the Construction Cost Budget which shall not exceed the District's Construction Budget.

8.3.6.3 The Architect shall submit its proposed Construction Cost Budget to the District and the Program Manager for review and approval. At that time, the Architect shall coordinate with the District and the Program Manager to further develop, review, and reconcile the Construction Cost Budget.

8.3.6.4 At this stage of the Project, the Construction Cost Budget shall not include any design contingencies in excess of the cost estimates.

8.3.6.5 Escalation: all estimates shall be priced out at current market conditions. The estimates shall incorporate all adjustments as appropriate, relating to mid-point construction and contingency.

8.3.7 Specifications. Prepare the following:

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

8.3.7.2 No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless:

8.3.7.2.1 The specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service, as required by Public Contract Code, section 3400; or

8.3.7.2.2 The designation is allowable by specific exemptions or exceptions pursuant to Public Contract Code, section 3400.

8.3.7.3 Specifications shall not contain restrictions that will limit competitive bids other those required for maintenance convenience by the District and only with District's prior approval.

8.3.7.4 At one hundred percent (100%) review, District shall review the specifications and shall direct Architect to make corrections at no cost to the District, unless previously approved or requested by the District.

8.3.7.5 Coordination of the Specifications with specifications developed by other disciplines.

8.3.7.6 Specifications shall be in CSI format.

8.3.8 Constructability Review. The Architect shall perform a constructability review at 50% and just prior to 100%, of Construction Documents stages and shall incorporate the corrections into the set that shall be submitted to DSA or any other required regulatory agency. In addition, the District and/or its designee may conduct a construction review of the Construction Documents at 50% and prior to 100% Construction Document stages, and provide the constructability reports to the Architect who shall make necessary changes along with providing written comments for each item listed in the reports.

8.3.9 Deliverables and Numbers of Copies. Architect shall provide to the District a hard copy of the following items produced in this phase, together with one copy of each item in electronic format:

8.3.9.1 Two copies of reproducible copies of working drawings;

8.3.9.2 Two copies of specifications;

8.3.9.3 Two copies of engineering calculations;

8.3.9.4 Two copies of revised Construction Cost Budgets;

8.3.9.5 Two copies of statement of requirements for testing and inspection of service for compliance with Construction Documents and applicable codes;

8.3.9.6 Two copies of DSA file including all correspondence, meetings, back check comments, and checklists to date;

8.3.9.7 Two copies of a statement indicating any authorized changes made to the design from the last Phase and the cost impact of each change on the previously approved Construction Cost Budget. If no design changes occur but shifts of costs occur between disciplines, identify for District review.

8.4 Construction Documents (CD) Final Back-Check Stage.

- 8.4.1 The Construction Documents final back-check stage shall be for the purpose of the Architect incorporating all regulatory agencies' comments into the drawings, specifications, and estimates. All changes made by the Architect during this stage shall be at no additional cost to the District.
- 8.4.2 The final contract documents delivered to the District upon completion of the Architect's work shall be the Bid Set and shall consist of the following:
 - 8.4.2.1 Drawings: Original tracings of all drawings with each Architect/consultant's State license stamp.
 - 8.4.2.2 Specifications: Original word-processed technical specifications on reproducible masters in CSI format.
 - 8.4.2.3 Architect shall update and refine the Consultants' completed Construction Documents.
- 8.4.3. Meetings. During this Phase, Architect shall attend, take meeting minutes, take part in, and, when indicated, conduct meetings, site visits, and workshops as necessary to complete this task.
- 8.4.4 Construction Cost Budget. Architect accepts the District's established Construction Cost Budget, and represents the Project can be both bid and built for the specified sum.

ARTICLE 9. BIDDING PHASE

- 9.1 Upon District's acceptance of Architect's work in the previous Phase, and assuming District has not delayed or terminated the Agreement, the Architect shall perform Bidding Phase Services for District as follows:
 - 9.1.1 Contact potential bidders and encourage their participation in the Project.
 - 9.1.2 Coordinate the development of the bidding procedures and the construction contract documents including the project manual with the District.
 - 9.1.3 The development of the bidding procedures and the construction contract documents shall be the responsibility of the Architect.
 - 9.1.4 Respond to District questions and clarifications.
 - 9.1.5 While the Project is being advertised for bids, all questions concerning intent shall be referred to the District for screening and subsequent processing through Architect.

9.1.5.1 In the event that items requiring interpretation of the drawings or specifications are discovered during the bidding period, those items shall be analyzed by the Architect for decision by the District as to the proper procedure required.

9.1.5.2 Corrective action will be in the form of an addendum prepared by and issued by the Architect.

9.1.6 Attend any job walks, and the bid opening.

9.1.7 Coordinate with subconsultants.

9.2 Construction Cost Budget. Architect previously accepted, as accurate, the District's established Construction Cost Budget.

9.2.1 District may take any of the optional actions described in this part if any of the described triggering conditions exists. Such action(s) may be taken separately or in combination, at the District's option, and Architect agrees to comply with District's directions as to such action(s).

9.2.2 Conditions triggering the District's option include:

9.2.2.1 The lowest responsive base bid received is more than seven percent (7%) higher than the Construction Cost Budget; or

9.2.2.2 If the lowest responsive bid on the combined total of base bid and all additive alternates come in more than ten percent (10%) higher than the Construction Cost Budget; or

9.2.2.3 If the Construction Cost Budget increases in phases subsequent to the Schematic Design Phase are due to reasonably foreseeable changes in the condition of the construction market in the county in which the District or Project is located, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, energy shortages, or due to unforeseeable events in the national or international economy;

9.2.3 In the event any of the foregoing conditions exists, District, in its sole discretion, may take one or a combination of the following alternatives:

9.2.3.1 Give the Architect written approval on an agreed adjustment to the Construction Cost Budget.

9.2.3.2 Authorize the Architect to re-negotiate, when appropriate, and/or re-bid the Project within sixty (60) days of receipt of bids (exclusive of District and other agencies' review time) at no additional cost to the District;

9.2.3.3 Terminate this Agreement if the Project is abandoned, without further obligation by either party.

9.2.3.4 Within three (3) months of receipt of bids, instruct Architect to revise the drawings and specifications (in scope and quality as approved by the District) to bring the Project within the Construction Cost Budget for re-bidding at no additional cost to the District. The modification of Construction Documents shall be the limit of the Architect's responsibility arising out of the establishment of a Construction Cost Budget. All other obligations of the Architect, including construction administration Services, remain as stated in the Agreement.

