

Board Office Use: Legislative File Info.	
File ID Number	18-1988
Introduction Date	10-24-2018
Enactment Number	18-1681
Enactment Date	10/24/18 os



Memo

To Board of Education
From Kyla Johnson-Trammell, Superintendent
 Timothy White, Deputy Chief, Facilities Planning and Management

9/27

Board Meeting Date October 24, 2018
Subject Amendment No. 1 to AN ARCHITECTURAL SERVICE AGREEMENT
 Contractor: Byrens Kim Design Works
 Services For: Elmhurst Middle School Boiler Replacement

Action Requested and Recommendation Approval by the Board of Education of Amendment No. 1 to AN ARCHITECTURAL SERVICE AGREEMENT between Oakland Unified School District and Byrens Kim Design Works, Oakland, CA, for the latter to

Provide additional coordinating the hazardous material abatement scope; design of new storage tank and new circulation system.

for the period of 6-28-2017 through 12-31-2019 in an amount not to exceed 105,300.

Prior Contract The Agreement was previously approved by the Board on 6-28-2017 (Enactment No. 17-1052).

Modification This amendment modifies the scope of work. All other provisions remain the same.

Competitively Bid Was this contract competitively bid? Yes

If no, exception:
Fiscal Impact Funding resource(s): Fund 21, Measure J

Attachments

- Contract Amendment
- Copy of original contract and all prior amendments (if any)

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AMENDMENT NO. 1 TO
AN ARCHITECTURAL SERVICE AGREEMENT

This Amendment amends AN ARCHITECTURAL SERVICE AGREEMENT between Oakland Unified School District (OUSD) and Byrens Kim Design Works (Contractor) entered into on 6-28-2017 (OUSD Enactment No. 17-1052). The parties agree to amend that Agreement as follows:

1. **Services:** The scope of work is unchanged. The scope of work has changed.
If the scope of work has changed: Provide brief description of revised scope of work including measurable description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary.
 Revised scope of work attached. OR CONTRACTOR agrees to provide the following amended services:
 Provide coordinating the hazardous material abatement scope; design of new storage tank and new circulation system.

2. **Term (duration):** The term of the contract is unchanged. The term of the contract has changed.
If the term has changed: The contract term began on 6-28-2017 and expires on 12-31-2018. The parties agree to extend the contract through 12-31-2019.

3. **Compensation:** The contract price is unchanged. The contract price has changed.
If the compensation has changed: The contract price is amended by
 Increase of \$ 5,300 to original contract amount.
 Decrease of \$ _____ to original contract amount.
 The new contract total is One hundred five thousand, three hundred NO/100 Dollars (105,300)

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**

There are no previous amendments to this Agreement. This contract has previously been amended as follows:

No.	OUSD Enactment No.	General Description of Reason for Amendment	Amount of Increase (Decrease)
		scope of work.	\$
			\$
			\$

- 6. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** CONTRACTOR certifies to the best of his/her/its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov/>).
- 7. **Approval:** Approval requires signature by the Board of Education and/or the Superintendent as its designee. This Amendment shall be deemed approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.

OAKLAND UNIFIED SCHOOL DISTRICT

Asma Eng 10/25/18
 Date
 President, Board of Education
 Superintendent
 Chief or Deputy Chief
[Signature] 10/25/18
 Secretary, Board of Education Date

CONTRACTOR

[Signature] 9/21/18
 Contractor Signature Date
Dong E Kim, President
 Print Name, Title

Form approved by OUSD General Counsel for 2018-19 FY [Signature]

FOR OUSD PURPOSES ONLY – The following information is not part of the Contract.

OUSD Internal Routing			
Services above original contract cannot be provided before the amendment is fully approved and the PO amount is increased by Procurement.			
	Signature - Approved	Denied - Reason	Date
1. Administrator/Manager	<u>[Signature]</u>		9/29/18
2. Resource Manager (If restricted funds)			
3. Network Superintendent/Executive Director			
4. Chief/Deputy Chief	<u>[Signature]</u>		9/27
5. Legal (If Increase takes contract above \$90,200)	<u>[Signature]</u>		9/28/18
6. Superintendent, Board of Education	Signature on the legal contract		

Alignment with Single Plan for Student Achievement – SPSA (required If using State or Federal Funds)

Please select:

Action Item Included in Board Approved SPSA (no additional documentation required)–Item Number: _____

Action Item added as modification to Board Approved SPSA – Submit the following documents to the Resource Manager either electronically via email of scanned documents, fax or drop off.

- a. Relevant page of SPSA with action item highlighted. Page must include header with the word “Modified”, modification date, school site name, both principal and school site council chair initials and date.
- b. Meeting announcement for meeting in which the SPSA modification was approved.
- c. Minutes for meeting in which the SPSA modification was approved indicating approval of the modification.
- d. Sign-in sheet for meeting in which the SPSA modification was approved.

EXHIBIT "A" SCOPE OF WORK

[IF A CONTRACTOR PROVIDES AN ACCEPTABLE DESCRIPTION OF SERVICES AS PART OF A PROPOSAL, THAT DESCRIPTION OF SERVICES MAY BE ATTACHED WITHOUT ANY TERMS, CONDITIONS, LIMITATIONS, ETC., FROM THAT PROPOSAL.]

- 1. Description of Services to be Provided:** Provide a description of the service(s) the contractor will provide. Be specific about what service(s) OUSD is purchasing and what *this* Contractor will do.

Byrens Kim Design Works will be providing additional coordinating for the hazardous material abatement scope; design of new storage tank and new circulation system.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/28/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Dealey, Renton & Associates License # 0020739 P. O. Box 12675 Oakland CA 94604-2675	CONTACT NAME: Nancy Ferrick PHONE (A/C, No, Ext): 510-465-3090 E-MAIL ADDRESS: nferrick@dealeyrenton.com	FAX (A/C, No): 510-452-2193
	INSURER(S) AFFORDING COVERAGE	
INSURED BYRENASSO Byrens Kim Design Works 681 - 4th Street Oakland CA 94607	INSURER A : Sentinel Insurance Co. LTD	NAIC # 11000
	INSURER B : Wesco Insurance Co.	25011
	INSURER C : Hartford Ins. Co of Midwest	37478
	INSURER D :	
	INSURER E :	
INSURER F :		

COVERAGES

CERTIFICATE NUMBER: 1498471143

REVISION NUMBER:


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	57SBWBK7080	9/1/2018	6/6/2019	EACH OCCURRENCE	\$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 2,000,000
							GENERAL AGGREGATE	\$ 4,000,000
							PRODUCTS - COMP/OP AGG	\$ 4,000,000
								\$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	57SBWBK7080	9/1/2018	6/6/2019	COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y	N/A	57WEGGG7714	9/1/2018	6/6/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
B	Professional Liability			ARA112011404	6/6/2018	6/6/2019	\$2,000,000 \$2,000,000	per Claim Annual Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

REF: Amendment No. 1, Elmhurst Boiler Replacement. Oakland Unified School District and its directors, officers, employees, agents and representatives are named as Additional Insureds to General and Auto Liability. Insurance is Primary and Non-Contributory and severability of interests apply per policy form. A Waiver of Subrogation applies to Workers' Compensation. 30 Days Notice of Cancellation.

CERTIFICATE HOLDER**CANCELLATION 30 Days Notice of Cancellation**

Oakland Unified School District Dept. of Facilities & Mgt. 955 High Street Oakland CA 94601	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Policy Number: 57SBWBK7080

EXCERPTS FROM: Hartford Form SS 00 08 04 05

BUSINESS LIABILITY COVERAGE FORM

C. WHO IS AN INSURED

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit. A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury, "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products- completed operations hazard, but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products- completed operations hazard.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to: "Bodily injury, "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including: inspection, or engineering

E.5. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom a claim is made or "suit" is brought.

E.7.b.(7).(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

E.8.b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

EXCERPT FROM Hartford Form SS 04 38 09 09

HIRED AUTO AND NON-OWNED AUTO

B. With respect to the operation of a "non-owned auto", WHO IS AN INSURED is replaced by the following: The following are "insureds":

d. Anyone liable for the conduct of an "insured", but only to the extent of that liability.

EXTENDED OPTIONS

1. Employers' Liability Insurance

Item 3.B. of the Information Page is replaced by the following:

B. Employers' Liability Insurance:

1. **Part Two** of the policy applies to work in each state listed in Item 3.A.

The Limits of Liability under Part Two are the higher of:

Bodily Injury by Accident	\$500,000	Each Accident
Bodily Injury by Disease	\$500,000	Policy Limit
Bodily Injury by Disease	\$500,000	Each Employee

OR

2. The amount shown in the Information Page.

This provision 1 of **EXTENDED OPTIONS** does not apply in New York because the Limits Of Our Liability are unlimited.

In this provision the limits are changed from **\$500,000** to **\$1,000,000** in California.

2. Unintentional Failure to Disclose Hazards

If you unintentionally should fail to disclose all existing hazards at the inception date of your policy, we shall not deny coverage under this policy because of such failure.

3. Waiver of Our Right To Recover From Others

A. We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against any person or organization for whom you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the agreement.

B. This provision 3. does not apply in the states of Pennsylvania and Utah.

4. Foreign Voluntary Compensation and Employers' Liability Reimbursement

A. How This Reimbursement Applies

This reimbursement provision applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must be sustained by an officer or employee.
2. The bodily injury must occur in the course of employment necessary or incidental to work in a country not listed in Exclusion C.1. of this provision.
3. Bodily injury by accident must occur during the policy period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The officer or employee's last exposure to those conditions of your employment must occur during the policy period.

B. We Will Reimburse

We will reimburse you for all amounts paid by you whether such amounts are:

1. voluntary payments for the benefits that would be required of you if you and your officers or employees were subject to any workers' compensation law of the state of hire of the individual employee.
2. sums to which Part Two (Employers' Liability Insurance) would apply if the Country of Employment were shown in Item 3.A. of the Information Page.

C. Exclusions

This insurance does not cover:

1. any occurrences in the United States, Canada, and any country or jurisdiction which is the subject of trade or economic sanctions imposed by the laws or regulations of the United States of America in effect as of the inception date of this policy.
2. any obligation imposed by a workers' compensation or occupational disease law, or similar law.
3. bodily injury intentionally caused or aggravated by you.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/28/2018

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PRODUCER Dealey, Renton & Associates License # 0020739 P. O. Box 12675 Oakland CA 94604-2675	CONTACT NAME: Nancy Ferrick PHONE (A/C, No, Ext): 510-465-3090 E-MAIL ADDRESS: nferrick@dealeyrenton.com		FAX (A/C, No): 510-452-2193	
	INSURER(S) AFFORDING COVERAGE		NAIC #	
INSURED Byrens Kim Design Works 681 - 4th Street Oakland CA 94607	BYRENASSO		INSURER A : Sentinel Insurance Co. LTD INSURER B : Wesco Insurance Co. INSURER C : Hartford Ins. Co of Midwest INSURER D : INSURER E : INSURER F :	11000 25011 37478

COVERAGES

CERTIFICATE NUMBER: 1498471143

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	57SBWBK7080	9/1/2018	6/6/2019	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	Y	Y	57SBWBK7080	9/1/2018	6/6/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	57WEGGG7714	9/1/2018	6/6/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability			ARA112011404	6/6/2018	6/6/2019	\$2,000,000 \$2,000,000 per Claim Annual Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

REF: Amendment No. 1, Elmhurst Boiler Replacement, Oakland Unified School District and its directors, officers, employees, agents and representatives are named as Additional Insureds to General and Auto Liability. Insurance is Primary and Non-Contributory and severability of interests apply per policy form. A Waiver of Subrogation applies to Workers' Compensation. 30 Days Notice of Cancellation.

CERTIFICATE HOLDER**CANCELLATION 30 Days Notice of Cancellation**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Oakland Unified School District
 Dept. of Facilities & Mgt.
 955 High Street
 Oakland CA 94601

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Policy Number: 57SBWBK7080

EXCERPTS FROM: Hartford Form SS 00 08 04 05

BUSINESS LIABILITY COVERAGE FORM

C. WHO IS AN INSURED

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit. A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury, "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products- completed operations hazard, but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to: "Bodily injury, "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including: inspection, or engineering

E.5. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom a claim is made or "suit" is brought.

E.7.b.(7).(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

E.8.b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

EXCERPT FROM Hartford Form SS 04 38 09 09

HIRED AUTO AND NON-OWNED AUTO

B. With respect to the operation of a "non-owned auto", WHO IS AN INSURED is replaced by the following: The following are "insureds":

d. Anyone liable for the conduct of an "insured", but only to the extent of that liability.

EXTENDED OPTIONS

1. Employers' Liability Insurance

Item 3.B. of the Information Page is replaced by the following:

B. Employers' Liability Insurance:

- 1. **Part Two** of the policy applies to work in each state listed in Item 3.A.

The Limits of Liability under Part Two are the higher of:

Bodily Injury by Accident	\$500,000	Each Accident
Bodily Injury by Disease	\$500,000	Policy Limit
Bodily Injury by Disease	\$500,000	Each Employee

OR

- 2. The amount shown in the Information Page.

This provision 1 of **EXTENDED OPTIONS** does not apply in New York because the Limits Of Our Liability are unlimited.

In this provision the limits are changed from **\$500,000** to **\$1,000,000** in California.

2. Unintentional Failure to Disclose Hazards

If you unintentionally should fail to disclose all existing hazards at the inception date of your policy, we shall not deny coverage under this policy because of such failure.

3. Waiver of Our Right To Recover From Others

- A. We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against any person or organization for whom you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the agreement.

- B. This provision 3. does not apply in the states of Pennsylvania and Utah.

4. Foreign Voluntary Compensation and Employers' Liability Reimbursement

A. How This Reimbursement Applies

This reimbursement provision applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

- 1. The bodily injury must be sustained by an officer or employee.
- 2. The bodily injury must occur in the course of employment necessary or incidental to work in a country not listed in Exclusion C.1. of this provision.
- 3. Bodily injury by accident must occur during the policy period.
- 4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The officer or employee's last exposure to those conditions of your employment must occur during the policy period.

B. We Will Reimburse

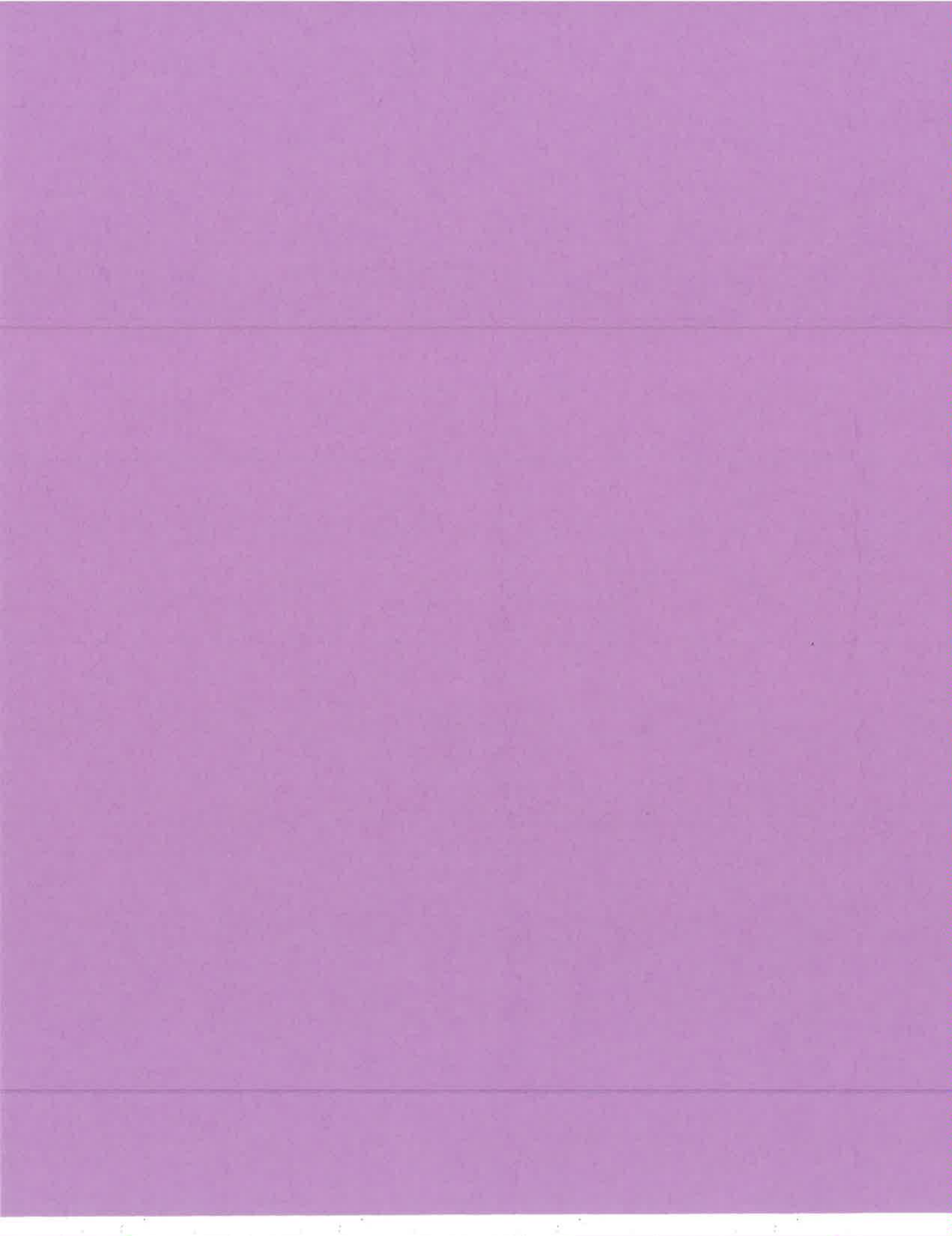
We will reimburse you for all amounts paid by you whether such amounts are:

- 1. voluntary payments for the benefits that would be required of you if you and your officers or employees were subject to any workers' compensation law of the state of hire of the individual employee.
- 2. sums to which Part Two (Employers' Liability Insurance) would apply if the Country of Employment were shown in Item 3.A. of the Information Page.

C. Exclusions

This insurance does not cover:

- 1. any occurrences in the United States, Canada, and any country or jurisdiction which is the subject of trade or economic sanctions imposed by the laws or regulations of the United States of America in effect as of the inception date of this policy.
- 2. any obligation imposed by a workers' compensation or occupational disease law, or similar law.
- 3. bodily injury intentionally caused or aggravated by you.



Board Office Use: Legislative File Info.	
File ID Number	17-1392
Introduction Date	6-28-2017
Enactment Number	17-1052
Enactment Date	6/29/17



OAKLAND UNIFIED
SCHOOL DISTRICT
Community Schools. Thinking Students

Memo

To Board of Education

From Devin Dillon, Superintendent and Secretary, Board of Education
By: Vernon Hal, Senior Business Officer *VH*
Joe Dominguez, Deputy Chief, Facilities Planning and Management *JD*

Board Meeting Date June 28, 2017

Subject Agreement for Architectural Services - Byrens Kim Design Works - Elmhurst Middle School Boiler Replacement Project

Action Requested Approval by the Board of Education of an Agreement for Architectural Services between the District and Byrens Kim Design Works, Oakland, CA., for the latter to provide Architectural, Engineering & Design services such as review existing system drawings and the site conditions of the heating equipment, in conjunction with the Elmhurst Middle School Boiler Replacement Project, more specifically delineated in the scope of services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing June 29, 2017 and concluding no later than December 31, 2018, in an amount not-to exceed \$100,000.00.