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

9.3.1 Two copies of meeting report/minutes from kick-off meeting;

9.3.2 Two copies of meeting report/minutes from pre-bid site walk;

9.3.3 Upon completion of the Bidding Phase, Architect shall produce a Conforming Set of plans and specifications incorporating all addenda Issued thus far. Architect shall supply District with two (2) complete, reproducible sets of plans and specifications marked as a Conforming Set.

ARTICLE 10. CONSTRUCTION ADMINISTRATION PHASE

10.1 Upon District's acceptance of Architect's work in the previous Phase, and approval by all required agencies, and assuming District has not delayed or terminated the Agreement, the Architect shall perform Construction Administration Phase Services for the District.

10.2 The Architect's responsibility to provide basic Services for the Construction Phase under the Agreement commences with the award of the contract(s) for construction and terminates upon satisfactory performance and completion of all tasks in this phase, together with commencement of the Closeout Phase.

10.3 Change Orders

10.3.1 Architect shall review all of Contractor's change order requests to determine if those requests are valid and appropriate. Architect shall provide a recommendation to District as to whether the change should be approved, partially approved, returned to the Contractor for clarification, or rejected.

10.3.2 The Architect shall furnish all necessary additional drawings for supplementing, clarifying, and/or correcting purposes and for change orders. These shall be provided by Architects at no additional cost unless constituting Extra or Additional Services as defined in this Agreement. Architect's responsibility shall include the preparation of all documents and/or drawings made necessary by errors and omissions in the originally approved drawings or specifications and such modifications therein as may be necessary to meet unanticipated conditions encountered during construction, at no additional expense to District.

10.3.3 The original drawings and contract wording for change orders shall be submitted to the District for duplication and distribution.

10.4 Submittals

10.4.1 Architect shall review and take other appropriate action upon Contractor's submittals such as: shop drawings, project data, samples and change orders, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the contract documents. This review shall not include review of the construction means and methods or construction safety precautions, all of which are the sole responsibility of the Contractor.

10.4.2 Architect shall review Contractor's schedule of submittals and advise the District whether or not that schedule is complete. The Architect shall provide the District with proposed revisions to this schedule and advise the District on whether the District should approve this schedule.

10.4.3 The Architect's action upon Contractor's submittals shall be taken as expeditiously as possible so as to cause no unreasonable delay in the construction of the Project or in the work of separate Contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. In no case shall the review period associated with a single, particular submittal exceed twenty-one (21) calendar days from its receipt by the Architect. Architect's response to each submittal shall be a substantive and acceptable response. This 21-day time period shall not include time when a submittal is within the District's control or if the submittal is being reviewed by DSA. In no way does this provision reduce the Architect's liability if it fails to prepare acceptable documents.

10.5 Requests for Information ("RFI").

10.5.1 All RFI's must be responded to as expeditiously as possible so as not to impact and delay the construction progress. In no case shall the review

period associated with an RFI exceed seven (7) calendar days from the receipt by the Architect unless additional time is required for a proper professional response, in which case the Architect shall so advise the District, the Program Manager and the Contractor. Architect's response to each RFI shall be a substantive and acceptable response. This 7-day time period shall not include time when a submittal is within the District's control or if the submittal is being reviewed by DSA. In no way does this provision reduce the Architect's liability if it fails to prepare acceptable documents.

- 10.5.2 On the basis of on-site observations, the Architect shall keep the District informed of the progress and the quality of the work, and shall endeavor to guard the District against defects and deficiencies in the work. Architect shall notify the District in writing of any defects or deficiencies in the work by any of the District's Contractors that the Architect may observe. However, the Architect shall not be a guarantor of the Contractor's performance. The Architect shall not have control over, charge of, or be responsible for, the Contractor's construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work.
- 10.6 As-Built Drawings. Architect shall review and evaluate for District, the Contractor(s)' documentation of the actual construction performed during the Project and submit as As-Builts. As-Builts are documents that show the actual construction performed during the Project, including changes necessitated by change orders, as result of RFI's, and detailed by the District's construction Contractor(s) on a Conforming Set.
- 10.7 Record Drawings. Architect shall incorporate all information from As-Builts, and its sketches, details, and clarifications, and prepare one set of final Record Drawings for the District.
 - 10.7.1 The Record Drawings shall incorporate onto one set of drawings, all changes from all As-Builts, and the Architect's sketches, details, and clarifications. If a set of Record Drawings has been requested by the District, then Architect shall deliver it to the District at completion of the construction, and such delivery shall be a condition precedent to the District's approval of the Architect's final payment. The Architect shall have the reasonable right to rely upon the accuracy and completeness of the information provided in the As-Builts.
 - 10.7.2 The Architect shall provide to the District a set of colored record drawings in hard copy and electronic discs containing same in PDF and in CADD formats.
- 10.8 Observation of Project. Architect shall:

- 10.8.1 Observe the work of the Project as detailed in the final working drawings and specifications. District may require Architect to attend weekly or bi-weekly onsite observations and construction meetings. Onsite observation shall be in person by Architect, provided that District may, in its discretion, consent to such observation by another competent representative of Architect. Architect shall cause engineers and Architect's other sub-consultants to observe the work completed under their engineering disciplines as required, and to approve and review all test results for general conformance with the original approved documents for their portion of the Project.
- 10.8.2 District may require Architect to attend additional weekly or bi-weekly onsite observations if the Project(s) falls behind schedule, at no additional expense to District.
- 10.8.3 Architect shall observe the work of the Inspector of Record and coordinate in the preparation of record drawings indicating dimensions and location of all "as-built" conditions, including but not limited to, underground utility lines.
- 10.8.4 Keep records of construction progress and time schedules and advise Contractor and District of any deviations from the time schedule which could delay timely completion of Project.
- 10.8.5 Check and process, in a timely manner, all required material and test reports and report to the Division of the State Architect, the Contractor, and District any deficiencies in material as reflected by those reports, with recommendation for correction of such deficiencies.
- 10.8.6 Promptly reject, as discussed with District, work or materials which do not conform to the Construction Documents and notify District of such rejection.
- 10.8.7 Consult with District, in a timely manner, with regard to substitution of materials, equipment, and laboratory reports thereof, prior to the final approvals of such substitutions by District in writing.
- 10.8.8 Determine date of completion.
- 10.8.9 After being notified the Project is nearing completion, Architect shall inspect the Project and review the punch-list prepared by the Contractor, including minor items. Architect shall notify Contractor in writing that all deficiencies and punch-list items must be corrected prior to acceptance of the Project and final payment. District shall be notified of all deficiencies and punch-list items not completed.
- 10.8.10 Review materials assembled by the Contractor and assemble for and provide to District written warranties, guarantees, owners' manuals, instruction books, diagrams, As-Built information and any other materials

required from the Contractors and subcontractors in accordance with the Construction Documents.

- 10.8.11 Make any further inspections of the Project necessary to issue Architect's Certificate of Completion and final certificate for payment.
- 10.9 Contractor Payments. Recommendations for Payment by Architect constitute Architect's representation to the District that work has, to the best of Architect's knowledge, information, and belief, progressed to the point indicated in the Contractor(s) payment applications, and that the quality of the work is in general conformance with the Project design and with the contract documents.
- 10.10 Deliverables and number of copies. Architect shall provide to the District a hard copy of the following items produced in this phase, together with one copy of each item in electronic format:
 - 10.10.1 Two copies of meeting report/minutes from kick-off meeting.
 - 10.10.2 Two copies of observation reports.
 - 10.10.3 Two copies of weekly meeting reports.
 - 10.10.4 Two copies of any and all reports required by regulatory agencies as to project progress and/or completion.
- 10.11 Meetings. During this phase, Architect shall attend any pre-construction meetings, all construction meetings, take meeting minutes, take part in, and, when indicated, conduct meetings, site visits, and workshops as necessary for this task.

ARTICLE 11. CLOSE- OUT PHASE

After the Construction Administration Phase concludes, the Architect shall begin performance of Close-Out Phase Services, completing them as quickly after completion of construction as possible.

- 11.1. O&M Manuals / Warranties. Architect shall review equipment, operation and maintenance manuals, and a complete set of warranty documents for all equipment and installed systems, so that they meet the requirements of the plans and specifications.
- 11.2 Architect shall provide, at the District's request, architectural/engineering advice to the District on start-up, break-in, and debugging of facility systems and equipment, and apparent deficiencies in construction following the acceptance of the Contractor's work.
- 11.3 Architect shall monitor and verify Contractor As-Built information, and shall prepare a set of Record Drawings for the Project, as required by the District.

- 11.4 Assist the Program Manager to collect, review and forward from the Contractor, to the District all written warranties, operation manuals, spare parts, lien waivers, and Certificates of Inspection and Occupancy, with Architect's recommendation as to the adequacy of these items.
- 11.5 Architect shall prepare or collect, as applicable, and provide to DSA, all reports required by DSA related to the design and construction of the Project.
- 11.6 Architect shall obtain all required DSA approval on all change orders and addenda to the Contractor's contract.
- 11.7 Architect shall prepare a final verified report for the Project, and cause engineers and Architect's other sub-consultants to file required documentation with governmental authorities necessary to close out the Project.
- 11.8 Architect shall coordinate all Services required to close-out the design and construction phases of the Project with the District, regulatory agencies, and among Consultants.
- 11.9 When the design and construction of the Project is complete, the District shall prepare and record with the County Recorder a Notice of Completion for the Project.
- 11.10 Architect shall organize electronic files, or plans and prepare a hard copy Project binder.
- 11.11 Architect shall provide advice to District on apparent deficiencies in construction during one-year warranty period following acceptance of work.
- 11.12 Post-Project Evaluations.
- 11.12.1 The Architect and Architect's Consultants shall provide a six (6) month written evaluation listing items of repair, replacement or warranty.
- 11.12.2 The Architect and Architect's Consultants shall provide an eleven (11) month written evaluation listing items of repair, replacement, or warranty.
- 11.13 Deliverables and Number of Copies. Provide the following:
- 11.13.1 Punch lists for each site;
- 11.13.2 Upon completion of the Project, all related project documents, including As-Builts and Record Drawings. These are the sole property of the District.
- 11.14 Meetings. During this phase, Architect shall attend, take meeting minutes, take part in, and, when indicated, conduct meetings, site visits, and workshops as necessary to complete this task.