Discussion Architectural and Engineering Services are required for re-design, programming, schematic design, construction documents and construction oversight of existing heating equipment.

Procurement Method Professional Services Agreement - Formal - Advertised RFP / Awarded to entity following OUSD competitive solicitation process.

LBP (Local Business Participation Percentage) 100.00%

Recommendation Approval by the Board of Education of an Agreement for Architectural Services between the District and Byrens Kim Design Works, Oakland, CA., for the latter to provide Architectural, Engineering & Design services such as review existing system drawings and the site conditions of the heating equipment, in conjunction with the Elmhurst Middle School Boiler Replacement Project, more specifically delineated in the scope of services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing June 29, 2017 and concluding no later than December 31, 2018, in an amount not-to exceed \$100,000.00.

Fiscal Impact Fund 21, Measure J

Attachments

- Agreement Architectural Services including scope of work
- Certificate of Insurance
- Consultant Proposal



CONTRACT JUSTIFICATION FORM
This Form Shall Be Submitted to the Board Office
With Every Consent Agenda Contract.

Legislative File ID No. _____

Department: Facilities Planning and Management

Vendor Name: Byrens Kim Design Works

Project Name: Elmhurst Boiler Replacement **Project No.:** 15120

Contract Term: Intended Start: 6/29/2017 Intended End: 12/31/2018

Annual (if annual contract) or Total (if multi-year agreement) Cost: \$100,000.00

Approved by: Cesar Monterrosa

Is Vendor a local Oakland Business or have they meet the requirements of the

Local Business Policy? Yes (No if Unchecked)

How was this Vendor selected?

Local firm that worked on previous Elmhurst HVAC attempt. Lowest quote and includes contingency amount of \$8,500.

Summarize the services this Vendor will be providing.

- Review existing system drawings and the site conditions of the heating equipment.
- Replace existing (2) hot water boilers supplying existing heating system as well as the domestic hot water system with new condensing boilers.
- Replace existing heating equipment in gym including the fan unit in gym, heating elements in locker rooms, and radiators in offices.
- Coordinate design requirement with the OUSD Building and Grounds for Heating and Ventilation, domestic hot water, and related fire alarm and building management system.
- Provide cost estimates at schematic, 50% design, and 95% design.
- Provide permit document suitable for the Division of State Architect's review. Acquire a DSA approval.
- Coordinate bidding and construction administration.

Price includes contingency amount.

Was this contract competitively bid? Yes (No if Unchecked)

If No, please answer the following:

1) How did you determine the price is competitive? _____

Obtained two quotes.

2) Please check the competitive bid exception relied upon:

Educational Materials

Special Services contracts for financial, economic, accounting, legal or administrative services

CUPCCAA Exception (Uniform Public Construction Cost Accounting Act)

Professional Service Agreements of less than \$86,000 (increases a small amount on January 1 of each year)

Construction related Professional Services such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)

Energy conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternative energy supply sources)

Emergency contracts

Technology contracts

electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected

contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process

Western States Contracting Alliance Contracts (WSCA)

California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]

"Piggyback" Contracts with other governmental entities

Perishable Food

Sole Source

Change Order for Material and Supplies if the cost agreed upon in writing does not exceed ten percent of the original contract price

Other, please provide specific exception

3) **Not Applicable - no exception - Project was competitively bid**

**AGREEMENT FOR ARCHITECTURAL / ENGINEERING / DESIGN
Greater Than \$87,700
BY AND BETWEEN
OAKLAND UNIFIED SCHOOL DISTRICT
AND
BYRENS KIM DESIGN WORKS
FOR
THE CLAREMONT KITCHEN REPAIR PROJECT**

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CERTIFICATES

AGREEMENT FOR ARCHITECTURAL SERVICES

This Agreement for Architectural Services is made as of the **7TH day of JUNE 2017**, between the **Oakland Unified School District**, a California public school district ("District"), and **BYRENS KIM DESIGN WORKS** ("Architect") (individually a "Party" and collectively the "Parties"), for the following project ("Project"):

Modernization and/or New Construction of **Elmhurst Middle School**, located at **1800 98th Avenue, Oakland, CA**, as further described in the Project Scope. See **Exhibit "A"** for detailed Project Scope.

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

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

Article 1. Definitions

- 1.1. In addition to the definitions above, the following definitions for words and phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1. **Agreement**: The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2. **Architect**: The architect listed in the first paragraph of this Agreement, including all Consultants to the Architect, although there is no contractual relationship between the District and any Consultants employed by the Architect under terms of this Agreement.
 - 1.1.3. **As-Built Drawings ("As-Builts")**: Any document prepared and submitted by District's contractor(s) that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by change orders.
 - 1.1.4. **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.
 - 1.1.5. **Building Information Model ("BIM")**: The digital representation of the physical and functional characteristics of the Project. Whereas, "Building Information Modeling" means the process and technology used to create the Model. The Building Information Model includes without limitation all BIM Elements and non-geometric information.
 - 1.1.6. **BIM Element(s)**: The portion of the Building Information Model representing a component, system, or assembly within the Project. A BIM

Element can be comprised of several BIM Elements.

- 1.1.7. **Clash(es):** Any type of conflict or discrepancy in the Building Information Model, including without limitation hard conflicts between two BIM Elements and soft conflicts between a BIM Element and a required clearance.
- 1.1.8. **Conforming Set:** The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase. The Architect shall ensure that DSA has approved all revisions to the Bid Set that are incorporated onto the Conforming Set and for which DSA approval is required.
- 1.1.9. **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 Consultants, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the District, including construction management.
- 1.1.10. **Consultant(s):** Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Architect.
- 1.1.11. **Day(s):** Unless otherwise designated, "day(s)" means calendar day(s).
- 1.1.12. **District:** The **Oakland Unified School District**.
- 1.1.13. **DSA:** The Division of the State Architect.
- 1.1.14. **Level(s) of Development:** The description of the level of completeness to which the Architect must develop each applicable BIM Element by the end of a particular Project phase. Each Level of Development includes the characteristics of all lower Levels of Development, where LOD100 is the lowest Level of Development. For example, LOD400 includes the characteristics described in LOD300.
 - 1.1.14.1. **LOD100:** The overall massing of BIM Elements indicative of area, height, volume, location, and orientation may be modeled in three dimensions.
 - 1.1.14.2. **LOD200:** BIM Elements are depicted in three dimensions to the approximate quantity, size, shape, location, and orientation. BIM Elements' object-oriented and parametric relations are completed so that the Building Information Model is dimensionally sound.
 - 1.1.14.3. **LOD300:** BIM Elements' three dimensional object geometry and location are confirmed.
 - 1.1.14.4. **LOD400:** BIM Elements include shop/fabrication drawing details.
 - 1.1.14.5. **LOD500:** BIM Elements' three dimensional object geometry and location exactly match that information depicted in the As-Builts.

- 1.1.15. **Project 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.
- 1.1.16. **Record Drawings:** A final set of drawings prepared by the Architect based upon marked-up prints, drawings, and other data furnished to Architect by Contractor that incorporates all changes from all As-Builts, sketches, details, and clarifications.
- 1.1.17. **Service(s):** All labor, materials, supervision, services, tasks, and work that the Architect is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.
- 1.1.18. **Visually Verify:** To verify to the fullest extent possible by physical inspection and reasonable investigation and without any destructive action.

Article 2. Scope, Responsibilities, and Services of Architect

- 2.1. Architect shall render the Services as described in **Exhibit "A,"** commencing with receipt of a written Notice to Proceed signed by the District representative. Architect's Services will be completed in accordance with the schedule attached as **Exhibit "C."**
- 2.2. Architect recognizes that the District may obtain the services of a construction manager for this Project. The construction manager, if any, would be authorized to give Architect Services authorizations, and issue written approvals and Notices to Proceed on behalf of District. The District reserves the right to designate a different construction manager at any time. Any task, including, but not limited to, reviews or approvals that the District may perform pursuant to this Agreement may be performed by the construction manager, unless that task indicates it shall be performed by the governing board of the District.
- 2.3. Architect shall provide Services that comply with professional architectural standards and applicable requirements of federal, state, and local law including, without limitation:
 - 2.3.1. International Building Code of the International Code Council, latest addition, and the California Code of Regulations, title 24, including amendments.
 - 2.3.2. Regulations of the State Fire Marshall (title 19, California Code of Regulations) and Pertinent Local Fire Safety Codes.
 - 2.3.3. Americans with Disabilities Act.
 - 2.3.4. Education Code of the State of California.
 - 2.3.5. Government Code of the State of California.
 - 2.3.6. Labor Code of the State of California, division 2, part 7, Public Works and Public Agencies.

- 2.3.7. Public Contract Code of the State of California.
- 2.3.8. U.S. Copyright Act.
- 2.4. **Storm Water.** Architect, through its Consultant(s), shall be the District's Qualified Storm Water Developer (QSD) and shall prepare all documents necessary for the District to be in compliance with the current Construction General Permit (CGP) of the State Water Resources Control Board.
- 2.5. Architect shall contract for or employ at Architect's expense, Consultant(s) to the extent deemed necessary for completion of its Services on the Project including, but not limited to, architects, mechanical, electrical, structural, fire protection, civil engineers, landscape architects, food service, low voltage, data, and telephone Consultants, and interior designers, and cost estimation providers, food service consultants, acoustical, audio visual, traffic and security consultants licensed as required by applicable law of 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(s) employed by the Architect under terms of the Agreement.
- 2.6. Architect shall coordinate with District personnel and/or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work related to the Project. 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.
- 2.7. Architect shall identify the regulatory agencies that have jurisdiction over essential building and design elements and coordinate with and implement the requirements of the regulatory agencies, including, without limitation, 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, County and City Fire Marshal, County and City Health Departments and Inspectors, County and/or City Fire Marshal, and any regulatory office or agency that has authority for review and supervision of school district construction projects.
- 2.7.1. Architect acknowledges the provisions in **Exhibit "A"** during the Construction Administration Phase entitled "Duty to Timely Respond to DSA Inquiries."
- 2.8. Architect shall provide Services required to obtain local agencies' approval for off-site work related to the Project including review by regulatory agencies having jurisdiction over the Project.
- 2.9. Architect shall coordinate with the District's DSA Project Inspector(s).
- 2.10. Architect shall provide computer-generated pictures downloaded to computer files, updated as requested by the District, that the District may use on its website.
- 2.11. Architect shall coordinate and integrate its work with any of the following

information and/or services as provided by District:

- 2.11.1. Ground contamination or hazardous material analysis.
- 2.11.2. Any asbestos and/or lead testing, design or abatement.
- 2.11.3. Compliance with the California Environmental Quality Act ("CEQA"). 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 submit scope and fees for approval to the District for the work required to incorporate those mitigation measures as Extra Services.
- 2.11.4. Historical significance report.
- 2.11.5. Soils investigation.
- 2.11.6. Geotechnical hazard report, except as indicated in **Exhibit "A."**
- 2.11.7. Topographic surveys of existing conditions.
- 2.11.8. State and local agency permit fees.
- 2.11.9. Commissioning Agent and Reports.
- 2.11.10. Testing and Inspection.

Article 3. Architect Staff

- 3.1. The Architect has been selected to perform the Services herein because of the skills and expertise of key individuals.
- 3.2. The Architect agrees that the following key people in Architect's firm shall be associated with the Project in the following capacities:

Principal in Charge: Dong E. Kim, AIA, LEED AP Principal
Project Director: Dong Kim
Project Architect(s): Byrens Kim Design Works
Other (e.g. Building Information Model Manager)

Major Consultants: Dong E. Kim, AIA, LEED AP Principal
Electrical: WHM Inc.
Mechanical: H&M Mechanical
Structural: Taeho Um and Associates
Civil: Not Needed
Other:

- 3.3. The Architect shall not change any of the key personnel listed above without prior notice to and written approval by District, unless said personnel cease to be employed by Architect. In either case, District shall be allowed to interview and approve replacement personnel.
- 3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice the Architect shall have five (5) days to remove that person from the Project and replace that person with personnel acceptable to the District. All lead or key personnel for any Consultant must also be designated by the Consultant and shall be subject to all conditions previously stated in this paragraph.
- 3.5. Architect represents that the Architect has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of the Services and that no person having any such interest shall be employed by Architect.
- 3.6. Architect shall comply with Education Code section 17302(a) and agrees that any plans, models, specifications and/or estimates included in the Services shall be prepared under the supervision of licensed personnel, and that licensed personnel shall be in "responsible charge" of persons who observe the construction.

Article 4. Schedule of Services

The Architect shall provide Services **commencing June 29, 2017 and concluding no later than December 31, 2018**, under this Agreement upon receipt of a Notice to Proceed and shall prosecute the Services diligently as described in **Exhibit "A,"** so as to proceed with and complete the Services in compliance with the schedule in **Exhibit "C."** Time is of the essence and failure of Architect to perform Services on time as specified in this Agreement is a material breach of this Agreement. It shall not be a material breach if a delay is beyond the Architect's and/or its Consultant(s)' reasonable control.

Article 5. Construction Cost Budget

- 5.1. Architect hereby accepts the District's established Construction Cost Budget and Project scope. In accordance with the **Exhibit "A,"** the Architect shall have responsibility to further develop, review, and reconcile the Construction Cost Budget for the District at the beginning of the Project and at the completion of each design phase. The District and the construction manager shall also have responsibility to develop, review, and reconcile the Construction Cost Budget with the Architect.
- 5.2. Architect shall complete all Services as described in **Exhibit "A,"** including all plans, designs, drawings, specifications and other construction documents, so that the cost to construct the work designed by the Architect will not exceed the Construction Cost Budget, as adjusted subsequently with the District's written approval. The Architect shall maintain cost controls throughout the Project to deliver the Project within the Construction Cost Budget.
- 5.3. If any of the following events occur:
 - o The lowest responsive base bid or proposal received is in excess of ten percent

(10%) of the Construction Cost Budget; or

- o If the combined total of base bid and all additive alternates come in ten percent (10%) or more under the Construction Cost Budget as calculated by the Architect, assuming the District, the District's program manager and the District's construction estimator (if any) did not agree with the most current Construction Cost Budget as calculated by the Architect at the time of the opening of bids or proposals; or
- o The Construction Cost Budget increases in phases subsequent to the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the county in which the District is located, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy;

Then the District, in its sole discretion, has one or a combination of the following alternatives:

- 5.3.1. Give the Architect written approval on an agreed adjustment to the Construction Cost Budget.
- 5.3.2. Direct the Architect to 'prepare the Project for re-bid within three (3) months' time of receipt of bids (exclusive of District and other agencies' review time) at no additional cost to the District.
- 5.3.3. Terminate this Agreement if the Project is abandoned, without further obligation by either Party.
- 5.3.4. Within three (3) months' time of receipt of bids, instruct Architect to revise the drawings and specifications (in scope and quality as approved by the District) to bring the Project within the Construction Cost Budget for re-bidding at no additional cost to the District. 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.

Article 6. Fee and Method of Payment

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

An amount not to exceed **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**. The Fee is based on Five percent (5%) of the Construction Cost Budget, including all Consultant(s)' fee(s).

- 6.2. District shall pay Architect the Fee pursuant to the provisions of **Exhibit "D."**
- 6.3. Architect shall bill its work under this Agreement in accordance with **Exhibit "D."**
- 6.4. 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.

- 6.5. The Architect's Fee set forth in this Agreement shall be full compensation for all of Architect's Services incurred in the performance hereof as indicated in **Exhibit "D."**
- 6.6. Regardless of the structure of Architect's Fee, the Architect's Fee may be adjusted downward if the Scope of Services of this Agreement is reduced by the District in accordance with this Agreement. District shall pay for Services authorized and performed prior to the notice to Architect of a reduction as indicated here.

Article 7. Payment for Extra Services or Changes

District-authorized services outside of the scope in **Exhibit "A"** or District-authorized reimbursables not included in Architect's fee are "Extra Services." Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** only upon certification that the claimed Extra Services was authorized as indicated herein and that the Extra Services have been satisfactorily completed. If any service is done by Architect without prior written authorization by the District or the District's authorized representative, the District will not be obligated to pay for such service. The foregoing provision notwithstanding, the Architect will be paid by the District as described in **Exhibit "B"** for Extra Services that the District 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 Extra Services not earlier than two (2) business days after the District receives confirmation of the request from the Architect.

Article 8. Ownership of Data

- 8.1. Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for District to use, at its discretion, all plans, including, but not limited to, record drawings, models, specifications, and estimates that the Architect or its Consultants, prepares or causes to be prepared pursuant to this Agreement.
- 8.2. The Architect retains all rights to all copyrights, designs and other intellectual property embodied in the plans, record drawings, models, specifications, estimates, and other documents that the Architect or its Consultants prepares or causes to be prepared pursuant to this Agreement.
- 8.3. The Architect shall perform the Services and prepare all documents under this Agreement with the assistance of Computer Aided Design Drafting (CADD) Technology (e.g., AutoCAD, Building Information Modeling software). The Architect shall deliver to the District, on request, a "thumb" drive, and/or compact disc with these documents and that is compatible with the most current version of the CADD Technologies used by the Architect. As to any drawings that Architect provides in a CADD file format, the District acknowledges that anomalies and errors may be introduced into data when it is transferred or used in a computer environment, and that the District should rely on hard copies of all documents.
- 8.4. In order to evidence what CADD information was provided 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. The Architect

shall have a copy of each Building Information Model Archive held in escrow for the duration of the Project. Those copies held in escrow will evidence what information was provided to the District. District agrees to release Architect from all liability, damages, and/or claims that arise due to any changes made to this information by any person other than the Architect or Consultant(s) subsequent to it being provided to the District.

- 8.5. Following the termination of this Agreement, for any reason whatsoever, the Architect shall promptly deliver to the District upon written request and at no cost to the District the following items (hereinafter "Instruments of Service") in an electronic format requested by District and which the District shall have the right to utilize in any way permitted by statute:
 - 8.5.1. One (1) set of the Contract Documents, including the bidding requirements, specifications, and all existing cost estimates for the Project, in hard copy, reproducible format.
 - 8.5.2. One (1) set of fixed image CADD files in DXF format of the drawings that are part of the Contract Documents.
 - 8.5.3. One (1) set of non-fixed image CADD drawing files in DXF 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.
 - 8.5.4. One (1) copy, in electronic format, of each Building Information Model Archive for the Project, inclusive of all related files.
 - 8.5.5. All finished or unfinished documents, studies, meeting minutes, program documents, reports, calculations, drawings, maps, models, photographs, technology data and reports prepared by the Architect under this Agreement.
- 8.6. In the event the District changes or uses any fully or partially completed documents without the Architect's knowledge and participation, the District agrees to release Architect of responsibility for such changes, and shall indemnify and hold the Architect, harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees, on account of any damages or losses to property or persons, including injuries or death, or economic losses, arising out of any changes or use except to the extent the Architect is found to be liable in a forum of competent jurisdiction. In the event District uses any fully or partially completed documents without the Architect's full involvement, the District shall remove all title blocks and other information that might identify the Architect and the Architect's Consultants.