ARTICLE 12. ADDITIONAL SERVICES OF ARCHITECT

Architect may be asked to perform services not otherwise included in this Agreement and/or services not customarily furnished in accordance with generally accepted architectural practice. District may agree to pay Architect for such additional services, in accordance with the provisions on payment for additional services or on an hourly basis, if such services cause Architect additional expense and are necessitated due to unusual circumstances and through no fault or neglect on the part of Architect. No additional compensation shall be paid to Architect for performing such services unless District and Architect agree in writing as to the amount of compensation for such services prior to such services being rendered. Such services may include, but shall not be limited to:

- 12.1 Plan preparation and/or administration of work on portions of the Project separately bid.
- 12.2 Services caused by delinquency, default, or insolvency of Contractor or by major defects in the work of the Contractor in the performance of the construction contract, provided that any such services made necessary by the failure of Architect to detect and report such matters earlier shall not be compensated.
- 12.3 Revisions in drawings, specifications, or other documents when such revisions are inconsistent with written approvals or instructions previously given and due to causes beyond the control of Architect.
- 12.4 Serving as an expert witness on District's behalf.
- 12.5 Observation of repair of damages to structure.
- 12.6 Additional work required for unforeseen conditions.
- 12.7 Disputes or Litigation.
 - 12.7.1 If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, where the Architect is not named as a party to the action, and upon the District's request, the Architect, its agents, officers, and employees agree to reasonably assist District in resolving the dispute or litigation. The Architect's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.
 - 12.7.2 The District will compensate the Architect for fees incurred for providing such assistance, which will be considered Additional Services. If, however, the fees incurred for the assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts, errors or omissions of the Architect, its agents, officers, and employees, the Architect shall reimburse the District any fees paid for such Additional Services.

ARTICLE 13. DISTRICT'S RESPONSIBILITIES.

District's responsibilities shall include the following:

- 13.1 To the extent the information relates to Architect's scope of work, the District shall provide to Architect all information available to District. This information shall include, if available, the following:
 - 13.1.1 Physical characteristics;
 - 13.1.2 Legal limitations and utility locations for the Project site(s);
 - 13.1.3 Written legal description(s) of the Project site(s);
 - 13.1.4 Grades and lines of streets, alleys, pavements, and adjoining property and structures;
 - 13.1.5 Adjacent drainage;
 - 13.1.6 Rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries and contours of the Project site(s);
 - 13.1.7 Locations, dimensions and necessary data with respect to existing buildings, other improvements and trees;
 - 13.1.8 Information concerning available utility services and lines, mechanical and other services, both public and private, above and below grade, including inverts and depths;
 - 13.1.9 Surveys, reports, as-built drawings;
 - 13.1.10 Subsoil data, chemical data, and other data logs of borings.
- 13.2 Architect shall visually verify this information and all existing Project utilities, including capacity, and document the location of existing utility lines, telephone, water, sewage, storm drains and other lines on or around the Project to the extent determinable by the documents or other information provided by the District.
- 13.3 If Architect determines that the information or documentation the District provides is insufficient for purposes of design or if the Architect requires a topographical survey; geotechnical report; structural, mechanical, and/or chemical tests; tests for air and/or water pollution; test borings; test pits; determinations of soil bearing values; percolation tests; ground corrosion tests; resistivity tests; tests for hazardous materials; tests for anticipating subsoil conditions; and/or other information that the District has not provided, the Architect shall request that the District acquire that information at the soonest possible time after Architect becomes aware that this additional information is needed. If the Parties mutually agree, this additional information and service may be procured through the Architect, who may invoice the District for those services as Additional Services.

- 13.4 Appoint and pay an Inspector of Record as provided by state law. Said Inspector shall be qualified and approved by Architect and by the Division of State Architect, shall be under the general direction of Architect, and shall be responsible to, and act in accordance with the policies of, the District. The administration by Architect and its engineers shall be in addition to the continuous personal supervision of the Inspector.
- 13.5 Assist Architect in the distribution of plans to bidders and conduct the opening of bids on the Project(s), if applicable.
- 13.6 Retain a testing service for materials testing and inspection as required by Title 24 of the California Code of Regulations.
- 13.7 Direct pay or reimburse the payment of all fees required by any reviewing or licensing agency.
- 13.8 Designate a representative authorized to act as liaison between Architect and District in the administration of this Agreement and the Construction Documents. Such person or persons shall assist Architect in making inspections and preparing the list of deficiencies required by law or this Agreement, and accompany Architect and Contractor on the final inspection.
- 13.9 Review all documents submitted by Architect, including change orders and other matters requiring approval by District's Governing Board. Advise Architect of decisions pertaining to such documents within a reasonable time after submission.
- 13.10 Notify Architect if any deficiencies in material or workmanship become apparent during Contractor's warranty period.

ARTICLE 14. ARCHITECT'S FEE.

- 14.1 District shall pay to Architect, for the performance of all basic Services rendered under this Agreement, the amount specified in **Exhibits "C"** to this Agreement, modified as specified in any Work Authorization(s) executed between the parties for this work. The amount specified constitutes complete payment for Architect's basic Services for the Project(s).
- 14.2 District shall pay Architect for all Additional Services contracted for under this Agreement an amount specified in the required written authorization to commence such Services. Architect shall be paid for authorized additional services, as follows:
 - 14.2.1 Architect shall be paid the amount agreed upon by the parties in writing prior to performance of such services by Architect, which fee may be negotiated based on a flat amount, or on Architect's standard hourly rates, or as otherwise agreed. Architect's Fee is not subject to adjustment upon receipt of bids and award of Construction Contract. Architect's office hourly rates are represented in **Exhibit "D"**.

- 14.2.2 Additional special Consultants, prior approval of which is required, shall be paid in an amount as agreed upon by the parties in writing prior to engagement of such Consultants.
- 14.2.3 If any additional service is provided by Architect without prior written authorization by the Program Manager or the District's authorized representative, the District will not be obligated to pay for such service. The Architect may be paid by the District for Additional Services that the Program Manager or the District's authorized representative verbally requests, provided that the Architect confirms such request in writing pursuant to the notice requirements of this Agreement, and proceeds with such Additional Services not sooner than two business days after the District receives Architect's written confirmation.
- 14.2.4 Expenses will not be reimbursed for professional Consultants utilized by the Architect in the structural, mechanical, HVAC and plumbing, electrical and/or fire suppression engineer disciplines, when indicated in Work Authorization that such consultant is part of the basic service.
- 14.3 No increase in Fee will be due from change orders generated during the construction period to the extent caused by Architect's error or omission. Architects Fee may be adjusted downward for errors that result an extra expenses to the District.
- 14.4 Regardless of the structure of Architect's Fee, and notwithstanding any Work Authorization(s) to the contrary, the Architect's Fee may be adjusted downward if the Scope of Services of this Agreement is reduced by the District in accordance with this Agreement.
- 14.5 Reimbursable expenses will be billed at actual cost. There will be no markup for reimbursable costs.

ARTICLE 15. PAYMENTS TO ARCHITECT.

- 15.1 The Architect agrees to perform the professional Services provided by this Agreement, and District agrees to pay Architect for such Services, in accordance with the fee schedule attached hereto as **Exhibit "E"**, modified as specified in any Work Authorization(s) executed between the parties for this work.
- 15.2 District reserves the right to retain one percent (1%) of any compensation payable to Architect hereunder if Architect fails to close-out the Project(s) completed by Architect and fails to provide District with documentation confirming Project close-out Certification with DSA, as may be required by District.
- 15.3 In order to receive payment, Architect shall present to District, each month, a claim for payment for approval by the Program Manager or District's authorized representative, which claim shall designate Services performed, percentage of work completed, method of computation of amount payable, and amount to be paid.

- 15.4 Payments made for extra work or special services shall be made in installments, not more often than monthly, proportionate to the degree of completion of such Services or in such other manner as the parties shall specify when such Services are agreed upon.
- 15.5 Upon cancellation or termination of this Agreement, Architect shall be compensated as set forth in this Agreement.

ARTICLE 16. SUSPENSION, ABANDONMENT OR TERMINATION OF CONTRACT

- 16.1 If Architect fails to satisfactorily perform Architect's duties hereunder, or if Architect fails to fulfill in a timely and professional manner any material obligation under this Agreement, for reasons other than those outside of Architect's control, or if Architect shall violate any of the material terms or provisions of this Agreement, District shall have the right to terminate this Agreement, in whole or in part, effective immediately upon the District giving written notice thereof to the Architect. In the event of a termination pursuant to this subdivision, Architect may invoice District for all Services performed up to the notice of termination. District shall have the right to withhold payment and/or deduct, from any amount due to Architect, an amount equal to the District's costs and/or damages caused by the Architect's negligent actions, errors, or omissions that caused the District to terminate the Agreement.
- 16.2 District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, Architect may invoice District and District shall pay for all for Services performed up to the District's notice of termination.
- 16.3 Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 16.4 The Architect has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement. Such termination shall be effective after receipt of written notice from Architect to the District. Architect may invoice District and District shall pay all undisputed invoice(s) for Services performed up to the Architect's notice of termination.
- 16.5 If, at any time in the progress of the Services called for in the Work Authorization(s) for the Project, the District determines that the Project should be terminated, the Architect, upon written notice of such termination from the District, shall immediately cease Services on the Project. The District shall pay the Architect the fee for the Services provided up to the notice of termination.
- 16.6 District reserves the right to suspend or abandon, at any time, all or any of the work on the Project.

- 16.6.1 If the District suspends the Project for more than one hundred twenty (120) consecutive days, the Architect shall be compensated for Services performed prior to notice of that suspension. If the Project is resumed, the Project schedule shall be adjusted and the Architect's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Architect's Services.
- 16.6.2 Architect hereby expressly waives any and all claims for damages or compensation arising under this Contract, except as set forth herein, in the event of such suspension or abandonment.
- 16.6.3 If Architect's Services are suspended by District, District may require Architect to resume Services by giving written notice to Architect within two calendar years after the effective date of the suspension.
- 16.6.4 If the District suspends the Project for more than two (2) years, the Architect may terminate this Agreement by giving written notice.
- 16.7 Upon suspension, abandonment, or termination, Architect shall, if requested by District, turn over to District all preliminary studies, sketches, working drawings, specifications, computations, CAD files and all other matters to which District would have been entitled at the completion of Architect's Services. Architect shall turn over to District all such documents and other matters immediately upon request, and District shall have the rights as enumerated in this Agreement to use any documents or other work product prepared by Architect under this Agreement. District's possession and use of the documents and other matters is not dependent on payment by District of any amount owed to Architect, and all the required material shall be given to District. The parties shall take efforts to resolve any dispute.

ARTICLE 17. INDEMNITY

- 17.1 To the fullest extent of the law, Architect shall assume the defense of, hold harmless, and indemnify District, District's Governing Board or other governing body, each member of the Board, and District's officers, employees, Program Manager, and volunteers from any and all claims of any kind that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect in the performance of this Agreement.
- 17.2 In relation to such claims, Architect's obligation shall include, but not be limited to, the following:
- 17.2.1 To pay and satisfy any judgment, award or decree that may be rendered against the indemnified parties;
- 17.2.2 To reimburse District for the cost of any settlement paid by District;

- 17.2.3 To reimburse any and all legal expenses and costs, including expert witness fees and consultant fees, incurred in connection with any such claim, or in enforcing the indemnity herein provided.
- 17.3 Architect's obligation to indemnify shall not be restricted to insurance coverage limits, or insurance proceeds, if any, received by an indemnified party.
- 17.4 District shall have the right to accept or reasonably reject any legal representation proposed by Architect.
- 17.5 In addition to the foregoing indemnification obligations, the Architect shall be responsible for the following, to the extent it may arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Architect:
- 17.5.1 The cost of Project delays. Without limiting Architect's liability for indirect cost impacts due to these delays, the direct costs for which the Architect shall be liable shall equal the amount the District is liable to Project Contractor(s), Inspector(s), and/or Program Manager caused by these delays, including without limitation all interim housing costs caused by these delays, which are provable at law or in equity.
- 17.5.2 The cost of construction change orders. Without limiting Architect's liability for indirect cost impacts, the direct costs for which the Architect shall be liable shall equal the difference between the cost of the change order and the reasonable cost of the work had that work been a part of the originally prepared construction documents which are provable at law or in equity. Threshold for "standard of care" is described in 18.3.1.
- 17.5.3 These amounts shall be paid by Architect to District or the District may withhold those costs from amounts owing to Architect.
- 17.6 Architect shall, by way of written agreements, require each and every one of its subcontractors and Consultants engaged in work related to this Contract to indemnify and defend District, District's Governing Board or other governing body, each member of the Board, and District's officers, and employees, and Program Manager from any and all claims of any kind that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the subcontractor or consultant in the performance of work related to this Agreement. Architect agrees that any failure to provide any such subcontractor or consultant agreement for indemnity and defense shall be deemed an act or omission arising out of, pertaining to, and relating to the negligence, recklessness or willful misconduct of Architect in the performance of this Agreement.
- 17.7 District shall assume the defense of, indemnify, and hold harmless Architect, its officers and employees, and Program Manager from any and all claims of any kind arising out of the intentional or negligent acts, errors, or omissions of District, its officers, or employees in the performance of this Contract.