Article 9. Termination of Agreement

- 9.1. If Architect fails to perform the Services to the reasonable satisfaction of the District and as required by this Agreement, or if Architect fails to fulfill in a timely and professional manner Architect's material obligations under this Agreement, or if Architect shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement, in whole or in part, effective immediately upon the District giving written notice thereof to the

Architect. In the event of a termination pursuant to this subdivision, Architect may invoice District for all Services performed until the date of the notice of termination. District shall have the right to withhold payment and deduct from Architect's invoice, any amounts equal to District's costs caused by Architect's negligent errors or omissions, recklessness, or willful misconduct. The District may, at its discretion, provide the Architect time to cure its default or breach.

- 9.2. 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 according to the percentage completed based on Exhibit D and District shall pay all undisputed invoice(s) for Services performed until the date of District's written notice of termination, not to exceed the Fee.
- 9.3. 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.
- 9.4. 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 on the date District receives written notice of the termination from Architect. Architect may invoice District according to the percentage completed based on Exhibit D and District shall pay all undisputed invoice(s) for Services performed until the Architect's notice of termination, not to exceed the Fee.
- 9.5. If, at any time in the progress of the Design of the Project, the governing board of the District determines that the Project should be terminated, the Architect, upon written notice from the District of such termination, shall immediately cease performing Services. The District shall pay the Architect only the fee associated with the Services performed, from Architect's last paid invoice up to the date of the notice of termination, not to exceed the Fee.
- 9.6. 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 the notice of suspension. When the Project is resumed, the 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. If the District suspends the Project for more than eighteen (18) months, the Architect may terminate this Agreement by giving written notice.

Article 10. Architect Indemnity

- 10.1. To the fullest extent permitted by California law and in accordance with California Civil Code section 2782.8, Architect shall indemnify, protect, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees and members ("Indemnified Parties") from any and all actions, assessments, counts, citations, claims, costs, damages, demands, judgments, liabilities (legal, administrative or otherwise), losses, notices, expenses, fines, penalties, proceedings, responsibilities, violations, attorney's and consultants' fees and causes of action to property or persons, including personal injury and/or death ("Claim(s)"), to the extent that the Claim(s) arises out of, pertains to, or relates to the negligent errors or omissions (active or passive, ordinary or gross), recklessness (ordinary or gross), or willful misconduct of Architect, its directors, officials, officers, employees, contractors, subcontractors, consultants,

subconsultants or agents arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement. This indemnity excludes Architect's liability as to the active or sole negligence or willful misconduct of the District.

10.2. The following shall be Claims, to the extent they satisfy the definition of Claims herein:

10.2.1. The cost of Project delays. Without limiting Architect's liability for indirect cost impacts due to Project delays, the direct costs for which the Architect shall be liable for shall be proportionate to the amount the District is liable to the Project contractor(s), subcontractor(s), suppliers, inspector(s), construction manager(s) for the Project delays, including the proportionate cost of interim housing necessitated by Project delays, to the extent that the Project delays arise out of, pertain to, relate to or result from the negligent errors or omissions, recklessness, or willful misconduct of Architect in the performance of any Services which falls below the applicable standard of care of Architects engaged in similar public education projects.

10.2.2. The cost of construction change orders for errors and omissions. 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(s) and the reasonable cost of the work had that work been a part of the originally prepared construction documents, the change order(s) result from any error or omission of Architect in the performance of Services which falls below the applicable standard of care of Architects engaged in similar public education projects.

These amounts may be paid by Architect to District or the District may in reasonable good faith withhold those costs from amounts owing to Architect, pending resolution of the dispute.

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

Article 11. Mandatory Mediation for Claims

11.1. The Parties hereto agree prior to commencing any legal action relating to any Claim, as defined herein, to submit the Claim to a mandatory good-faith mediation process ("Mediation"). The Parties' expectations are that if the Claim is made by a third party (e.g., a contractor), that the third party will be a participant in that Mediation. The Parties agree that any statute of limitations applicable to any Claim shall be tolled for the period from the date a Party requests Mediation through the tenth (10th) day after termination of the Mediation, unless otherwise agreed to by the Parties.

11.2. Except as set forth below, the Parties agree to refrain from filing, maintaining or prosecuting any action related to the Claim during the pendency of the Mediation provided that the Mediation must commence within thirty (30) days after a Party

makes written demand to the other for Mediation.

- 11.3. The Parties shall participate in a minimum of one full-day mediation session before the Mediation may be declared unsuccessful and terminated by either Party. The Mediation shall be conducted in accordance with such rules as the Parties agree upon, or in the absence of agreement, in accordance with the Commercial Mediation Rules of JAMS/Endispute. Evidence of anything said, any admissions made, and any documents prepared in the course of the Mediation shall not be admissible in evidence or subject to discovery in any court action pursuant to Evidence Code Section 1152.5.
- 11.4. The Parties shall mutually agree to the selection of a mediator who is an attorney that is experienced in public works construction claims. If the Parties are unable to agree upon a mediator, then the mediator shall be appointed by JAMS/Endispute.
- 11.5. The Mediation shall take place at a location within twenty (20) miles of the District's administrative office. The mediator's fees and administrative fees, if any, shall be split equally between the Parties, but, unless otherwise agreed to in writing, each Party shall bear its own attorney's fees.
- 11.6. If any Party commences a legal action without first attempting to resolve the Claim as required by this Article 11, that Party shall be in breach of this Agreement and shall not be entitled to recover attorney's fees that might have otherwise been recoverable.
- 11.7. This mandatory mediation process shall only apply to Claims pursuant to the Architect Indemnity provision herein and shall not apply to any disputes to be resolved pursuant to the Alternative Dispute Resolution provision herein.

Article 12. Fingerprinting

Pursuant to Education Code section 45125.2, District has determined on the basis of scope of Services, that Architect, Contractors, and their employees will have only limited contact with pupils at most. Architect shall promptly notify District in writing of any facts or circumstances which might reasonably lead District to determine that contact will be more than limited as defined by Education Code section 45125.1(d).

Article 13. Responsibilities of the District

- 13.1. The District shall examine the documents submitted by the Architect and shall render any decision(s) required of District, in a timely manner to avoid unreasonable delay in the performance of Architect's Services.
- 13.2. The District shall verbally or in writing advise the Architect if the District becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's documents. Failure to provide such notice shall not relieve Architect of its responsibility therefore, if any.
- 13.3. Unless the District and the Architect agree that a hazardous materials consultant shall be a Consultant of the Architect, the District shall furnish the services of a hazardous material consultant or other consultants when such services are requested in writing by Architect and deemed necessary by the District or are

requested by the District. These services shall include: asbestos and lead paint survey; abatement documentation; and specifications related to these matters which are to be incorporated into bid documents prepared by Architect. If the hazardous materials consultant is furnished by the District and is not a Consultant of the Architect, the specifications shall indicate that the specifications prepared by District's consultant relating to these matters, are included in the Architect's bid documents for the District's convenience and have not been prepared or reviewed by the Architect. The bid documents shall also direct questions about the specifications to the consultant that prepared the specifications.

- 13.4. District personnel and/or its designated representatives shall coordinate with Architect as may be requested and beneficial for the coordination or management of work related to the Project.
- 13.5. The District shall timely provide to the Architect all relevant information in its possession regarding the Project that is necessary for performance of Architect's Services.
- 13.6. The District shall pay all fees required by agencies having jurisdiction over the Project.

Article 14. Liability of District

- 14.1. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the Services performed.
- 14.2. 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 and Consultants, even though such equipment may be furnished or loaned to Architect by District.

Article 15. Nondiscrimination

- 15.1. Architect agrees that no discrimination shall be made in the employment of persons under this Agreement because of the race, religious creed, color, national origin, ancestry, physical disability, or mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, military and veteran status, or any other protected characteristic of such person.
- 15.2. Architect shall comply with any and all applicable regulations and laws governing nondiscrimination in employment.

Article 16. Insurance

- 16.1. Architect shall comply with the insurance requirements for this Agreement, set forth in **Exhibit "E."**

- 16.2. Architect shall provide certificates of insurance and endorsements to District prior to commencement of the work of this Agreement as required in **Exhibit "E."**

Article 17. Covenant Against Contingent Fees

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

Article 18. Entire Agreement/Modification

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

Article 19. Non-Assignment of Agreement

This Agreement is intended to secure the Professional Services of the Architect, therefore, Architect may not assign, transfer, delegate or sublet any interest therein without the prior written consent of District and any such assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void. Likewise, District may not assign, transfer, delegate or sublet any interest therein without the prior written consent of Architect and any such assignment, transfer, delegation or sublease without Architect's prior written consent shall be considered null and void.

Article 20. Law, Venue

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

Article 21. Alternative Dispute Resolution

21.1. Architect's Invoices.

- 21.1.1. If the District disapproves of any portion or amount(s) of the Architect's invoices, the District shall within thirty (30) days of receipt by the District of any of the Architect's invoices, communicate to the Architect in writing,

with reasonable detail, the portion or amount of the Architect's invoices that are disapproved for payment, the portion or amount of the Architect's invoices that are approved for payment, and the basis for the District's disapproval of the disputed portion(s) or amount(s) of the Architect's invoices ("Disputed Architect Invoice Detail").

21.1.2. If the Architect disagrees with the Disputed Architect Invoice Detail, the Architect shall communicate to the District in writing, and request to meet and confer in good faith with respect to the Disputed Architect Invoice Detail, to determine if the disagreement can be resolved. The meet and confer shall be scheduled to occur within thirty (30) days of Architect's request. The meet and confer shall include, but are not limited to, face-to-face meeting(s) with the appropriate District and Architect personnel as appropriate and necessary.

21.1.3. If the Parties cannot resolve the matter during this meet and confer process, the Parties shall handle the matter as a "dispute" as provided herein.

21.2. Disputes between the parties arising out of this Agreement shall be resolved by the following processes:

21.2.1. **Negotiation.** Within fifteen (15) days following the receipt of a request to meet, the parties shall meet and attempt in good faith to resolve any dispute arising out of or relating to this Agreement by negotiation. The Parties' meet and confer process for Disputed Architect Invoice Detail as detailed above, shall satisfy this negotiation requirement.

21.2.2. **Mediation.** Within thirty (30) days, but no earlier than fifteen (15) days, following the earlier of receipt of notice by one Party from the other Party of a demand for mediation, the Parties shall: submit the dispute to non-binding mediation administered by the AAA (or other agreed upon rules) under its construction industry mediation rules, unless waived by mutual stipulation of both Parties.

21.2.2.1. Administer the dispute pursuant to the Mandatory Mediation provisions indicated herein, or

21.2.2.2. If there is no other parties involved, administer the dispute pursuant to non-binding mediation administered in accordance with the Commercial Mediation Rules of JAMS/Endispute, unless waived by mutual stipulation of both Parties.

21.2.3. **Litigation.** Disputes arising from this Agreement that cannot be settled through negotiation or mediation (after those processes have been exhausted) shall be litigated in the California Superior Court in the county in which the Project that is the subject of this Agreement is located.

21.3. Architect shall neither rescind nor stop the performance of its Services pending the outcome of any dispute that occurs during the Construction Administration Phase.

Article 22. Severability

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

Article 23. Employment Status

- 23.1. 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; 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.
- 23.2. 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.
- 23.3. 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.
- 23.4. Should a relevant taxing authority determine a liability for 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).
- 23.5. A determination of employment status pursuant to the preceding two (2) paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Architect shall not be considered an employee of 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.
- 23.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

Article 24. Warranty and Certification of Architect

- 24.1. Architect warrants and certifies that the Architect is properly certified and licensed under the laws and regulations of the State of California to provide the Services that it has agreed to perform.
- 24.2. Architect warrants and certifies that it is aware of the provisions of the California Labor Code that require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with those provisions before commencing the performance of the Services.
- 24.3. Architect warrants and certifies that it is aware of the provisions of California Labor Code that require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). Since the Architect is performing Services as part of an applicable "public works" or "maintenance" project, and since the total compensation is One Thousand Dollars (\$1,000) or more, the Architect agrees to fully comply with and to require its Consultant(s) to fully comply with all applicable Prevailing Wage Laws.
 - 24.3.1. Architect shall ensure that it and its subconsultants comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its CPRs to the Labor Commissioner, and are registered pursuant to Labor Code section 1725.5. .

Article 25. Cost Disclosure - Documents and Written Reports

Architect shall be responsible for compliance with California Government Code section 7550, if the total cost of the Agreement exceeds Five Thousand Dollars (\$5,000).

Article 26. Notices and Communications

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

<u>Oakland Unified School District</u>	Architect:
955 High Street	Byrens Kim Design Works
Oakland, CA 94601	681 4 th Street
Tel: 510-535-7038	Oakland, CA 94607
	510-452-3224
ATTN: Tadashi Nakadegawa	Attn: Dong Kim

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the day after delivery. Any notice given by mail shall be effective three (3) days after deposit in the United States mail. Any notice by email shall be effective upon acknowledgment of receipt, if so requested.

Article 27. Disabled Veteran Business Enterprise Participation

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

Article 28. District's Right to Audit

- 28.1. District retains the right to review and audit, and the reasonable right of access to Architect's and any Consultant's premises to review and audit the Architect's compliance with the provisions of this Agreement ("District's Audit Right"). The District's Audit Right includes the right to inspect, photocopy, scan, and to retain copies, outside of the Architect's premises, of any and all Project-related records, documents and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District shall keep this information confidential, as allowed by applicable law.
- 28.2. The District's Audit Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines are necessary to discover and verify that the Architect is in compliance with the requirements of this Agreement.
- 28.3. If there is a claim for additional compensation or for Extra Services, the District's Audit Right includes the right to examine books, records, documents, and any and all other evidence and 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.
- 28.4. The Architect shall maintain complete and accurate records for a minimum of seven (7) years and in accordance with generally accepted accounting practices in the industry. The Architect shall make available to the District for review and audit, all Project related accounting records and documents, and any other financial data. Upon District's request, the Architect shall submit exact duplicates of originals of all requested records to the District.
- 28.5. The Architect shall include audit provisions in any and all of its subcontracts, and shall ensure that this Article is binding upon all Consultants.
- 28.6. Architect shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Architect's Project-related documents, records and information.
- 28.7. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of more than Ten Thousand Dollars (\$10,000), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of the District, or as part of any audit of the District, for a period of three (3) years after

final payment under the Agreement.

Article 29. Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE) Architect shall comply with the requirements of the District's L/SL/SLRBE Program, as applicable, which may require a fifty percent (50%) mandatory minimum local participation requirement in the performance of this Agreement. A copy of the District's L/SL/SLRBE Program can be obtained on the District website, at www.ousd.k12.ca.us, under the Facilities Planning & Management Department drop down menu, Bids and Requests for Proposals.

Article 30. Other Provisions

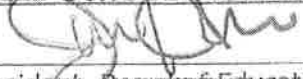
- 30.1. Neither the District's review, approval of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Architect shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Architect's failure to perform any of the Services to the standard of care of the Architect for its Services, which shall be, at a minimum, the standard of care of architects performing similar work for California school districts in or around the same geographic area of the District.
- 30.2. Each Party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each Party acknowledges that the drafting of this Agreement was the product of negotiation, that no Party is the author of this Agreement, and that this Agreement shall not be construed against any Party as the drafter of the Agreement.
- 30.3. The Architect shall issue a credit to the District as an offset to the Architect's Fee equal to one hundred percent (100%) of the tax deduction and/or credit the Architect receives based on the Project per Internal Revenue Code Section 179(D).
- 30.4. The Architect acknowledges that the District is a public agency that is subject to heightened curiosity by the news media and the public and that the Architect may not be apprised of all facts surrounding the Project that Architect is working on. Accordingly, Architect shall promptly refer all inquiries from the news media or public concerning this Agreement or its performance under the Agreement to the District, and Architect shall not make any statements or disclose any documents to the media or the public relating to the performance under this Agreement or the effects caused thereby. If Architect receives a complaint from a citizen or member of the public concerning the performance or effects of this Agreement, it shall promptly inform the District of that complaint. In its sole discretion, the District shall determine the appropriate response to the complaint.
- 30.5. **Confidentiality.** Architect, and its Consultants, and employee(s) shall maintain the confidentiality of all information received in the course of performing the Services. Architect understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
- 30.6. **Exhibits A through E** and all Certificates attached hereto are hereby incorporated by this reference and made a part of this Agreement.


Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: The District certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>

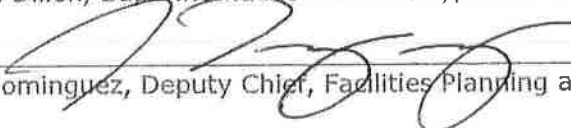
Susie Butler-Berkley
Contract Analyst

ACCEPTED AND AGREED on the date indicated below:

OAKLAND UNIFIED SCHOOL DISTRICT


James Harris, President, Board of Education 6/29/17 Date


Devin Dillon, Superintendent & Secretary, Board of Education 6/29/17 Date


Joe Dominguez, Deputy Chief, Facilities Planning and Management Date

ARCHITECT


By: Dong E Kim 6/12/17 Date
Its: President

APPROVED AS TO FORM:


Alan Redman 6/21/17 Date
OUSD Facilities Legal Counsel

r

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to the Agreement shall be performed by Architect if needed and if authorized in writing by the District in accordance with the Article "Payment for Extra Services or Changes" in the Agreement:

1. Making revisions in drawings, specifications, or other documents when such revisions are:
 - 1.1. Required to comply with direction from the District that is substantively different than approvals or instructions previously given by the District.
 - 1.2. Required by the enactment or revisions of codes, laws, or regulations subsequent to the preparation of the Conforming Set, unless those enactments or revisions were foreseeable or reasonably should have been foreseeable by the Architect prior to preparation of the Conforming Set.
 - 1.3. Due to changes required as a result of the District's failure to respond to a written request from the Architect within a reasonable time, as requested by Architect.
 - 1.4. Required to provide services in connection with Change Orders and directive not the fault of the Architect.
2. Providing services required because of significant documented changes in a Project initiated by the District, including but not limited to size, quality, complexity, the District's schedule, or method of bidding or negotiating and contracting for construction.
3. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of that work.
4. Providing services made necessary by the default of contractor(s), by major defects, or deficiencies in the work of contractor(s).
5. In the absence of a final Certificate of Payment or Notice of Completion, providing Services more than sixty (60) days after the date of completion of work by contractor(s) and after Architect has completed all of its obligations and tasks under the Agreement.
6. Providing deliverables or other items in excess of the number indicated in **Exhibit "A."** Before preparing, providing, sending, or invoicing for extra deliverables, Architect shall inform the District that expected deliverables may be in excess of the number indicated in **Exhibit "A,"** so that District can procure the additional deliverables itself or direct Architect to procure the deliverables at District's expense or on District's account at a specific vendor.