ARTICLE 18. ERRORS AND OMISSIONS.

- 18.1 Architect shall be liable for any damages and costs incurred by, and any claims against, District that arise out of, pertain to, and relate to the negligence, recklessness or willful misconduct of Architect. Additionally, Architect shall not be entitled to any fee for additional services, or reimbursements of costs, for work arising out of, pertaining to, or relating to Architect's negligence, recklessness or willful misconduct, or that of Architect's subcontractors, Consultants, and/or employees in the performance of Services under this Agreement.
- 18.2 Architect shall be responsible for the professional quality and technical accuracy of all studies, reports, projections, master plans, designs, drawings, specifications and other Services furnished by Architect under the Agreement as well as coordination with all Master plans, studies, reports and other information provided by District. Architect shall, without additional compensation, correct or revise any errors or omissions in its studies, reports, projections, master plans, design, drawings, specifications and other Services.
- 18.3 District recognizes and acknowledges that Architect's insurable liability attaches only when the Architect's act or omission falls below a "standard of care" applicable to design professionals in the same or similar circumstances. A determination of the applicable "standard of care" is a judgment call that will vary depending upon individual project circumstances, and that damages from construction change orders arising from errors or omissions by the Architect are often difficult to identify, prove and quantify. For the purposes of this Agreement, the parties agree that such change order-related damage shall be liquidated as provided hereinafter:
- 18.3.1 The parties shall consider combined construction change order costs arising from errors and omissions by the Architect or the Architect's Consultants, up to but not exceeding three percent (3%) for new construction and five percent (5%) for remodeling projects of the initial construction cost of the assigned Project, to be within the "standard of care" for this Agreement. Combined change order costs arising from errors and omissions by the Architect or the Architects Consultants that are in excess of respective percent of the initial construction cost of the assigned Project shall be considered arising from violations of the applicable "standard of care" for this Agreement.
- 18.3.2 In determining valuations, "omissions" will be calculated at a rate of 20% of the change order costs to provide the respective missing element whereas "errors" will be calculated at the full change order value to correct the condition. The parties agree these valuations are reasonable and take the place of any defense of "betterment" or the like, which defenses are waived by Architect.
- 18.3.3 The cost of construction change orders. Without limiting Architect's liability for indirect cost impacts, the direct costs for which the Architect

shall be liable shall equal the difference between the cost of the change order and the reasonable cost of the work had that work been a part of the originally prepared construction documents.

18.3.4 These amounts shall be paid by Architect to District or the District may withhold those costs from amounts owing to Architect.

18.4 Architect shall be and remain liable for other damages and costs incurred by, and any claims against, District that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect in the performance of this Agreement. Additionally, Architect shall not be paid a fee for required work that is determined to arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect or Architect's subcontractors, Consultants, and/or employees in the performance of this Agreement.

ARTICLE 19. LIABILITY OF THE DISTRICT

19.1 Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable to Architect, regardless of whether any claim is based on contract or tort or any other legal or equitable theory, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or related to the District's performance of its obligations under this Agreement.

19.2 District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Architect, or by its employees, even though such equipment be furnished or loaned to Architect by District, excepting only when the District had prior knowledge of a defect in such equipment which could result in death or serious bodily injury or material property damage.

ARTICLE 20. OWNERSHIP OF DATA AND DOCUMENTS, AND LICENSE AGREEMENT FOR REUSE

20.1 All plans, specifications, estimates, instruments of service and other data, regardless of form or format, prepared pursuant to this Agreement shall be and remain District property, whether or not the work for which they were made is executed. The Architect retains all rights to all copyrights, designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that the Architect or its Consultants prepares or causes to be prepared pursuant to this Agreement. Such data includes, without limitation, at least the following matters:

20.1.1 One set of the Contract Documents, including the bidding requirements, specifications, and all existing cost estimates for the Project, in hard copy, reproducible format.

- 20.1.2 One set of fixed image CADD files in DXF or DWG format of the drawings that are part of the Contract Documents.
- 20.1.3 One set of non-fixed image CADD drawing files in DXF and/or DWG format of the site plan, floor plans (architectural, plumbing, structural mechanical and electrical), roof plan, sections and exterior elevations of the Project.
- 20.1.4 All finished or unfinished documents, studies, reports, calculations, drawings, maps, models, photographs, technology data and reports prepared by the Architect under this Agreement.
- 20.2 Architect grants to District the right to reuse all or part of the aforementioned data and/or documents, at its sole discretion, for the construction of all or part of this or another project constructed by or for District. District is not bound by this Agreement to employ the Services of Architect in the event such documents are reused. Any reuse by District of data and/or documents prepared under this Agreement, without employing the Services of Architect, shall be at District's own risk. District shall indemnify, hold harmless, and defend Architect and its officers, directors, agents, and employees from all claims of any kind arising out of such use, re-use, or modification of said documents prepared by Architect.
- 20.3 This Agreement creates a non-exclusive and perpetual license for District to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents, or any other works of authorship fixed in any tangible medium of expression, including, but not limited to, physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by Architect pursuant to this Agreement. Architect shall require any and all subcontractors and Consultants to agree in writing that District is granted a non-exclusive and perpetual license for the work of such subcontractors or Consultants performed pursuant to this Agreement.
- 20.4 Architect represents and warrants that Architect has the legal right to license any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, or other documents that Architect prepares or causes to be prepared pursuant to this Agreement. Architect shall indemnify and hold District harmless for any breach of this Article. Architect makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates, or other documents, or any other works of authorship fixed in any tangible medium of expression, including, but not limited to, physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Architect and provided to Architect by District.