7. Providing services as directed by the District that are not part of the Services of this Agreement.
8. Providing services as an expert and/or witness for the District in any mediation, arbitration, and/or trial in which the Architect is (1) not a party, and (2) did not in any way cause the dispute that is being adjudicated.
9. Providing training, adjusting, or balancing of systems and/or equipment sixty (60) days after completion of work by Contractor(s) and after Architect has completed all of its obligations and tasks under the Agreement.
10. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement.

Job Title	Hourly Rate
[INSERT ARCHITECTS' INFO]	
Principal	\$185
Project Managers	\$135 to \$165
Project Architects	\$115 to \$125
Job Captains	\$95 to \$110
Designers	\$75 to \$85
Administrative	\$90

11. The mark-up on any approved item of Extra Services performed by Consultant(s) shall not exceed **five percent (5%)**.
12. Mileage to/from Project is not reimbursable as Extra Services.

EXHIBIT "C"

SCHEDULE OF WORK

1. Promptly after the execution of this Agreement, the Architect shall prepare and submit for approval to the District a Schedule of Work showing the order in which Architect proposes to carry out Architect's work ("Schedule of Work"). The Schedule of Work shall apply to the completion of all services listed hereunder within the times established by this Agreement. The Schedule of Work shall be in the form of a progress chart clearly delineating all important increments and review dates. Architect shall update the Schedule of Work on a monthly basis and deliver two (2) copies to the District along with the monthly billing.
2. Architect shall complete all work and services required per the Schedule of Work after written authorization from the District to proceed.
3. The durations stated in the Schedule of Work shall include the review periods required by the District and all other regulatory agencies.
4. All times to complete tasks set forth in this Exhibit are of the essence, as per Article 2 of the Agreement. If delays in the Schedule of Work are imposed by the District's inability to comply with requested meeting schedules, Architect shall maintain the right to request an adjustment in the Schedule of Work if deemed necessary to meet the deadlines set forth in this Exhibit. If approved, such extensions shall be authorized in writing by the District.

EXHIBIT "D"

PAYMENT SCHEDULE

A. Compensation

1. The payment of consideration to Architect as provided herein shall be full compensation for all of Architect's Services incurred in the performance hereof, including, without limitation, all costs for personnel, travel within two hundred (200) miles of a Project location, offices, per diem expenses, printing and shipping of deliverables in the quantities set forth in **Exhibit "A."** or any other direct or indirect expenses incident to providing the services. Except as expressly set forth in the Agreement and **Exhibit "B,"** there shall be no payment for extra costs or expenses.
2. The total compensation to Architect shall be as stated in Article 6 of the Agreement.
3. District shall pay Architect for all Services contracted for under this Agreement pursuant to the following schedule ("Payment Schedule"):

PERCENTAGE OF TOTAL FEE PER PHASE	
Phase	Phase Amount
Schematic Design Phase	5%
Design Development Phase	10%
Construction Documents Phase	35%
DSA Stamped Approval	5%
Bidding Phase	5%
Construction Administration Phase	30%
Closeout Phase	10%
Generate Punch List	2%
Sign Off On Punch List	2%
Receive and Review All M & O Documents	2%
Filing All DSA Required Closeout Documents	2%
Receiving DSA Closeout, including DSA approval of the final As-Built set of drawings	2%

B. Method of Payment

Invoices shall be on a form approved by the District and are to be submitted to the District via the District's authorized representative.

1. If reasonably requested by District and, if reasonably requested, as a precondition of payment, Architect shall submit to District documentation showing proof that payments were made to Architect's consultant(s).
2. Architect shall submit to the District for approval a copy of the Architect's monthly pay request format, receipt and approval of Architect's invoices, the District agrees to make payments within thirty (30) days of receipt of the invoice as follows:
 - a. Pre- Design/Architectural Program Development Phase:

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

b. For Schematic Design Phase:

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

c. For Design Development Phase:

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

d. For Construction Documents Phase:

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

e. For Bidding Phase:

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

f. For Construction Administration Phase:

Monthly payments based on Architect's invoices pursuant to the following:

1. Monthly payments for the percentage of Services complete, up to ninety-five percent (95%) of the fee for the phase; one hundred percent (100%) payment upon the District's agreement that the Architect can generate a Punch List as part of the Closeout Phase.
2. Regardless of the Services performed during any given month, the Architect can invoice for no more than the percentage of construction completed on the Project, plus ten percent (10%), until the Project is seventy percent (70%) complete. (For example, if the construction of the Project is 65% complete at the end of July, the Architect can invoice for no more than 75% of the portion of its Fee for Construction Administration through July.) After the construction of the Project is 70% complete, the Architect can invoice for no more than the percentage of construction completed on the Project. (For example, if the

construction of the Project is 85% complete at the end of September, the Architect can invoice for no more than 85% of the portion of its Fee for Construction Administration through September.)

g. For Closeout:

3. Individual payment(s) proportionate to the items completed within this Phase and Contents of Invoices acknowledges that the District requires Architect's invoices for Basic Services must include explanations of the Services performed.
4. For invoices for Extra Services, a more detailed explanation, with specificity, is required. For example, the following descriptions, in addition to complying with all other terms of this Agreement, would be payable for invoices for Extra Services. The times indicated below are just placeholders:

Review/Respond RFI's, Const. Admin Mtgs., Review Shop Drawings, Field Sketches	5.5 hours
Prepare Construction Documents: floor plans, exterior elevations, consultant coordination.	7.5 hours
Master Budget update, Master Schedule Update, Board Presentation, Accounting coordination	6.5 hours

EXHIBIT "E"

INSURANCE REQUIREMENTS

Architect shall procure prior to commencement of the Services of this Agreement and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services hereunder by the Architect, his agents, representatives, employees and consultant(s). Architect's liabilities, including but not limited to Architect's indemnity 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.

1. **Minimum Scope and limits of Insurance:**

Coverage shall be at least as broad as the following scopes and limits:

- 1.1. **Commercial General Liability.** One million dollars (\$1,000,000) 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.
- 1.2. **Commercial Automobile Liability, Any Auto.** One million dollars (\$1,000,000) per accident for bodily injury and property damage.
- 1.3. **Workers' Compensation Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Architect shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide employers' liability coverage with minimum liability coverage of one million dollars (\$1,000,000) per accident for bodily injury or disease. The Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
- 1.4. **Employment Practices Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Architect shall keep in full force and effect, an Employment Practices Liability policy. That policy shall provide employers' liability coverage with minimum liability coverage of one million dollars (\$1,000,000) per occurrence. The Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
- 1.5. **Professional Liability.** This insurance shall cover the prime design professional and his/her liability arising from the services of consultant(s) with a minimum of one million dollars (\$1,000,000) per occurrence limit and two

million dollars (\$2,000,000) aggregate limit, and subject to no more than **twenty-five thousand dollars (\$25,000) per claim deductible**, coverage to continue through completion of construction plus "tail" coverage for two (2) years thereafter.

The District reserves the right to modify the limits and coverages described herein, with appropriate credits or changes to be negotiated for such changes.

2. Deductibles and Self-Insured Retention:

The Architect shall inform the District in writing if any deductibles or self-insured retention exceeds \$25,000. At the option of the District, either:

- 2.1. The District can accept the higher deductible; or
- 2.2. The Architect's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers.

3. Other Insurance Provisions:

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- 3.1. The District, the Construction Manager, their representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Architect; instruments of Service and completed operations of the Architect; premises owned, occupied or used by the Architect; or automobiles owned, leased, hired or borrowed by the Architect. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
- 3.2. 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.
- 3.3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
- 3.4. 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.
- 3.5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District. At the option of the District, the Architect shall be the party required to provide the District this notice in lieu of the Architect's insurance provider.

4. **Acceptability of Insurers:**

Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. 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. At the option of the District, either:

- 4.1. The District can accept the lower rating;
- 4.2. Require the Architect to procure insurance from another insurer.

5. **Verification of Coverage:**

Architect shall furnish the District with:

- 5.1. Certificates of insurance showing maintenance of the required insurance coverage;
- 5.2. 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.

r

ROOFING CONTRACT FINANCIAL INTEREST CERTIFICATION
(Public Contract Code section 3006)

PROJECT/CONTRACT NO.: **ELMHURST GYM BOILER REPLACEMENT PROJECT #15120**
between Oakland Unified School District ("District" or "Owner") and **BYRENS KIM DESIGN WORKS** ("Architect / Engineer") ("Contract" or "Project").

I Dong E Kim, Byrens Kim Design Works
Name Name of Architect / Engineer

certify that I have not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the roof project contract on this project. As used in this certification, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Furthermore, I Dong E Kim, Byrens Kim Design Works
Name Name of Architect / Engineer

certify that I do not have, and throughout the duration of the contract, I will not have, any financial relationship in connection with the performance of this contract with any architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I N/A, N/A
Name Name of Architect / Engineer

Have the following financial relationships with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roof project contract:

Name of firm ("Firm"): N/A

Mailing address: _____

Addresses of branch office used for this Project: _____

If subsidiary, name and address of parent company: _____

I certify that to the best of my knowledge, the contents of this disclosure are true, or are believed to be true.

Date: 6/12/17

Proper Name of Architect / Engineer: Byrens Kim Design Works

Signature: 

Print Name: Dong E Kim

Title: President

IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code § 2204)

PROJECT/CONTRACT NO.: **ELMHURST GYM BOILER REPLACEMENT # 15120** between Oakland Unified School District ("District" or "Owner") and **BYRENS KIM DESIGN WORKS** ("Architect / Engineer") ("Contract" or "Project").

Pursuant to Public Contract Code (PCC) section 2204, an Iran Contracting Act certification is required for solicitations of goods or services of one million dollars (\$1,000,000) or more.

Architect / Engineer shall complete **ONLY ONE** of the following two paragraphs.

1. Architect / Engineer's total Fee is less than one million dollars (\$1,000,000).

OR

2. Architect / Engineer's total Fee is one million dollars (\$1,000,000) or more, but Architect / Engineer is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code § 2203(b), and Architect / Engineer is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

OR

3. Architect / Engineer's total Fee is one million dollars (\$1,000,000) or more, but the District has given prior written permission to Architect / Engineer to submit a proposal pursuant to PCC 2203(c) or (d). **A copy of the written permission from the District is included with this Agreement.**

I certify that I am duly authorized to legally bind the Architect / Engineer to this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

Date: 6/12/17

Proper Name of Architect / Engineer: Byrens Kim Design Works

Signature: 

Print Name: Dong E Kim


Title: President

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

I am aware of and hereby certify that neither Byrens Kim Design Works ("Architect") nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. I further agree that I will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Architect or any lower participant is unable to certify this statement, it shall attach an explanation hereto.

IN WITNESS WHEREOF, this certification has been duly executed by the Principal of the above named Architect on the 12 day of June, 2017, for the purposes of submission of this Agreement.

Architect

By: 

Print Name: Dong E Kim

Print Title: President

EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF ARCHITECT

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EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF ARCHITECT

Our design will consider the following:

- Review existing system drawings and the site conditions of the heating equipment.
- Replace existing (2) hot water boilers supplying existing heating system as well as the domestic hot water system with new condensing boilers.
- Replace existing heating equipment in gym including the fan unit in gym, heating elements in locker rooms, and radiators in offices.
- Coordinate design requirement with the OUSD Building and Grounds for Heating and Ventilation, domestic hot water, and related fire alarm and building management system.
- Provide cost estimates at schematic, 50% design, and 95% design.
- Provide permit document suitable for the Division of State Architect's review. Acquire a DSA approval.
- Coordinate bidding and construction administration.

We understand that the project has a ±\$500,000 project budget. Our recommendations will be outlined to consider the specified project budget.

We note that the project will require DSA Structural and Fire Life Safety review. DSA Accessibility Review is not anticipated.

The following is the list of team members.

Byrens Kim Design Works	Architects	(Small Local Business Enterprise)
Taeho Um and Associates	Structural Engineers	
H&M Mechanical	Mechanical Engineers	(Small Local Business Enterprise)
WHM Inc	Electrical Engineers	

The following illustrates the anticipated services to be included in this proposal.

The **Site Analysis** includes the following tasks:

- Review existing program elements and site conditions
- Collaborate with the District and the Site administration to generate program goals intent.

The **Schematic Design** includes the following tasks:

- Generate schematic design package based on the approved program documents.
- Conduct required District/User meetings to update the development.
- Review site utility upgrade requirement including power, gas, and EMS/Control wiring.

- Update cost estimate.

The **Construction Documents** includes the following tasks:

- Generate construction document package suitable for DSA approval and the public Design-Bid-Build contracting requirement.
- Provide construction cost estimates.

The **Agency Review** includes the following tasks:

- Submit for DSA review and approval. Structural and Fire Life Safety only.

The **Bidding** includes the following tasks:

- Coordinate bidding document generation with the District's contracts department.
- Attend bid walk/pre-bid meeting.
- Provide bidding services that may include clarifications and Addenda generation.
- Review bids.

The **Construction Administration** includes the following tasks:

- Attend construction meetings.
- Generate DSA required documentations. Administer DSA review.
- Perform Construction Administration services including RFIs, ASI, site observations, and etc.
- Perform Punch-walk.

The **Project Closeout** includes the following tasks:

- Acquire DSA closeout certification.

Please refer to the attached **Project Budget Worksheet** for detailed understanding of the project deliverables and scope.

To complete the project as outlined, we propose the following fee.

Discipline	PROPOSED FEE
Architect	\$32,000.00
Structural Engineer	\$15,000.00
Mechanical Engineer	\$36,000.00
Electrical Engineer	\$8,500.00
TOTAL	\$91,500.00

The fee is fully burdened and no additional reimbursable expenses will be required.

We assume the following to be provided by the District.

- Hazardous Material Assessment and Abatement procedure if present.
- Existing Structural, Mechanical, and Electrical Drawings.
- Existing conditions report relating to the mechanical, plumbing, and electrical systems including the fire alarm and BMS.
- All permitting and agency review fees.

We thank you for the opportunity to submit this proposal and look forward to continue providing value-added service to the District.

Cordially,



Dong E Kim, AIA, LEED AP
Principal
Byrens Kim Design Works

Attached: Project Budget Worksheet, dated 5/8/17

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

1. BASIC SERVICES

Architect agrees to provide the services described below:

- 1.1. Architect shall be responsible for the professional quality and technical accuracy of all studies, reports, projections, master plans, designs, drawings, models, specifications and other services, including Collaborative for High Performance Schools (CHPS) program registration and compliance per CHPS guidelines, DSA/OPSC High Performance Incentive (HPI) Grant Program submission, if eligible, and PG&E's Savings By Design rebate incentive program, as applicable, 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, models, specifications and other services.
- 1.2. The District shall provide all information available to it to the extent the information relates to Architect's scope of work. This information shall include, if available;



May 8, 2017

Ms. Kenya Chatman
Facilities Coordinator
Oakland Unified School District
Facilities Planning and Management
955 High Street
Oakland, CA 94601

RE: Proposal for Architectural and Engineering Design Services
For Elmhurst Gym Boiler, Heating and Ventilation Replacement

Dear Ms. Chatman,

I thank you for the opportunity to provide a proposal to provide a full design service for replacement system design at Elmhurst Middle School Gymnasium building. We understand that the existing building is served by antiquated redundant steam boiler system. The boilers are serving both the domestic hot water system as well as the heating hot water loop. The intent of the project is to replace the existing system and to provide a new domestic water and space heating to provide an energy efficient system.

We understand that there has been a previous recommendation to replace existing boilers with new condensing boiler; however, the associated distribution and point of use devices are in disrepair and the simple replacement would not work.

Our design will consider the following:

- Review existing system drawings and the site conditions of the heating equipment.
- Replace existing (2) hot water boilers supplying existing heating system as well as the domestic hot water system with new condensing boilers.
- Replace existing heating equipment in gym including the fan unit in gym, heating elements in locker rooms, and radiators in offices.
- Coordinate design requirement with the OUSD Building and Grounds for Heating and Ventilation, domestic hot water, and related fire alarm and building management system.
- Provide cost estimates at schematic, 50% design, and 95% design.
- Provide permit document suitable for the Division of State Architect's review. Acquire a DSA approval.
- Coordinate bidding and construction administration.

We understand that the project has a ±\$500,000 project budget. Our recommendations will be outlined to consider the specified project budget.

We note that the project will require DSA Structural and Fire Life Safety review. DSA Accessibility Review is not anticipated.

The following is the list of team members.

Byrens Kim Design Works	Architects	(Small Local Business Enterprise)
Taeho Um and Associates	Structural Engineers	
H&M Mechanical	Mechanical Engineers	(Small Local Business Enterprise)
WHM Inc	Electrical Engineers	

The following illustrates the anticipated services to be included in this proposal.

The **Site Analysis** includes the following tasks:

- Review existing program elements and site conditions
- Collaborate with the District and the Site administration to generate program goals intent.

The **Schematic Design** includes the following tasks:

- Generate schematic design package based on the approved program documents.
- Conduct required District/User meetings to update the development.
- Review site utility upgrade requirement including power, gas, and EMS/Control wiring.
- Update cost estimate.

The **Construction Documents** includes the following tasks:

- Generate construction document package suitable for DSA approval and the public Design-Bid-Build contracting requirement.
- Provide construction cost estimates.

The **Agency Review** includes the following tasks:

- Submit for DSA review and approval. Structural and Fire Life Safety only.

The **Bidding** includes the following tasks:

- Coordinate bidding document generation with the District's contracts department.
- Attend bid walk/pre-bid meeting.
- Provide bidding services that may include clarifications and Addenda generation.
- Review bids.

The **Construction Administration** includes the following tasks:

- Attend construction meetings.
- Generate DSA required documentations. Administer DSA review.
- Perform Construction Administration services including RFIs, ASI, site observations, and etc.
- Perform Punch-walk.

The **Project Closeout** includes the following tasks:

- Acquire DSA closeout certification.

Please refer to the attached **Project Budget Worksheet** for detailed understanding of the project deliverables and scope.

To complete the project as outlined, we propose the following fee.

Discipline	PROPOSED FEE
Architect	\$32,000.00
Structural Engineer	\$15,000.00
Mechanical Engineer	\$36,000.00
Electrical Engineer	\$8,500.00
TOTAL	\$91,500.00

The fee is fully burdened and no additional reimbursable expenses will be required.

We assume the following to be provided by the District.

- Hazardous Material Assessment and Abatement procedure if present.
- Existing Structural, Mechanical, and Electrical Drawings.
- Existing conditions report relating to the mechanical, plumbing, and electrical systems including the fire alarm and BMS.
- All permitting and agency review fees.

We thank you for the opportunity to submit this proposal and look forward to continue providing value-added service to the District.

Cordially,



Dong E Kim, AIA, LEED AP
Principal
Byrens Kim Design Works

Attached: Project Budget Worksheet, dated 5/8/17

- 1.2.1. Physical characteristics;
- 1.2.2. Legal limitations and utility locations for the Project site(s);
- 1.2.3. Written legal description(s) of the Project site(s);
- 1.2.4. Grades and lines of streets, alleys, pavements, and adjoining property and structures;
- 1.2.5. Adjacent drainage;
- 1.2.6. Rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries and contours of the Project site(s);
- 1.2.7. Locations, dimensions and necessary data with respect to existing buildings, other improvements and trees;
- 1.2.8. Information concerning available utility services and lines, mechanical and other services, both public and private, above and below grade, including inverts and depths;
- 1.2.9. Surveys, reports, as-built drawings; and
- 1.2.10. Subsoil data, chemical data as encountered and other data logs of borings.

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

If Architect determines that the information or documentation the District provides is insufficient for purposes of design or if 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 information is deemed necessary for the project's effective execution, architect shall not proceed with affected project components until required information is secured. Should architect proceed without the required information, and the information when received, causes a change, architect shall make all necessary changes and engage the resources necessary to keep the project on schedule, at no cost to the District. If the Parties mutually agree, this additional information and service shall be procured through the Architect, who may invoice the District for those services as Extra Services.

- 1.3. **Technology Backbone.** Architect shall be responsible for the coordination of the design and the layout of the technology backbone system with the District's Information Technology and Security Department and/or the District's

technology and security 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 and security consultant as appropriate to the level of design completion.

- 1.4. **Interior Design.** 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. Advise the District on lead times and availability of all Project equipment, materials, supplies, and furnishings to ensure that all of these will be available to the District in a timely fashion so as to not delay the Project and/or delay the District's beneficial occupancy of the Project.
- 1.5. **District Standards.** Architect and its Consultants shall incorporate into the Work all adopted District product standards for facilities and construction. Architect and its Consultants shall not incorporate any specific products, items, systems, or materials unless allowing an "or equal" item, or if it is a District-adopted sole source product standard.
- 1.6. **Mandatory Assistance.** Except for Claims as defined in this Agreement, if a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the District's request, the Architect, its agents, officers, and employees agree to assist in resolving the dispute or litigation. 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 ("Mandatory Assistance"). The District will compensate the Architect for fees incurred for providing Mandatory Assistance as Extra Services under Exhibit B. If, however, the fees incurred for the Mandatory 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 or omissions of the Architect, its agents, officers, and employees, the Architect shall reimburse the District. The District is then entitled to reimbursement of all fees paid to the Architect, its agents, officers, and employees for Mandatory Assistance.
- 1.7. **Collaborative for High Performance Schools (CHPS).** If this Project is to be designed to a specific Collaborative for High Performance Schools ("CHPS") standard the Parties shall indicate (by checking the appropriate box) for the specific section that is applicable for this specific Project.
 - 1.7.1. **CHPS VERIFIED PLUS HPI INCENTIVE WITH OPSC ELIGIBILITY TRACK**
 - 1.7.1.1. **Collaborative for High Performance Schools ("CHPS") Criteria, CHPS Verified Program and State of California High Performance Schools Incentive (HPI) Grant Program.** As part of Basic Services, the Architect shall adhere to the District's CHPS Guidelines, and Owner's Project Requirements (OPR) based on incorporating required and voluntary design Criteria of the CHPS—2009 Criteria (or latest

version per CHPS Guidelines) into the project. As a part of Basic Services the Architect shall complete all documentation and submission requirements necessary for the State of California High Performance Schools Incentive (HPI) Grant Program as eligible as well as the CHPS Verified Program. The Architect shall work with the District and its CHPS Program Manager to confirm CHPS and DSA/OPSC HPI review path with District as CHPS and HPI Programs develops, and verify that the District's project meets the highest possible point score under CHPS Criteria and to maximize HPI grant funding, consistent with the District's budget.

1.7.1.1.1. The Architect and Consultants shall participate early on in two CHPS integrated design workshops, led by the District's CHPS Program Manager to establish the District's CHPS Guideline goals and identify target credits. The Architect shall be responsible for registering the project on-line with the CHPS Verified Program, and submitting for design and construction verification according to CHPS Verified Program Guidelines. The Architect shall update the CHPS "Scorecard" and the DSA HPI Scorecard, **OR** the "joint CHPS Verified/HPI scorecard," as available, with credit documentation, concurrent with each design phase submittal. The status of Project compliance and documentation submitted in relation to CHPS Verified and HPI credits shall be assessed with the District at the end of each phase of the work.

1.7.1.1.2. Whole building energy performance analysis with a goal of a minimum of thirty percent (30%) of California Title 24 minimum energy performance standard shall be performed at least once during each the following phases: Schematic Design, Design Development, and Construction Documentation. Energy Conservation Measures (ECMs) shall be proposed with Schematic and Design Development energy analysis runs to improve performance to meet or exceed goal. Daylighting analysis to identify strategies to improve daylighting to maximize goals of CHPS Credit EQ 1.1 'Daylighting,' shall also be performed at Schematic, and Design Development Phases prior to final Construction Documentation phase analysis reflecting final design incorporating daylighting improvements identified in earlier phases.

The Architect shall assist the District in a timely manner, in preparing applications to DSA and the Office of Public School Construction which shall meet DSA/HPI submission requirements, including

calculations demonstrating Acoustic Performance standards per CHPS guidelines, and all required documentation required to meet CHPS Verified rating and receive funding under the DSA/OPSC High Performance Schools Incentive Grant Program. Final approved HPI, or Joint CHPS Verified/HPI, scorecard indicating points verified, and DSA HPI-1 forms shall be forwarded by the Architect upon receipt to the District's Project Manager and CHPS Program Manager.

1.7.2. CHPS VERIFIED ONLY/ NO OPSC HPI ELIGIBILITY TRACK □

1.7.2.1. CHPS Criteria, CHPS Verified Program As part of Basic Services, the Architect shall adhere to the District's CHPS Guidelines, and Owner's Project Requirements (OPR) based on incorporating required and voluntary design Criteria of the CHPS—2009 Criteria (or latest version per CHPS Guidelines) into the project. As a part of Basic Services the Architect shall complete all documentation and submission requirements necessary for Registration and Design and Construction Submissions of the CHPS Verified Program. The Architect shall work with the District and its CHPS Program Manager to confirm CHPS Verified review path and verify that the District's project meets the District's Project Requirements and the District's CHPS Guideline goals for a CHPS Verified school project consistent with the District's budget.

1.7.2.1.1. The Architect and Consultants shall participate early on in two CHPS integrated design workshops, led by the District's CHPS Program Manager to establish the District's CHPS Guideline goals and identify target credits. The Architect shall be responsible for registering the project on-line with the CHPS Verified Program, and submitting for design and construction verification according to CHPS Verified Program Guidelines. The Architect shall update the CHPS "Scorecard" with credit documentation, concurrent with each design phase submittal. The status of project compliance and documentation submitted in relation to CHPS Verified credits shall be assessed with the District at the end of each phase of the work.

1.7.2.1.2. Whole building energy performance analysis with a goal of a minimum of thirty percent (30%) of California Title 24 minimum energy performance standard shall be performed at least once during the following phases: Schematic Design, Design Development, and Construction Documentation. Energy Conservation Measures (ECMs) shall be proposed with Schematic and Design Development energy analysis runs to improve performance to meet or exceed goal. Daylighting analysis to

identify strategies to improve daylighting to maximize goals of CHPS Credit EQ 1.1 'Daylighting,' shall also be performed at Schematic, and Design Development Phases prior to final Construction Documentation phase analysis reflecting final design incorporating daylighting improvements identified in earlier phases.

- 1.7.2.1.3. The Architect shall complete steps as required by the CHPS Verified Program to achieve a CHPS Verified school project, including calculations demonstrating Acoustic Performance standards per CHPS guidelines are met, and forward electronic pdf copies of all submissions and communications with CHPS, concurrently, to the District's Project Manager and CHPS Program Manager.

1.7.3. CHPS DESIGNED ONLY/CHPS GUIDELINES / MINOR MODERNIZATION
SCOPE ONLY/ NO OPSC HPI ELIGIBILITY TRACK

1.7.3.1. **CHPS Criteria, and CHPS Guidelines** As part of Basic Services, the Architect shall adhere to the District's CHPS Guidelines, and Owner's Project Requirements (OPR) based on incorporating required and voluntary design Criteria of the CHPS—2009 Criteria (or latest version per CHPS Guidelines) into the project. As a part of Basic Services the Architect shall complete all documentation and submission requirements necessary to self-certify the school project as 'CHPS Designed' according to the CHPS Designed Program and transmit the documentation to the District for its potential future submission to the CHPS Verified Program. The Architect shall work with the District and CHPS Program Manager to verify that the District's project meets the Owner's Project Requirements and CHPS Guideline goals for a CHPS Verified school project consistent with the District's budget.

1.7.3.1.1. The Architect and Consultants shall participate early on in two CHPS integrated design workshops, led by the District's CHPS Program Manager to establish the District's CHPS Guideline goals and identify target credits. The Architect shall update the CHPS "Scorecard" with credit documentation to the extent applicable to scope, concurrent with each design phase submittal. The status of project compliance and any documentation submitted in relation to CHPS Designed credits shall be assessed with the District at the end of each phase of the work.

1.7.3.1.2. Whole building energy performance analysis with a goal of a minimum of thirty percent (30%) of

California Title 24 minimum energy performance standard shall be performed at least once during the following phases: Schematic Design, Design Development, and Construction Documentation. Energy Conservation Measures (ECMs) shall be proposed with Schematic and Design Development energy analysis runs to improve performance to meet or exceed goal. Daylighting analysis, as applicable to scope of work, to identify strategies to improve daylighting to maximize goals of CHPS Credit EQ 1.1 'Daylighting,' shall also be performed at Schematic, Design Development, and Construction Documentation phases.

1.8. Oversight and Inspection Requirements

The Architect acknowledges that the Division of the State Architect (DSA) inspection, approval and certification process for projects was revised in 2012-2013 and that the Architect must comply with the requirements of the most recent versions of DSA documents PR 13-01 (Procedure: Construction Oversight Process) and IR A-6 (Interpretation of Regulations: Construction Change Document Submittal and Approval Process).

1.9. Building Information Modeling (BIM).

The Architect shall produce a Building Information Model, if the Parties so indicate by checking the adjacent box. The Building Information Model shall be created in accordance with Autodesk® BIM 360™ Building Information Modeling software and file format. The Architect shall utilize the Building Information Model to minimize costs of Services under this Agreement.

1.9.1. Model Requirements. The Architect shall make the Building Information Model in accordance to the current version of the "National BIM Standard – United States" ("NBIMS") of the National Institute of Building Sciences. The Architect shall develop each BIM Element to the Level of Development in accordance with generally accepted industry practice by the end of each Project phase.

1.9.2. Model Management and Coordination. The Architect shall manage the Model and coordinate efforts with Consultants to detect and resolve all Clashes. The Architect must require all applicable Consultants engage in Clash detection. In management of the Model, the Architect is responsible for facilitating and establishing the following: the Model coordinate system and units; file storage locations; processes for transferring and accessing Model files; Clash detection procedures; and Model access rights. Furthermore, the Architect is responsible for the following: maintaining record copies of each file received for the Building Information Model; aggregating Building Information Model files; performing Clash detection in accordance with established procedures; maintain Building Information Model Archive and backups; manage Building Information Model access rights; and any additional responsibilities set forth in NBIMS. In the event a Clash is detected, the Architect shall timely resolve the Clash in the Building Information Model, and the Architect shall timely make corresponding corrections to any plan, specification, drawing, model, analysis, estimate, file, document, or item produced under the Services of this Agreement.

1.9.3. Building Information Model Archive. At the end of each Project phase, the Architect is responsible for and shall produce a Building Information Model Archive that cannot be altered for any reason. Each Building Information Model Archive shall consist of two sets of files. The first set shall be a collection of all files the Architect received for the Building Information Model during that Project phase, in both the file format received and all converted file formats. The second set shall consist of the Building Information Model as developed at the end of that Project phase. In the event this Agreement is terminated, the Architect shall create a Building Information Model Archive for the current Project

phase up to the date of termination.

2. MASTER PLANNING SERVICES

2.1. Project Initiation

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

- 2.1.1. Within the first week following execution of the Agreement, review the proposed Schedule of Work set forth in Exhibit "C" to the Agreement 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.
- 2.1.2. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.

2.2. Development of Architectural Program

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

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

2.3. Construction Cost Budget

- 2.3.1. Architect shall have responsibility to further review the Construction Cost Budget within the parameters of the Construction Budget

established in the District's implementation plan. The estimates forming the basis of the Construction Cost Budget are to be prepared by the Program Manager and the Design Phase Manager and are to be prepared by the Program Manager and the Design Phase Manager and are to be based on the developed functional architectural programs as approved by the District. The Architect shall be responsible to review and advise on all elements of the Cost Estimates prepared by the District's management team. The following conditions apply to the Construction Cost Budget reviewed by the Architect:

2.3.1.1. 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.

2.3.1.2. Format shall be in a building systems format (e.g., foundations, substructure, structural system, exterior wall enclosure, window systems, etc.) for new buildings, and summarized by the Construction Specification Institute (CSI) category for buildings being modernized.

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

2.3.1.4. The Architect shall review all information and estimates from the District and/or the Construction Manager that are intended to be part of the Construction Cost Budget.

2.3.1.5. Prior to beginning each subsequent phase of the work the Architect shall verify in writing that they have reviewed Construction Cost Budget.

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

2.3.2. The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget for the Project. The accuracy of the Construction Cost Budget shall be the responsibility of the Program Manager and the Design Phase Manager. However, the Architect shall be responsible to provide review, and final acceptance of the Construction Cost Budget as the basis for continuing the proposed project design.

2.4. **Presentation**

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

2.5. 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:

- 2.5.1. Two copies of Architectural Program (Include comparison between developed program and "model" program, include narrative explaining any substantial deviations);
- 2.5.2. Two copies of Conceptual Design/Site Plan and Phasing Plan.
- 2.5.3. Two copies of revised Construction Cost Budget.
- 2.5.4. Two copies of final Schedule of Work;, showing also Project Phasing
- 2.5.5. Two copies of meeting Reports/Minutes from Kick-off and other meetings;
- 2.5.6. Two copies of renderings provided to District for public presentation.

2.6. Meetings (See attached Proposal)

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

3. PRE-DESIGN AND START-UP SERVICES (See attached Proposal)

3.1. Project Initiation

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

- 3.1.1. Within the first week following execution of the Agreement, review the proposed Schedule of Work set forth in Exhibit "C" to the Agreement 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, Model Management and Coordination, CHPS workshops with CHPS, and DSA/OPSC HPI, **OR** "Joint CHPS/HPI" (as applicable) Scorecards and credit documentation, 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.
- 3.1.2. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.

3.2. Development of Architectural Program

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

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

3.2.5. Administer Project as required to coordinate work with the District and between subconsultants.

3.2.6. Construction Cost Budget

3.2.6.1. Architect shall have responsibility to further develop review, and reconcile the Construction Cost Budget within the parameters of the Construction Budget 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. The following conditions apply to the Construction Cost Budget prepared by the Architect:

3.2.6.1.1. 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.

3.2.6.1.2. Format shall be in a building systems format (e.g., foundations, substructure, structural system, exterior wall enclosure, window systems, etc.) for new buildings, and summarized by the Construction Specification Institute (CSI) category for buildings being modernized.

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

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

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

3.2.6.1.6. 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.

3.2.6.2. The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Architect.

3.3. **Presentation**

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

3.4. 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:

- 3.4.1. Two copies of Architectural Program (Include comparison between developed program and "model" program, include narrative explaining any substantial deviations);
- 3.4.2. Two copies of Site Plan;
- 3.4.3. Two copies of revised Construction Cost Budget;
- 3.4.4. Two copies of final Schedule of Work;
- 3.4.5. Two copies of meeting Reports/Minutes from Kick-off and other meetings;
- 3.4.6. Two copies of renderings provided to District for public presentation.
- 3.4.7. Two copies of preliminary CHPS/HPI scorecard(s).
- 3.4.8. Two copies, only in electronic format, of the Building Information Model Archive for this Project phase.

3.5. Meetings

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

4. SCHEMATIC DESIGN PHASE (see attached Proposal)

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 the following items as applicable to the Project scope, as follows:

- 4.1. 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, programming, concepts, Model Management and Coordination CHPS/HPI scorecard with design credit documentation updates and schematic design preparation and estimating that are part of the work of the Project. Also identified will be milestone activities or dates, specific task responsibilities of the Architect, required completion times necessary for the review and approval by the District and by pertinent regulatory agencies and additional definition of deliverables.
- 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.

4.3. Architectural

- 4.3.1. 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. Also, provide typical layouts of major equipment or operational layout.
- 4.3.2. Preliminary building exterior elevations and sections in sufficient detail to demonstrate design concept indicating location and size of fenestration.
- 4.3.3. As applicable, identify proposed roof system, deck, insulation system and drainage technique.
- 4.3.4. Identify minimum finish requirements, including ceiling, floors, walls, doors, windows, and types of hardware.
- 4.3.5. Identify code requirements, include occupancy classification(s) and type of construction. This information shall be incorporated into the program document.
- 4.3.6. Update CHPS/HPI scorecard and credit documentation to reflect Schematic Design. This information shall be incorporated into the program document.

4.4. **Structural**

- 4.4.1. Layout structural systems with dimensions and floor elevations. Identify structural systems (including e.g., pre-cast, structural steel with composite deck, structural steel bar joists); with preliminary sizing identified.
- 4.4.2. Identify foundation systems (including e.g., fill requirements, piles, caissons, spread footings); with preliminary sizing identified.

4.5. **Mechanical (See attached Proposal)**

- 4.5.1. Calculate block heating, ventilation, and cooling loads including skin versus internal loading.
- 4.5.2. Select a minimum of two (2) HVAC systems that appear compatible with loading conditions for subsequent life cycle costing.
- 4.5.3. Show selected system on drawings as follows:
 - 4.5.3.1. Single line drawing(s) of all mechanical equipment spaces, ductwork and pipe chases.
 - 4.5.3.2. Location and preliminary sizing of all major equipment and duct work in allocated spaces.
 - 4.5.3.3. Schematic piping.

- 4.5.3.4. Temperature control zoning.
- 4.5.4. Provide design criteria to include the intent base of design for the projects. This information shall be incorporated into the program document.
- 4.5.5. Evaluate and confirm the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

4.6. **Electrical**

- 4.6.1. Calculate overall approximate electrical loads.
- 4.6.2. 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.
- 4.6.3. Show system(s) selected on drawings as follows:
 - 4.6.3.1. Single line drawing(s) showing major distribution system.
 - 4.6.3.2. Location and preliminary sizing of all major electrical systems and components including:
 - 4.6.3.2.1. Load centers.
 - 4.6.3.2.2. Main panels.
 - 4.6.3.2.3. Switch gear.
- 4.6.4. Provide design criteria to include the intent base of design for the projects. This information shall be incorporated into the program document.
- 4.6.5. Evaluate and confirm the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

4.7. **Civil**

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

4.8. **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.