- 20.5 The Architect shall perform the Services and prepare all documents under this Agreement with the assistance of Computer Aided Design Drafting (CADD) (e.g., AutoCAD) or BIM Technology. The Architect shall deliver to the District, on request, the tape and/or compact disc format and the name of the supplier of the software/hardware necessary to use the design file. As to any drawings that Architect provides in a CADD or BIM file format, the District acknowledges that anomalies and errors may be introduced into data when it is transferred or used in a computer environment, and that the District should rely on hard copies of all documents. Accordingly, the electronic documents provided to the District are for informational purposes only and are not intended as an end-product. The Architect makes no warranties, either expressed or implied, regarding the fitness or suitability of the electronic documents. Accordingly, the District agrees to waive any and all claims against the Architect and the Architect's Consultants relating in any way to the unauthorized use, reuse or alteration of the electronic documents.
- 20.6 In order to document exactly what CADD information was given to the District, Architect and District shall each sign a "hard" copy of reproducible documents that depict the information at the time Architect produces the CADD information. District agrees to release Architect from all liability, damages, and/or claims that arise due to any changes made to this information by anyone other than the Architect or Consultant(s) subsequent to it being given to the District. District shall cause all identifying architect's marks to be removed prior to use of the documents for another project.

ARTICLE 21. INSURANCE

In the absence of express language to the contrary contained in a fully executed Work Authorization, Architect shall comply with the insurance provisions of this part.

- 21.1 Architect shall procure and deliver, prior to commencement of the Services of this Agreement, and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services hereunder by the Architect, his agents, representatives, employees and consultant(s). Architect's liabilities, including but not limited to Architect's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Architect's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement, as required or when requested, may be treated as a material breach of contract by the District.
- 21.2 Minimum Scope and limits of Insurance: Coverage shall be at least as broad as the following scopes and limits:
- 21.2.1 Commercial General Liability. Two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate

limit is used, either the general aggregate limit shall apply separately to each project/location or the general aggregate limit shall be twice the required occurrence limit. Limits can be met through a combination of primary and excess policies.

- 21.2.2 Commercial Automobile Liability, Any Auto. Two million dollars (\$2,000,000) per accident for bodily injury and property damage. Limits can be met through a combination of primary and excess policies.
 - 21.2.3 Workers' Compensation. Workers' compensation and other insurance as required under state or federal law. That policy shall include an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, Consultants, trustees, and volunteers. Limits can be met through a combination of primary and excess policies.
 - 21.2.4 Professional Liability. This insurance shall cover the prime design professional and his/her consultant(s) for two million dollars (\$2,000,000) per occurrence. Coverage to continue through completion of construction and for not less than two (2) years thereafter.
 - 21.2.5 District may require Architect to obtain a non-cancelable policy of Project Insurance for a duration of three (3) years after completion of the Project(s). If District requires Architect to obtain Project insurance, such insurance shall begin when construction begins, at which time Architect shall provide evidence of the existence of such policy to District. The cost of such insurance shall be borne by District.
- 21.3 Deductibles and Self-Insured Retention. Except as provided above, the Architect shall inform the District in writing if any deductibles or self-insured retention exceed \$150,000. At the option of the District, either:
- 21.3.1 The District can accept the higher deductible;
 - 21.3.2 The Architect's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees, Program Manager, and volunteers; or
 - 21.3.3 The Architect shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 21.4 Other Insurance Provisions:
- 21.4.1 The general liability and automobile liability policies are to contain, or be endorsed to contain the following provisions.

- 21.4.2 The District, its representatives, Consultants, trustees, officers, officials, employees, Program Manager, agents, and volunteers (“Additional Insureds”) are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Architect; Instruments of Service and completed operations of the Architect; premises owned, occupied or used by the Architect; or automobiles owned, leased, hired or borrowed by the Architect. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
- 21.4.3 For any claims related to the projects, the Architect’s insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self- insurance maintained by the Additional Insureds shall be in excess of the Architect’s insurance and shall not contribute with it.
- 21.4.4 The Architect’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.
- 21.4.5 Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, terminated, canceled or non-renewed by either party, except after thirty (30) days prior written notice, except in the event of non-payment of premium in which case 10 days prior written notice shall be provided by certified mail, return receipt requested, to the District.
- 21.5 Acceptability of Insurers: Insurance is to be placed with insurers authorized in California with a current A.M. Best’s rating of no less than A:VII. The Architect shall inform the District in writing if any of its insurer(s) have an A.M. Best’s rating less than A:VII, in which event the District may, at the option of the District, either accept the lower rating, or require the Architect to procure insurance from another insurer.
- 21.6 Verification of Coverage. Architect shall furnish the District with:
- 21.6.1 Certificates of insurance showing maintenance of the required insurance coverage;
- 21.6.2 Original endorsements affecting general liability and automobile liability coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before Services commence.

ARTICLE 22. DISTRICT’S RIGHT TO AUDIT AND REVIEW RECORDS

- 22.1 District retains the right to review and audit, and the reasonable right of access to Architect’s and any sub-consultant’s premises to review and audit the Architect’s compliance with the provisions of this Agreement (“District’s Right”). The District’s Right includes the right to inspect, photocopy, and to retain copies of any and all Project-

related records and other information, with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion.