4.9. Specifications

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

4.10. Construction Cost Budget (See attached Proposal)

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

- 4.10.1. Schematic Estimates: This estimate consists of unit cost applied to the major items and quantities of work. The unit cost shall reflect the complete direct current cost of work. Complete cost includes labor, material, waste allowance, sales tax and subcontractor's mark-up.
 - 4.10.1.1. General conditions shall be applied separately. This estimate shall be prepared by specification section and summarized by the CSI categories.
- 4.10.2. The estimate shall separate the Project's building cost from site and utilities cost. Architect shall submit to the District detailed cost estimating format for prior review and approval.
- 4.10.3. Escalation: all estimates shall be priced out at current market conditions. The estimates shall incorporate all adjustments as appropriate, relating to mid-point construction, contingency, and cost index (i.e. Lee Saylor Index).
- 4.10.4. The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Architect.
- 4.10.5. The Architect shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, the Architect shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget, including review of District-provided cost estimate.
- 4.10.6. 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.

4.11. Meetings

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

4.12. 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:

- 4.12.1. Updated program document
- 4.12.2. Two copies of breakdown of Construction Cost Budget as prepared for this Phase;
- 4.12.3. Two copies of meeting Reports/Minutes;
- 4.12.4. Two copies of Schematic Design Package with alternatives;
- 4.12.5. Two copies of a statement indicating changes made to the Architectural Program and Schedule;
- 4.12.6. CHPS/HPI scorecard with documentation for Design Credits, including preliminary Daylighting analysis documentation for CHPS credit EQ 1.1 updated to reflect Schematic Design.
- 4.12.7. Preliminary T24 whole building energy analysis reflecting Schematic Design plus list of Energy Conservation Measures (ECMs) with initial cost and projected cost savings and payback period.
- 4.12.8. Two copies, only in electronic format, of the Building Information Model Archive for this Project phase.

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.

4.13. Presentation

- 4.13.1. Architect shall present and review with the District the detailed Schematic Design and CHPS documentation.
- 4.13.2. 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.
- 4.13.3. Prior to approval of the project Schematic Design, the Architect shall meet with the District and make presentations to the District's Superintendent and Board of Education of the project schematic design with intended CHPS targets.
- 4.13.4. Where the Superintendent or the Board request reasonable changes to the project the Architect shall incorporate such changes as a part of Basic Services and prior to advancing to the next phase of work.

5. DESIGN DEVELOPMENT PHASE

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

5.1. Architectural

- 5.1.1. Scaled, dimensioned floor plans with final room locations including all openings.
- 5.1.2. 1/8" scale building sections showing dimensional relationships, materials and component relationships.
- 5.1.3. Identification of all fixed equipment to be installed in contract.
- 5.1.4. Site plan completely drawn with beginning notes and dimensions including grading and paving.
- 5.1.5. Preliminary development of details and large scale blow-ups.
- 5.1.6. Legend showing all symbols used on drawings.
- 5.1.7. Floor plans identifying all fixed and major movable equipment and furniture.
- 5.1.8. Further refinement of Outline Specification for architectural, structural, mechanical, electrical, civil and landscape manuals, systems and equipment.
- 5.1.9. Typical reflected ceiling development including ceiling grid and heights for each ceiling to be used, showing:
 - 5.1.9.1. Light fixtures.
 - 5.1.9.2. Ceiling registers or diffusers.
 - 5.1.9.3. Access Panels.
- 5.1.10. Update CHPS/HPI scorecard and credit documentation to reflect Design Development. This information shall be incorporated into the program document.

5.2. Structural:

- 5.2.1. Structural drawing with all major members located and sized.
- 5.2.2. Establish final building and floor elevations.
- 5.2.3. Preliminary specifications.

5.2.4. Identify foundation requirement (including fill requirement, piles) with associated soil pressure, water table and seismic center. This information shall be incorporated into the program document.

5.3. Mechanical

5.3.1. Heating and cooling load calculations as required and major duct or pipe runs sized to interface with structural.

5.3.2. Major mechanical equipment should be scheduled indicating size and capacity.

5.3.3. Ductwork and piping should be substantially located and sized.

5.3.4. Devices in ceiling should be located.

5.3.5. Legend showing all symbols used on drawings.

5.3.6. More developed Outline Specifications indicating quality level and manufacture.

5.3.7. Control Systems to be identified. This information shall be incorporated into the program document.

5.3.8. 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. This information shall be incorporated into the program document.

5.4. Electrical

5.4.1. 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, with photometrics, and clear lighting controls for CHPS/HPS credit EQ 1.3 Electric Lighting documentation meeting CHPS Guidelines.

5.4.2. All major electrical equipment should be scheduled indicating size and capacity.

5.4.3. 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 system, clock and public address system, voice data system, and telecom/technology system.

5.4.4. Legend showing all symbols used on drawings

5.4.5. More developed and detailed Outline Specifications indicating quality level and manufacture.

- 5.4.6. 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.

5.5. **Civil**

- 5.5.1. 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.
- 5.5.2. 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.

5.6. **Landscape**

Further refinement of Schematic Design concepts. Includes coordination of hardscape, landscape planting, ground cover and irrigation main distribution lines.

5.7. **Bid Documents**

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 the Agreement.

5.8. **Construction Cost Budget**

- 5.8.1. Revise the Construction Cost Budget for the Project. Along with the conditions identified in the Agreement and the preceding Phases, the following conditions apply to the revised Construction Cost Budget
- 5.8.2. 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.
- 5.8.3. The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Architect.
- 5.8.4. The Architect shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, the Architect shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.
- 5.8.5. 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.

5.9. Deliverables and Numbers of Copies

- 5.9.1. Updated program document
- 5.9.2. Two copies of Design Development drawing set from all professional disciplines necessary to deliver the Project;
- 5.9.3. Two copies of Specifications;
- 5.9.4. Two copies of revised Construction Cost Budget;
- 5.9.5. 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.
- 5.9.6. Updated CHPS/HPI scorecard with documentation for Design Credits, including preliminary Daylighting analysis documentation for CHPS credit EQ 1.1 updated to reflect Design Development.
- 5.9.7. Updated T24 whole building energy analysis reflecting Design Development plus list of Energy Conservation Measures (ECMs) incorporated.
- 5.9.8. Two copies, only in electronic format, of the Building Information Model Archive for this Project phase.

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.

5.10. Meetings

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

6. CONSTRUCTION DOCUMENTS PHASE

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

6.1. Construction Documents ("CD") 50% Stage:

6.1.1. General

Prior to listing any specific equipment, material, supply, or furnishing, Architect shall reasonably verify the availability of all Project equipment, materials, supplies, and furnishings to ensure that all of these will be available to the contractor(s) in a timely fashion so as to not delay the Project and/or delay the District's beneficial occupancy of the Project. The Architect shall also provide other options to the District regarding other possible and more available equipment, materials, supplies, or furnishings.

6.1.2. Architectural

6.1.2.1. Site plan developed to show building location, and major site elements.

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

6.1.2.3. Architectural details and large blow-ups started.

6.1.2.4. Well developed finish, door, and hardware schedules.

6.1.2.5. Fixed equipment details and identification started.

6.1.2.6. Reflected ceiling plans coordinated with floor plans and mechanical and electrical, fire protection, systems.

6.1.3. Structural

6.1.3.1. Structural floor plans, elevations, and sections with detailing well advanced.

6.1.3.2. Structural footing and foundation plans, floor and roof framing plans with detailing well advanced.

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6.1.3.3. Completed cover sheet with general notes, symbols and legends.

6.1.4. Mechanical

6.1.4.1. Mechanical calculations virtually completed with all piping and ductwork sized.

6.1.4.2. Large scale mechanical details started.

6.1.4.3. Mechanical schedule for equipment substantially developed.

6.1.4.4. Complete design of Emergency Management System ("EMS")."

6.1.5. Electrical

6.1.5.1. Lighting, power, signal and communication plans showing all switching and controls. Fixture schedule and lighting details development started.

6.1.5.2. Distribution information on all power consuming equipment; lighting and device branch wiring development well started.

6.1.5.3. All electrical equipment schedules started.

6.1.5.4. Special system components approximately located on plans.

6.1.5.5. Complete design of low voltage system. Low voltage system includes fire alarm system, security system, clock and public address system, voice data system, and telecom/technology system.

6.1.6. Civil

6.1.6.1. All site plans, site utilities, parking, walkway, and roadway systems updated to reflect update revisions from Design Development Phase Documents, including all topographical and major site elements and existing/proposed contour lines.

6.1.6.2. Site utility plans started.

6.1.7. Landscape

All landscape, hardscape, and irrigation plans updated to reflect update revisions from Design Development Phase Documents.

6.1.8. Construction Cost Budget

- 6.1.8.1. Revise 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.
- 6.1.8.2. The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Architect.
- 6.1.8.3. The Architect shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, the Architect shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.
- 6.1.8.4. At this stage of the design, the Construction Cost Budget may include design contingencies of no more than 5% in the cost estimates.

6.1.9. Specifications

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.

- 6.1.9.1. No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless:
 - 6.1.9.1.1. 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
 - 6.1.9.1.2. The designation is allowable by a specific allowable exemption or exception pursuant to Public Contract Code, section 3400
- 6.1.9.2. Specifications shall not contain restrictions that will limit competitive bids other than those required for maintenance convenience by the District and only with District's prior approval.
- 6.1.9.3. Specifications shall be in CSI format.

6.1.10. 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:

- 6.1.11. Updated program document
- 6.1.12. Two copies of reproducible copies of working drawings;
- 6.1.13. Two copies of specifications;
- 6.1.14. Two copies of statement of requirements for testing and inspection of service for compliance with Construction Documents and applicable codes;
- 6.1.15. 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.
- 6.1.16. Two copies, only in electronic format, of the Building Information Model Archive for this Project phase.

6.2. Construction Documents – 100% / Completion Stage:

6.2.1. Architectural

- 6.2.1.1. Completed site plan.
- 6.2.1.2. Completed floor plans, elevations, and sections.
- 6.2.1.3. Architectural details and large blow-ups completed.
- 6.2.1.4. Finish, door, and hardware schedules completed, including all details.
- 6.2.1.5. Fixed equipment details and identification completed.
- 6.2.1.6. Reflected ceiling plans completed.

6.2.2. Structural

- 6.2.2.1. Structural floor plans and sections with detailing completed.
- 6.2.2.2. Structural calculations completed.

6.2.3. Mechanical

- 6.2.3.1. Large scale mechanical details complete.
- 6.2.3.2. Mechanical schedules for equipment completed.
- 6.2.3.3. Completed electrical schematic for environmental cooling and exhaust equipment.

6.2.3.4. Complete energy conservation calculations and report.

6.2.4. Electrical

6.2.4.1. Lighting and power plan showing all switching and controls. Fixture schedule and lighting details completed. Include any updated photometrics to demonstrate meeting of EQ 1.1 Daylighting.

6.2.4.2. Distribution information on all power consuming equipment, including lighting, power, signal and communication device(s) branch wiring completed.

6.2.4.3. All electrical equipment schedules completed.

6.2.4.4. Special system components plans completed.

6.2.4.5. Electrical load calculations completed.

6.2.5. Civil

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

6.2.6. Construction Cost Budget

6.2.6.1. 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.

6.2.6.2. The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Architect.

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

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

6.2.7. Specifications

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

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

6.2.7.2.1. 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

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

6.2.7.3. 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.

6.2.7.4. At one hundred percent (100%) review, District shall review the specifications and shall direct Architect to make corrections at no cost to the District.

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

6.2.7.6. Specifications shall be in CSI format.

6.2.8. Constructability Review

The District and/or its designee shall conduct a construction review of the Construction Documents. A report shall be given to the Architect who shall make necessary changes along with providing written comments for each item listed in the report.

6.2.9. 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:

6.2.9.1. Updated program document

6.2.9.2. Two copies of reproducible copies of working drawings;

6.2.9.3. Two copies of specifications;

6.2.9.4. Prerequisites and Credits targeted, including final Acoustics Performance and Daylighting analysis documentation for CHPS credits EQ 3.1, and EQ 1.1 updated to reflect final Design.

6.2.9.5. Updated T24 whole building energy analysis plus for submittal for PG&E's Savings By Design rebate program,

reflecting final Design plus list of Energy Conservation Measures (ECMs) incorporated.

- 6.2.9.6. Two copies of engineering calculations;
- 6.2.9.7. Two copies of revised Construction Cost Budgets;
- 6.2.9.8. Two copies of statement of requirements for testing and inspection of service for compliance with Construction Documents and applicable codes;
- 6.2.9.9. Two copies of DSA file including all correspondence, meeting, back check comments, checklists to date;
- 6.2.9.10. 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.
- 6.2.9.11. Two copies, only in electronic format, of the Building Information Model Archive for this Project phase.

6.3. **Construction Documents (CD) Final Back-Check Stage**

6.3.1. 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 estimate. All changes made by the Architect during this stage shall be at no additional cost to the District.

6.3.1.1. **Approval of Construction Documents.** Architect shall obtain all necessary approvals for the Construction Documents for the Project from governmental agencies with jurisdiction therefor as necessary for the bidding and construction of the Work depicted in the Construction Documents, including without limitation, approvals by DSA. Architect shall revise the Construction Documents as required by DSA or other governmental agencies to obtain their respective approvals of the Construction Documents. Except for the Architect's fees (which are included in the Contract Price for Basic Services) incurred in obtaining the approvals or preparing revisions pursuant to the foregoing, the District shall pay all other costs or fees necessary for obtaining the approvals.

6.3.2. 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:

6.3.2.1. Drawings: Original tracings of all drawings on Architect's tracing paper with each Architect/consultant's State license stamp.

6.3.2.2. Specifications: Original word-processed technical specifications on reproducible masters in CSI format.

6.3.3. Architect shall update and refine the consultants' completed Construction Documents.

6.3.4. Architect shall submit final CHPS/HPI scorecard(s) as approved by DSA/HPI with any DSA/HPI correspondence and final HPI-1 form, as well as approved CHPS Verified Design credits, if applicable, with any additional documentation submitted for all Prerequisites and Credits targeted.

6.4. Meetings

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

7. BIDDING 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 perform Bidding Phase services for District as follows:

- 7.1. Coordinate the development of the bidding procedures and the construction contract documents with the District.
- 7.2. The development of the bidding procedures and the construction contract documents shall be the joint responsibility of the District and the Architect.
- 7.3. Attend bid walk(s) as scheduled.
- 7.4. While the Project is being advertised for bids, all questions concerning intent shall be referred to the District for screening and subsequent processing through Architect.
- 7.5. In the event that items requiring interpretation of the drawings or specifications are discovered during the bidding period, those items shall be analyzed by the Architect for decision by the District as to the proper procedure required. Corrective action will be in the form of an addendum prepared by the Architect and issued by the District.
- 7.6. Attend bid opening.
- 7.7. Coordinate with sub consultants.
- 7.8. Respond to District questions and clarifications.
- 7.9. 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:

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

- 7.9.2. Two copies of meeting report/minutes from pre-bid site walk;
- 7.9.3. 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, and one (1) electronic set of plans in AutoCAD 2006 or compatible set and one (1) electronic copy of the conforming specifications in Microsoft Word.
- 7.9.4. Two copies, only in electronic format, of the Building Information Model Archive for this Project phase.

8. CONSTRUCTION ADMINISTRATION 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 perform Construction Administration Phase services for the District as follows:

- 8.1. The Architect's responsibility to provide basic services for the Construction Phase under the Agreement commences with the award of the contract for construction and terminates upon satisfactory performance and completion of all tasks in this phase and commencement of the Closeout Phase or upon the District's terminating the Agreement, whichever is earlier.

8.2. Change Orders

- 8.2.1. 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.
- 8.2.2. The Architect shall furnish all necessary additional drawings for supplementing, clarifying, and/or correcting purposes and for change orders. The District shall request these drawings from the Architect and shall be at no additional cost unless designated as Extra Services by the District. The original tracing(s) and/or drawings and contract wording for change orders shall be submitted to the District for duplication and distribution.

8.3. Submittals

- 8.3.1. Architect shall review and approve or 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, including documented CHPS/HPI credits.
- 8.3.2. Architect shall review contractor's schedule of submittals and advise the District on whether 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.

8.3.3. 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 ten (10) business days from its receipt by the Architect, unless the complexity of the submittal warrants a longer time period for the review to be mutually agreed upon by both parties. Architect's response to each submittal shall be a substantive and acceptable response. This 10-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.

8.4. **RFIs**

During the course of construction, all Requests for Information ("RFI") 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. 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.

8.5. 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. Further, The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work.

8.6. **As-Built Drawings.** Architect shall review and evaluate for District the contractor(s)' documentation of the actual construction performed during the Project that the contractor(s) should prepare and submit as As-Builts. As-Builts are documents that show the actual construction performed during the Project, including changes necessitated by change orders, and detailed by the District's construction contractor(s) on a Conforming Set.

8.6.1. Architect shall provide to contractor(s), electronic "background" copies of all plans on which the contractor(s) shall indicate its "As-Builts" in electronic format back to the District.

8.7. **Record Drawings.** Only if requested specifically by the District, Architect shall incorporate all information on all As-Builts, sketches, details, and clarifications, and prepare one set of final Record Drawings for the District. The Record Drawings shall incorporate onto one set of electronic drawings, all changes from all As-Builts, sketches, details, and clarifications. If a set of Record Drawings

has been requested by the District, then (1) the Architect shall deliver it to the District at completion of the construction and (2) it shall be a condition precedent to the District's approval of the Architect's final payment. The Architect may insert the following notice on the Record Drawings:

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

8.8. **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, to ensure that they meet the requirements of the plans and specifications.

8.9. Architect shall also provide, at the District's request, architectural/engineering advice to the District on start-up, break-in, and debugging of facility systems and equipment, and apparent deficiencies in construction following the acceptance of the contractor's work.

8.10. Recommendations of Payment by Architect constitute Architect's representation to the District that work has progressed to the point indicated to the best of Architect's knowledge, information, and belief, and that the quality of the work is in general conformance with the contract documents.

8.11. 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:

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

8.11.2. Two copies of observation reports;

8.11.3. Two copies of weekly meeting reports that reflect substantive Architectural, Commissioning or CHPS/HPI issues discussed.

8.11.4. Final acoustics performance testing report and CHPS/HPS documentation to verify CHPS EQ 3.1 is met.

8.11.5. Two copies, only in electronic format, of the Building Information Model Archive for this Project phase.

8.12. Meetings

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

9. CLOSEOUT PHASE

9.1. As the Construction Administration Phase progresses, the Architect shall perform the following Close Out Phase services for the District as required:

- 9.1.1. Architect shall review the project and observe the construction as required to determine when the contractor has completed the construction of the Project and shall prepare punch lists of items that remain in need of correction or completion.
- 9.1.2. Architect shall collect from the contractor, review, and forward to the District all written warranties, operation manuals, lien waivers, and Certificates of Inspection and Occupancy with Architect's recommendation as to the adequacy of these items.
- 9.1.3. Architect shall use its diligent efforts to prepare or collect, as applicable, and provide to DSA, all reports required by DSA related to the design and construction of the Project.
- 9.1.4. Architect shall obtain all required DSA approval on construction change directives and addenda to the contractor's contract that have not already received DSA approval.
- 9.1.5. Architect shall prepare verified report(s) for the Project (DSA-6A/E Verified Report, Rev 04/08, or more recent revision if available).
- 9.1.6. Architect shall prepare a set of Record Drawings for the Project, as requested by the District.
- 9.1.7. Architect shall review and prepare a package of all warranty and M&O documentation.
- 9.1.8. Architect shall organize electronic files, plans and prepare a Project binder.
- 9.1.9. Architect shall coordinate all Services required to close-out the design and construction of the Project with the District and between consultants.
- 9.2. When the design and construction of the Project is complete, the District shall prepare and record with the County Recorder a Notice of Completion for the Project.
- 9.3. **Deliverables and Number of Copies**
 - 9.3.1. Punch lists for each site;
 - 9.3.2. Upon completion of the Project, all related project documents, including As-Builts, Record Drawings. These are the sole property of the District.
 - 9.3.3. Two copies, only in electronic format, of the Building Information Model Archive for this Project phase.
 - 9.3.4. DSA Project Certification
- 9.4. **Meetings**

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

10. MEETINGS / SITE VISITS / WORKSHOPS – Architect Participation Requirements (see attached Proposal)

10.1. Architect shall attend, take part in, and, when indicated, conduct meetings, site visits and workshops, as indicated below. Architect shall chair, conduct, take, and distribute minutes of all meetings Architect attends (excluding Governing Board meetings and Citizens' Bond Oversight Committee meetings). Architect shall invite the District and/or its representative to participate in these meetings. Architect shall keep a separate log to document design/coordination comments generated in these meetings.

10.2. General Meeting, Site Visit and Workshop Requirements (see attached Proposal)

10.2.1. Architect shall always be prepared to answer questions and issues from District staff, site staff, potential bidders, and/or contractors, as applicable.

10.2.2. Architect shall maintain a log of all meetings, site visits or site observations held in conjunction with the design and construction of the Project, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Project documentation.

10.2.3. As required, Architect shall provide at no additional cost to the District copies of all documents or other information needed for each meeting, site visit, and workshop.

10.2.4. Each meeting may last up to one full day (eight (8) hours) and shall be held at the District office or at one of the Project sites, unless otherwise indicated.

10.3. Meetings During Project Initiation Phase (one (1) meeting(s))

10.3.1. Within the first week following execution of the Agreement, the Architect shall participate in one Project kick-off meeting for all sites to determine the Project intent, scope, budget and timetable, which shall encompass the following:

10.3.1.1. The Architect, its appropriate consultant(s), and District staff, shall attend the meeting.

10.3.1.2. The Project kick-off meeting will introduce key team members from the District and the Architect to each other, defining roles and responsibilities relative to the Project.

10.3.1.3. During this meeting, the Architect shall:

10.3.1.3.1. Identify and review pertinent information and/or documentation necessary from the District for the completion of the Project.

10.3.1.3.2. Review and explain the overall Project goals, general approach, tasks, work plan and procedures and deliverable products of the Project.

10.3.1.3.3. Review and explain the scope of work and Project work plan for all parties present; determine any adjustments or fine tuning that needs to be made to the work plan.

10.3.1.3.4. Review documentation of the Project kick-off meeting prepared by the District's representative and comment prior to distribution.

10.3.2. Participate in initial CHPS workshop facilitated by District CHPS Program Manager to develop preliminary CHPS/HPI scorecard(s) and review Owner's Project Requirements.

10.4. Initial Site Visits (one (1) meeting(s))

10.4.1. Architect shall visit the Project sites to complete a visual inventory and documentation of the existing conditions.

10.4.2. Access to site and associated areas shall be coordinated in advance with the District. If additional site visits are required, they shall occur at the architect's sole expense.

10.5. Meetings During Architectural Program (zero (0) meeting(s))

10.5.1. Architect shall participate in one public community information site meeting, per site, to receive input from the community regarding its wishes and expectations regarding the design of Architect's work on the Project and the schedule of use of the sites during construction.

10.5.2. Architect shall conduct one site visit/meeting, with the District's facilities team to gather information from District facilities team and site personnel and to make a visual presentation regarding the Project.

10.5.3. Electrical, civil, mechanical, structural, landscaping, and estimating consultant(s) shall participate in these meetings as appropriate and shall provide input and feedback into the development of the Construction Cost Budget.

10.6. Meetings During Schematic Design Phase (two (2) meeting(s))

10.6.1. Within the first two weeks following the start of the Schematic Design Phase, Architect shall conduct one design workshop, per site, with the District's facilities team and site personnel to complete a basic design framework with computer-aided design equipment (CADD). The District may, at its discretion, allow the Architect to proceed with this meeting without using CADD. This workshop shall be ongoing and may include several meetings and shall not be concluded until each attendee has indicated his or her acceptance with the Architect's preliminary design. This workshop shall include the following:

10.6.1.1. Architect shall designated its team member duties and responsibilities;

10.6.1.2. Architect and District shall review District goals and expectations;

10.6.1.3. District shall provide input and requirements;

10.6.1.4. Architect and District shall review Project scope and budget, including the Construction Cost Budget and the Construction Budget;

10.6.1.5. Prepare and/or revise the scope of work list and general workplan from the Pre-Design Phase, for documentation in a computer-generated Project schedule;

10.6.1.6. Establish and agree regarding methods to facilitate the communication and coordination efforts for the Project.

10.6.1.7. CHPS integrated design update and status.

10.7. **Meetings During Design Development Phase (zero (0) meeting(s))**

10.7.1. At the time designated for completion of the Design Development package, Architect shall conduct one meeting, per package of submittal, with the District to review the following:

10.7.1.1. Present the Design Development package for review and comment to proceed with preparation of final plans and specification.

10.7.1.2. Architect and District shall review Project scope and budget, including the Construction Cost Budget and the Construction Budget.

10.7.2. **Value Engineering Workshop (zero (0) meeting(s))**

Architect shall conduct value engineering workshop(s), as requested by the District, including all of Architect's consultant(s), the District, and

the Construction Manager during the Design Development Phase. This workshop shall be ongoing and may include several meetings.

10.8. **Meetings During Construction Documents Phase (two (2) meeting(s))**

10.8.1. Prior to beginning work on the fifty percent (50%) design package, Architect shall conduct one meeting, per package of submittal, with the District to revise the Design Development package and receive comments.

10.8.2. At the time designated for completion of the fifty percent (50%) submittal package, Architect shall conduct one meeting, per package or submittal, with the District to review the following:

10.8.2.1. Present the fifty percent (50%) submittal package for review and comment to proceed with preparation of final plans and specification.

10.8.2.2. Architect and District shall provide further review of Project scope and budget, including the Construction Cost Budget and the Construction Budget;.

10.8.2.3. CHPS review, which shall include mandatory attendance by all of the Architect's Consultants and each shall present work-in-progress drawings, specifications, tables, calculations, sketches, CHPS and/or HPS Scorecard with all credit documentation, or other material clearly indicating that the work has progressed to the 50% Construction Document phase.

10.8.3. At the time designated for completion of the one hundred percent (100%) Construction Document package, Architect shall conduct one meeting, per package or submittal, with the District to review the following:

10.8.3.1. Present the hundred percent (100%) Construction Document package for review and comment to proceed with preparation of final plans and specification.

10.8.3.2. Architect and District shall provide further review of Project scope and budget, including the Construction Cost Budget and the Construction Budget.

10.9. **Meetings During Bidding Phase (one (1) meeting(s))**

10.9.1. Attend and take part in one Pre bid coordination meeting with District.

10.9.2. Attend and take part in one meeting, per package of submittal, with all potential bidders, District staff, and Construction Manager.

10.9.3. Conduct one kick-off meeting, per site, with the successful bidder, District staff, and Construction Manager to finalize the roles and responsibilities of each party and provide protocols and processes to follow during construction.

10.10. Meetings During Construction Administration Phase (see attached Proposal)

10.10.1. Unless otherwise reasonably agreed to by the Parties, Architect shall visit the Project site as necessary or when requested, and in no case less than once per week, sufficient to determine that the Project is being constructed in accordance with the plans and specifications, and to resolve discrepancies in the contract documents and to monitor the progress of the construction of the Project. Architect may coordinate these site visits so that it observes more than one site on one site visit to the District.

10.10.2. Conduct weekly project meetings with District staff to review with District staff the progress of the work at each site. Architect acknowledges that one or more sites may not be completed in this timeframe and agrees to attend weekly project meetings, at no additional cost to the District, until the work at each Project site is complete.

10.10.3. Architect shall ensure that consultant(s) visit the site in conformance with this agreement.

10.11. Citizens' Bond Oversight Committee Meetings

Architect acknowledges that the design and construction of the Project is subject to oversight by the District's citizen bond oversight committee. Architect shall, at the District's direction, attend District citizen bond oversight committee meeting(s) and present the Architect's design to the District's citizen bond oversight committee for review and recommendation to the District's governing board.

10.12. Governing Board Meetings

Architect acknowledges that the District's governing board must approve all designs. Architect shall, at the District's direction, attend District governing board meeting(s) and present the Architect's design to the District's governing board for review and approval.

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to the Agreement shall be performed by Architect if needed and if authorized in writing by the District in accordance with the Article "Payment for Extra Services or Changes" in the Agreement:

1. Making revisions in drawings, specifications, or other documents when such revisions are:
 - 1.1. Required to comply with direction from the District that is substantively different than approvals or instructions previously given by the District.
 - 1.2. Required by the enactment or revisions of codes, laws, or regulations subsequent to the preparation of the Conforming Set, unless those enactments or revisions were foreseeable or reasonably should have been foreseeable by the Architect prior to preparation of the Conforming Set.
 - 1.3. Due to changes required as a result of the District's failure to respond to a written request from the Architect within a reasonable time, as requested by Architect.
 - 1.4. Required to provide services in connection with Change Orders and directive not the fault of the Architect.
2. Providing services required because of significant documented changes in a Project initiated by the District, including but not limited to size, quality, complexity, the District's schedule, or method of bidding or negotiating and contracting for construction.
3. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of that work.
4. Providing services made necessary by the default of contractor(s), by major defects, or deficiencies in the work of contractor(s).
5. In the absence of a final Certificate of Payment or Notice of Completion, providing Services more than sixty (60) days after the date of completion of work by contractor(s) and after Architect has completed all of its obligations and tasks under the Agreement.
6. Providing deliverables or other items in excess of the number indicated in **Exhibit "A."** Before preparing, providing, sending, or invoicing for extra deliverables, Architect shall inform the District that expected deliverables may be in excess of the number indicated in **Exhibit "A,"** so that District can procure the additional deliverables itself or direct Architect to procure the deliverables at District's expense or on District's account at a specific vendor.

7. Providing services as directed by the District that are not part of the Services of this Agreement.
8. Providing services as an expert and/or witness for the District in any mediation, arbitration, and/or trial in which the Architect is (1) not a party, and (2) did not in any way cause the dispute that is being adjudicated.
9. Providing training, adjusting, or balancing of systems and/or equipment sixty (60) days after completion of work by Contractor(s) and after Architect has completed all of its obligations and tasks under the Agreement.
10. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement.

Job Title	Hourly Rate
[INSERT ARCHITECTS' INFO]	
Principal	\$185
Project Managers	\$135 to \$165
Project Architects	\$115 to \$125
Job Captains	\$95 to \$110
Designers	\$75 to \$85
Administrative	\$90

11. The mark-up on any approved item of Extra Services performed by Consultant(s) shall not exceed **five percent (5%)**.
12. Mileage to/from Project is not reimbursable as Extra Services.

EXHIBIT "C"

SCHEDULE OF WORK

1. Promptly after the execution of this Agreement, the Architect shall prepare and submit for approval to the District a Schedule of Work showing the order in which Architect proposes to carry out Architect's work ("Schedule of Work"). The Schedule of Work shall apply to the completion of all services listed hereunder within the times established by this Agreement. The Schedule of Work shall be in the form of a progress chart clearly delineating all important increments and review dates. Architect shall update the Schedule of Work on a monthly basis and deliver two (2) copies to the District along with the monthly billing.
2. Architect shall complete all work and services required per the Schedule of Work after written authorization from the District to proceed.
3. The durations stated in the Schedule of Work shall include the review periods required by the District and all other regulatory agencies.
4. All times to complete tasks set forth in this Exhibit are of the essence, as per Article 2 of the Agreement. If delays in the Schedule of Work are imposed by the District's inability to comply with requested meeting schedules, Architect shall maintain the right to request an adjustment in the Schedule of Work if deemed necessary to meet the deadlines set forth in this Exhibit. If approved, such extensions shall be authorized in writing by the District.

PROJECT BUDGET WORKSHEET

Project OUSD Elmhurst Gym Boiler Replacement Design
 Client Oakland Unified School District
 Project Address 1800 98th Ave, Oakland, CA

NOTE: This form lists typical services provided. Certain services may be added or deleted according to specific requirements of the project.

PHASE OF SERVICE	SERVICE TO BE PROVIDED	HOURS	COMMENTS
1 Site Analysis	Kick off meeting and Site Visit	8	2 staff, 4 hours
	Confirm existing site conditions	8	
	- Mechanical and Electrical conditions		
	- Roof Plan Information		
	Consultant Coordination	4	
	Generate Background drawings	16	
2 Schematic Design	Meeting with OUSD B&G	12	
	- Review HV requirement		
	- Review fire alarm		
	- Review BMS/EMS requirement		
	Consultant Coordination	6	
	Initial DSA prelim check	6	
	Generate preliminary scheme	32	
	- system narrative & architectural impact		
	- Generate schematic plans		
	- preliminar ROM cost		
	- preliminary schedule		
	Site visits	8	
Order of Magnitude Cost Projection	4		
Schematic presentation/meeting	6		
Update per comments	16		
3 Construction Documents	District Fire Alarm review	4	3 meetings, two staff
	50% Submittal	24	
	95% Submittal	32	
	Update cost	8	
	Client Review Meetings	12	

<p>4 Agency Review</p>	<p>DSA submittal and approval</p>	<p>24</p>	<p>Fee by District</p>
<p>5 Bidding</p>	<p>Attend prebid Bidding Assistance - Bidder RFIs, addenda as required.</p>	<p>4 16</p>	
<p>6 Construction Administration</p>	<p>Provide construction administration services - Respond to RFIs - Review submittal and Shop Drawings - Final punch list</p>	<p>60</p>	

EXHIBIT "D"

PAYMENT SCHEDULE

A. Compensation

1. The payment of consideration to Architect as provided herein shall be full compensation for all of Architect's Services incurred in the performance hereof, including, without limitation, all costs for personnel, travel within two hundred (200) miles of a Project location, offices, per diem expenses, printing and shipping of deliverables in the quantities set forth in **Exhibit "A."** or any other direct or indirect expenses incident to providing the services. Except as expressly set forth in the Agreement and **Exhibit "B,"** there shall be no payment for extra costs or expenses.
2. The total compensation to Architect shall be as stated in Article 6 of the Agreement.
3. District shall pay Architect for all Services contracted for under this Agreement pursuant to the following schedule ("Payment Schedule"):

PERCENTAGE OF TOTAL FEE PER PHASE	
Phase	Phase Amount
Schematic Design Phase	5%
Design Development Phase	10%
Construction Documents Phase	35%
DSA Stamped Approval	5%
Bidding Phase	5%
Construction Administration Phase	30%
Closeout Phase	10%
Generate Punch List	2%
Sign Off On Punch List	2%
Receive and Review All M & O Documents	2%
Filing All DSA Required Closeout Documents	2%
Receiving DSA Closeout, including DSA approval of the final As-Built set of drawings	2%

B. Method of Payment

Invoices shall be on a form approved by the District and are to be submitted to the District via the District's authorized representative.

1. If reasonably requested by District and, if reasonably requested, as a precondition of payment, Architect shall submit to District documentation showing proof that payments were made to Architect's consultant(s).
2. Architect shall submit to the District for approval a copy of the Architect's monthly pay request format, receipt and approval of Architect's invoices, the District agrees to make payments within thirty (30) days of receipt of the invoice as follows:
 - a. Pre- Design/Architectural Program Development Phase:

S Meek Architecture

5/25/17

Renee Lafrenz, Kenya Chatman, Project Manager
OUSD Facilities and Planning 955 High Street Oakland CA 94601

Proposal for Design Services Elmhurst Middle School, **1800 98th Ave, Oakland, CA 9460**
Heating replacement at GYM building
OUSD Project No. #

Proposed Scope HEATING SYSTEM REPLACEMENT AT GYM BUILDING for better energy efficiency

Replace the existing steam boiler heating with all new steam heating or with a new domestic hot water boiler for the lockers and replace all the other systems with gas fired equip,

Electrical disconnections/reconnections

Minor fire detection device modifications associated with new heating

2 large roof top units (fairly lightweight) require minor local strengthening

Slab on grade mounted boilers

Misc ceiling mounted heaters/fans.