- 22.2 The District's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that are necessary to discover and verify that the Architect is in compliance with all requirements of this Agreement.
- 22.3 If there is a claim for additional compensation or for Additional Services, the District's Right includes the right to examine books, documents, and any and all other evidence, accounting procedures, and practices that the District determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.
- 22.4 The Architect shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry.
- 22.5 The Architect shall include audit provisions in any and all agreements with Architect's Consultants and other agents, and shall ensure that these sections are binding upon all sub-consultants to Architect's Consultants.
- 22.6 Architect shall comply with these provisions within fifteen (15) business days of the District's written request to review and audit any or all of Architect's Project-related records and information.

ARTICLE 23. CONFLICTS OF INTEREST

Architect represents that neither Architect nor any of Architect's employees, agents, or Consultants has any existing interest, and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of Services required under this Agreement and that no person having any such interest shall be employed by Architect. Architect agrees the provisions of California Government Code Section 1090 applies to Architect.

ARTICLE 24. STANDARDIZED MANUFACTURED ITEMS; DISTRICT STANDARDS

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 District's criteria to the extent such criteria do not interfere with project design. When design guidelines and construction standards documents are available to District, Architect shall be guided by such guidelines and standards in preparing its design and construction documents.

ARTICLE 25. LIMITATION OF AGREEMENT

This Agreement is limited to and includes only the work included in the Project(s) described herein and in each work authorization, and as amended by the parties to include additional work as part of the Project(s). Any subsequent construction at the site of the Project(s), or at any

other site owned by District will be covered by, and be the subject of, a separate Agreement for architectural Services, or Work Authorization, between District and the architect chosen therefore by District.

ARTICLE 26. MEDIATION

Disputes arising from this Agreement shall be submitted to mediation before a mediator mutually agreeable to the parties. The parties shall select a disinterested third-person mediator within a reasonable period of time. The mediation shall be commenced within 30 days of the selection of the mediator. If the parties fail to select a mediator within a 15-day period, any party may petition the Superior Court of the County of Fresno to appoint the mediator. The parties may agree, in writing, to a different process for dispute resolution.

ARTICLE 27. COMPLIANCE WITH LAWS.

Architect's work shall comply with and meet applicable requirements of federal, state, regional, or local law, including, but not limited to, the Uniform Building Code, the Education Code, Title 19, Title 21 and Title 24 of the California Code of Regulations, and all requirements prescribed by the California Department of General Services.

ARTICLE 28. INDEPENDENT CONTRACTOR

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

future payments to Architect under this Agreement (again, offsetting any amounts already paid by Architect which can be applied as a credit against such liability).

28.5 A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Architect shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Architect is an employee for any other purpose, then Architect agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Architect was not an employee.

28.6 Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

ARTICLE 29. SUCCESSORS IN INTEREST AND ASSIGNS.

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

ARTICLE 30. ASBESTOS CERTIFICATION.

Architect shall certify to the best of its information pursuant to 40 Code of Federal Regulations, Section 763.99(a) (7), that no asbestos-containing material was specified as a building material in any construction document for the Project and will ensure that Contractors provide District with certification that all materials used in the construction of any school building are free from any asbestos-containing building materials ("ACBMs"). Architect shall include statements in specifications that materials containing asbestos are not to be included. This certification shall be part of the final Project submittal.

ARTICLE 31. DISABLED VETERAN BUSINESS ENTERPRISE CERTIFICATION.

The District reserves the right to require compliance with any goal District sets for participation of entities certified as a Disabled Veteran Business Enterprise (DVBE). If District elects to require compliance, such requirements will be set forth in the selection process, and/or contained in the Work Authorization. Architect agrees to comply with any such requirements.

ARTICLE 32. MISCELLANEOUS.

32.1 **Governing Law and Venue.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of California, and venue for any litigation arising out of the performance of this Agreement shall be, at the election of District, in the County of

Fresno, and Architect waives, to the fullest extent permitted by law, any right to seek a change in venue without the express written consent of District.

32.2 Entire Agreement. This Agreement with its attachments supersedes any and all other prior or contemporaneous oral or written agreements between the parties hereto. Each party acknowledges that no representations, inducements, promises, or agreements have been made by any person that are not incorporated herein, and that any other agreements shall be void. Furthermore, any modification of this Agreement shall only be effective if in writing signed by all parties hereto.

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

32.4 Non-Waiver. None of the provisions of this Agreement shall be considered waived by either party unless such waiver is specifically specified in writing.

Executed this XXX day of XXXX, at Coalinga, Fresno County, California.

ARCHITECT

DISTRICT

West Hills Community College

District

By: _____

By: _____

Shanna Ahrens

Title: _____

Title: Vice Chancellor, Business Services

SAMPLE

Exhibit "C"
Architect's Fee

(Per article 14)

Notwithstanding fees for approved additional services,

- Architect's Fee for Basic Services is: \$See Work Authorization.
- Architect's Fee / is not subject to adjustment upon receipt of bids and award of Construction Contract.
- Architect's Fee / is not subject to adjustment upon completion of the work and determination of final actual construction cost.

Reimbursables

Reimbursables shall be billed at actual cost plus "0" markup

Exhibit "D"

Architect's Standard Hourly Rates

(Shall remain unchanged throughout completion of Architect Agreement)

SAMPLE

Exhibit "E"

Fee Payment Schedule for Design Services

Note: Above table shall be used as a guide for determining payment schedule for design services.

| PERCENTAGE OF TOTAL FEE PER PHASE | | |
|---------------------------------------|--------------|------|
| Phase | Phase Amount | |
| Pre-Design/ Program Development Phase | 2% | |
| Schematic Design Phase | 15% | |
| Design Development Phase | 15% | |
| Construction Documents Phase | 33% | |
| DSA Letter of Approval | 5% | |
| Bidding Phase | 2% | |
| Construction Administration Phase | 23% | |
| Close Out Phase | 5% | 100% |