Misc. small openings for HVAC/MEP

Excluded from Scope:

Surveys –utility surveys, hazardous material, existing utility capacity, utility pot-holing, etc

Commissioning/ CHPS

Any seismic upgrades of the building (i.e. if triggered by heavy equipment)

Projected estimate of Construction Cost \$600,000

Proposed Schedule

SD and DD phases, 50% Cost estimate	3-4 month
Construction Documents, 95% Cost estimate	2 months
DSA submission and Back check:	5 months
Bid (by OUSD)	2 months
Construction Administration	

Proposed Design Fee

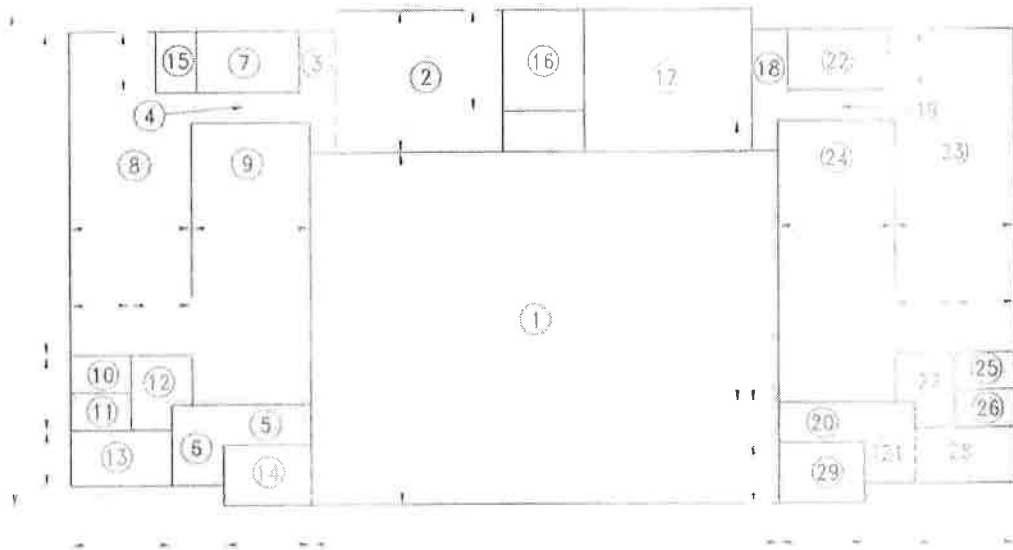
A/E design and Engineering full service	\$130,000
Design Contingency	TBD (\$20,000?)
<u>Reimbursable Allowance:</u>	<u>TBD (\$10,000\$) Misc Agency Fees, etc</u>
Total Fee = Design Fee + Contingency + Reimbursable	

Proposed Sub-Consultants (w/Oakland LBE designation)

Structural Engineers	KPW (SLBE)	\$6,500
Mechanical, Plumbing,	H&M (SLBE)	\$36,000
Electrical Engineers	Zeiger (LBE)	\$19,800
Cost Estimation	L. Saylor (LBE)	\$8,000
		Total \$70,300

Thanks,
Susannah Meek
S Meek Architecture





Not drawn to scale



202 - Elmhurst Middle School - Unit C
1800 98th Street - Oakland, CA 94603-2702

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

b. For Schematic Design Phase:

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

c. For Design Development Phase:

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

d. For Construction Documents Phase:

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

e. For Bidding Phase:

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

f. For Construction Administration Phase:

Monthly payments based on Architect's invoices pursuant to the following:

1. Monthly payments for the percentage of Services complete, up to ninety-five percent (95%) of the fee for the phase; one hundred percent (100%) payment upon the District's agreement that the Architect can generate a Punch List as part of the Closeout Phase.
2. Regardless of the Services performed during any given month, the Architect can invoice for no more than the percentage of construction completed on the Project, plus ten percent (10%), until the Project is seventy percent (70%) complete. (For example, if the construction of the Project is 65% complete at the end of July, the Architect can invoice for no more than 75% of the portion of its Fee for Construction Administration through July.) After the construction of the Project is 70% complete, the Architect can invoice for no more than the percentage of construction completed on the Project. (For example, if the

construction of the Project is 85% complete at the end of September, the Architect can invoice for no more than 85% of the portion of its Fee for Construction Administration through September.)

g. For Closeout:

3. Individual payment(s) proportionate to the items completed within this Phase and Contents of Invoices acknowledges that the District requires Architect's invoices for Basic Services must include explanations of the Services performed.
4. For invoices for Extra Services, a more detailed explanation, with specificity, is required. For example, the following descriptions, in addition to complying with all other terms of this Agreement, would be payable for invoices for Extra Services. The times indicated below are just placeholders:

Review/Respond RFI's, Const. Admin Mtgs., Review Shop Drawings, Field Sketches	5.5 hours
Prepare Construction Documents: floor plans, exterior elevations, consultant coordination.	7.5 hours
Master Budget update, Master Schedule Update, Board Presentation, Accounting coordination	6.5 hours

EXHIBIT "E"

INSURANCE REQUIREMENTS

Architect shall procure prior to commencement of the Services of this Agreement and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services hereunder by the Architect, his agents, representatives, employees and consultant(s). Architect's liabilities, including but not limited to Architect's indemnity 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.

1. **Minimum Scope and limits of Insurance:**

Coverage shall be at least as broad as the following scopes and limits:

- 1.1. **Commercial General Liability.** One million dollars (\$1,000,000) 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.
- 1.2. **Commercial Automobile Liability, Any Auto.** One million dollars (\$1,000,000) per accident for bodily injury and property damage.
- 1.3. **Workers' Compensation Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Architect shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide employers' liability coverage with minimum liability coverage of one million dollars (\$1,000,000) per accident for bodily injury or disease. The Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
- 1.4. **Employment Practices Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Architect shall keep in full force and effect, an Employment Practices Liability policy. That policy shall provide employers' liability coverage with minimum liability coverage of one million dollars (\$1,000,000) per occurrence. The Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
- 1.5. **Professional Liability.** This insurance shall cover the prime design professional and his/her liability arising from the services of consultant(s) with a minimum of one million dollars (\$1,000,000) per occurrence limit and two

million dollars (\$2,000,000) aggregate limit, and subject to no more than **twenty-five thousand dollars (\$25,000) per claim deductible**, coverage to continue through completion of construction plus "tail" coverage for two (2) years thereafter.

The District reserves the right to modify the limits and coverages described herein, with appropriate credits or changes to be negotiated for such changes.

2. Deductibles and Self-Insured Retention:

The Architect shall inform the District in writing if any deductibles or self-insured retention exceeds \$25,000. At the option of the District, either:

- 2.1. The District can accept the higher deductible; or
- 2.2. The Architect's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers.

3. Other Insurance Provisions:

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- 3.1. The District, the Construction Manager, their representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Architect; instruments of Service and completed operations of the Architect; premises owned, occupied or used by the Architect; or automobiles owned, leased, hired or borrowed by the Architect. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
- 3.2. 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.
- 3.3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
- 3.4. 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.
- 3.5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District. At the option of the District, the Architect shall be the party required to provide the District this notice in lieu of the Architect's insurance provider.

4. **Acceptability of Insurers:**

Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. 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. At the option of the District, either:

- 4.1. The District can accept the lower rating;
- 4.2. Require the Architect to procure insurance from another insurer.

5. **Verification of Coverage:**

Architect shall furnish the District with:

- 5.1. Certificates of insurance showing maintenance of the required insurance coverage;
- 5.2. 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.

ROOFING CONTRACT FINANCIAL INTEREST CERTIFICATION
(Public Contract Code section 3006)

PROJECT/CONTRACT NO.: **ELMHURST GYM BOILER REPLACEMENT PROJECT #15120**
between Oakland Unified School District ("District" or "Owner") and **BYRENS KIM DESIGN WORKS** ("Architect / Engineer") ("Contract" or "Project").

I Dong E Kim, Byrens Kim Design Works
Name Name of Architect / Engineer

certify that I have not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the roof project contract on this project. As used in this certification, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Furthermore, I Dong E Kim, Byrens Kim Design Works
Name Name of Architect / Engineer

certify that I do not have, and throughout the duration of the contract, I will not have, any financial relationship in connection with the performance of this contract with any architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I N/A, N/A
Name Name of Architect / Engineer

Have the following financial relationships with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roof project contract:

Name of firm ("Firm"): N/A

Mailing address: _____

Addresses of branch office used for this Project: _____

If subsidiary, name and address of parent company: _____

I certify that to the best of my knowledge, the contents of this disclosure are true, or are believed to be true.

Date: 6/12/17

Proper Name of Architect / Engineer: Byrens Kim Design Works

Signature: 

Print Name: Dong E Kim

Title: President

IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code § 2204)

PROJECT/CONTRACT NO.: **ELMHURST GYM BOILER REPLACEMENT # 15120** between Oakland Unified School District ("District" or "Owner") and **BYRENS KIM DESIGN WORKS** ("Architect / Engineer") ("Contract" or "Project").

Pursuant to Public Contract Code (PCC) section 2204, an Iran Contracting Act certification is required for solicitations of goods or services of one million dollars (\$1,000,000) or more.

Architect / Engineer shall complete **ONLY ONE** of the following two paragraphs.

1. Architect / Engineer's total Fee is less than one million dollars (\$1,000,000).

OR

2. Architect / Engineer's total Fee is one million dollars (\$1,000,000) or more, but Architect / Engineer is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code § 2203(b), and Architect / Engineer is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

OR

3. Architect / Engineer's total Fee is one million dollars (\$1,000,000) or more, but the District has given prior written permission to Architect / Engineer to submit a proposal pursuant to PCC 2203(c) or (d). **A copy of the written permission from the District is included with this Agreement.**

I certify that I am duly authorized to legally bind the Architect / Engineer to this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

Date: 6/12/17

Proper Name of Architect / Engineer: Byrens Kim Design Works

Signature: 

Print Name: Dong E Kim

Title: President

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

I am aware of and hereby certify that neither Byrens Kim Design Works ("Architect") nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. I further agree that I will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Architect or any lower participant is unable to certify this statement, it shall attach an explanation hereto.

IN WITNESS WHEREOF, this certification has been duly executed by the Principal of the above named Architect on the 12 day of June, 2017, for the purposes of submission of this Agreement.

Architect

By: _____

Print Name: Dong E Kim

Print Title: President

Insured: Byrens Kim Design Works
Insurer: Sentinel Insurance Co. LTD
Policy Date: 09/01/2016
Policy Number: 57SBWBG9346

Additional Insured: Oakland Unified School District and its directors, officers, employees, agents and representatives

EXCERPTS FROM: Hartford Form SS 00 08 04 05
BUSINESS LIABILITY COVERAGE FORM

C. WHO IS AN INSURED

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit. A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (a) In the performance of your ongoing operations;
- (b) In connection with your premises owned by or rented to you; or
- (c) In connection with "your work" and included within the "products- completed operations hazard, but only if
 - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
 - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to: "Bodily injury," "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including: inspection, or engineering

E.5. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

E.7.b.(7).(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

E.8.b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

EXCERPT FROM Hartford Form SS 04 38 09 09

HIRED AUTO AND NON-OWNED AUTO

B. With respect to the operation of a "non-owned auto", WHO IS AN INSURED is replaced by the following: The following are "insureds":

- d. Anyone liable for the conduct of an "insured", but only to the extent of that liability.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WORKERS' COMPENSATION BROAD FORM ENDORSEMENT
EXTENDED OPTIONS**

Policy Number: 57WEGGG7714

Effective Date: 9/1/16

Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address:

Byrene Kim Design Works
681 - 4th Street
Oakland, CA 94607

Section I of this endorsement expands coverage provided under WC 00 00 00.
Section II of this endorsement provides additional coverage usually only provided by endorsement.
Section III of this endorsement is a Schedule of Covered States.
You may use the index to locate these coverage features quickly:

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SECTION I

PARTS ONE and TWO

1. WE WILL ALSO PAY

D. **We Will Also Pay of Part One (WORKERS' COMPENSATION INSURANCE);** and

E. **We Will Also Pay of Part Two (EMPLOYERS' LIABILITY INSURANCE)** is replaced by the following:

We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding, or suit we defend:

1. reasonable expenses incurred at our request, **INCLUDING** loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this law; and
5. expenses we incur.

PART THREE

2. How This Insurance Applies

Paragraph 4. of A. **How This Insurance Applies of Part 3 (Other States Insurance)** is replaced by the following:

4. If you have work on the effective date of this policy in any state not listed in Item 3.A. of the Information Page, coverage will not be afforded for that state unless we are notified within **sixty** days.

PART SIX

3. Transfer Of Your Rights and Duties

C. **Transfer Of Your Rights and Duties of Part 6 (Conditions)** is replaced by the following:

Your rights or duties under this policy may not be transferred without our written consent.

If you die and we receive notice within **sixty** days after your death, we will cover your legal representative as insured.

4. Liberalization

If we adopt a change in this form that would broaden the coverage of this form without extra charge, the broader coverage will apply to this policy. It will apply when the change becomes effective in your state.

SECTION II

VOLUNTARY COMPENSATION AND EMPLOYERS' LIABILITY COVERAGE

5. Voluntary Compensation Insurance

A. How This Insurance Applies

This insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must be sustained by any officer or employee not subject to the workers' compensation law of any state shown in Item 3.A. of the Information Page.
2. The bodily injury must arise out of and in the course of employment or incidental to work in a state shown in Item 3.A. of the Information Page.

3. The bodily injury must occur in the United States of America, its territories or possessions, or Canada, and may occur elsewhere if the employee is a United States or Canadian citizen, or otherwise legal resident, and legally employed, in the United States or Canada and temporarily away from those places.
4. Bodily injury by accident must occur during the policy period.
5. Bodily injury by disease must be caused or aggravated by the conditions of the

officer's or employee's employment. The officer's or employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

B. We Will Pay

We will pay an amount equal to the benefits that would be required of you as if you and your employees were subject to the workers' compensation law of any state shown in Item 3.A. of the Information Page. We will pay those amounts to the persons who would be entitled to them under the law.

C. Exclusion

This insurance does not cover:

1. any obligation imposed by workers' compensation or occupational disease law or any similar law.
2. bodily injury intentionally caused or aggravated by you.
3. officers or employees who have elected not to be subject to the state workers' compensation law.
4. partners or sole proprietors not covered under the Standard Sole Proprietors, Partners, Officers and Others Coverage Endorsement.

D. Before We Pay

Before we pay benefits to the persons entitled to them, they must:

1. Release you and us, in writing, of all responsibility for the injury or death.
2. Transfer to us their right to recover from others who may be responsible for the injury or death.
3. Cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons entitled to the benefits of this insurance fail to do those things, our duty to pay ends at once. If they claim damages from you or from us for the injury or death, our duty to pay ends at once.

E. Recovery From Others

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we paid. We will pay the balance to the persons entitled to it.

If the persons entitled to the benefits of this insurance make a recovery from others, they must reimburse us for the benefits we paid them.

F. Employers' Liability Insurance

Part Two (Employers' Liability Insurance) applies to bodily injury covered by this endorsement as though the State of Employment was shown in Item 3.A. of the Information Page.

This provision 5. does not apply in New Jersey or Wisconsin.

EMPLOYERS' LIABILITY STOP GAP COVERAGE

6. Employers' Liability Stop Gap Coverage

- A. This coverage only applies in Montana, North Dakota, Ohio, Washington, West Virginia and Wyoming.
- B. Part One (Workers' Compensation Insurance) does not apply to work in states shown in Paragraph A above.
- C. Part Two (Employers' Liability Insurance) applies in the states, shown in Paragraph A., as though they were shown in Item 3.A. of the Information Page.
- D. Part Two, Section C. **Exclusions** is changed by adding these exclusions.

This insurance does not cover;

5. bodily injury intentionally caused or aggravated by you or in Ohio bodily injury resulting from an act which is determined by an Ohio court of law to have been committed by you with the belief that an injury is substantially certain to occur. However, the cost of defending such claims or suits in Ohio is covered.
13. bodily injury sustained by any member of the flying crew of any aircraft.
14. any claim for bodily injury with respect to which you are deprived of any defense or defenses or are otherwise subject to penalty because of default in premium under the provisions of the workers' compensation law or laws of a state shown in Paragraph A.
- E. This insurance applies to damages for which you are liable under West Virginia Code Annot. S 23-4-2.

EXTENDED OPTIONS

1. Employers' Liability Insurance

Item 3.B. of the Information Page is replaced by the following:

B. Employers' Liability Insurance:

1. Part Two of the policy applies to work in each state listed in Item 3.A.

The Limits of Liability under Part Two are the higher of:

Bodily Injury by Accident	<u>\$500,000</u>	<u>Each Accident</u>
--------------------------------------	------------------	----------------------

Bodily Injury by Disease	<u>\$500,000</u>	<u>Policy Limit</u>
-------------------------------------	------------------	---------------------

Bodily Injury by Disease	<u>\$500,000</u>	<u>Each Employee</u>
-------------------------------------	------------------	----------------------

OR

2. The amount shown in the Information Page.

This provision 1 of **EXTENDED OPTIONS** does not apply in New York because the Limits Of Our Liability are unlimited.

In this provision the limits are changed from **\$500,000** to **\$1,000,000** in California.

2. Unintentional Failure to Disclose Hazards

If you unintentionally should fail to disclose all existing hazards at the inception date of your policy, we shall not deny coverage under this policy because of such failure.

3. Waiver of Our Right To Recover From Others

A. We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against any person or organization for whom you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the agreement.

B. This provision 3. does not apply in the states of Pennsylvania and Utah.

4. Foreign Voluntary Compensation and Employers' Liability Reimbursement

A. How This Reimbursement Applies

This reimbursement provision applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must be sustained by an officer or employee.
2. The bodily injury must occur in the course of employment necessary or incidental to work in a country not listed in Exclusion C.1. of this provision.
3. Bodily injury by accident must occur during the policy period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The officer or employee's last exposure to those conditions of your employment must occur during the policy period.

B. We Will Reimburse

We will reimburse you for all amounts paid by you whether such amounts are:

1. voluntary payments for the benefits that would be required of you if you and your officers or employees were subject to any workers' compensation law of the state of hire of the individual employee.
2. sums to which Part Two (Employers' Liability Insurance) would apply if the Country of Employment were shown in Item 3.A. of the Information Page.

C. Exclusions

This insurance does not cover:

1. any occurrences in the United States, Canada, and any country or jurisdiction which is the subject of trade or economic sanctions imposed by the laws or regulations of the United States of America in effect as of the inception date of this policy.
2. any obligation imposed by a workers' compensation or occupational disease law, or similar law.
3. bodily injury intentionally caused or aggravated by you.

4. liability for any consequence, whether direct or indirect, of war, invasion, act of Foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power. No endorsement now or subsequently attached to this policy shall be construed as overriding or waiving this limitation unless specific reference is made thereto.

D. Before We Pay

Before we reimburse you for the benefits to the persons entitled to them, you must have them:

1. release you and us, in writing, of all responsibility for the injury or death,
2. transfer to us their right to recover from others who may be responsible for their injury or death,
3. cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons entitled to the benefits paid fail to do these things, our duty to reimburse ends at once. If they claim damages from us for the injury or death, our duty to reimburse ends at once.

E. Recovery From Others

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we reimbursed. We will pay the balance to the persons entitled to it. If persons entitled to the benefits make a recovery from others, they must repay us for the amounts that we have reimbursed you.

F. Reimbursement for Actual Loss Sustained

This endorsement provides only for reimbursement for the loss you actually sustain. In order for you to recover loss or expenses under this reimbursement you must:

1. actually sustain and pay the loss or expense in money after trial, or
2. secure our consent for the payment of the loss or expense.

G. Repatriation

Our reimbursement includes the additional expenses of repatriation to the United States

of America necessarily incurred as a direct result of bodily injury.

Our reimbursement shall be limited as follows:

1. to the amount by which such expenses exceed the normal cost of returning the officer or employee if in good health, or
2. in the event of death, to the amount by which such expenses exceed the normal cost of returning the officer or employee if alive and in good health.

In no event shall our reimbursement exceed the bodily injury by accident limit shown in Item 3.B. of the Information Page as respects any one such officer or employee whether dead or alive.

H. Endemic Disease

The word "disease" includes any endemic diseases.

The coverage applies as if endemic diseases were included in the provisions of the workers' compensation law.

5. Longshore and Harbor Workers' Compensation Act Coverage

General Section C. Workers' Compensation Law is replaced by the following:

C. Workers' Compensation Law

Workers' Compensation Law means the workers or workers' compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page and the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950). It includes any amendments to those laws that are in effect during the policy period. It does not include any other federal workers or workers' compensation law, other federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

Part Two (Employers' Liability Insurance), C. Exclusions, exclusion 8, does not apply to work subject to the Longshore and Harbor Workers' Compensation Act.

This coverage does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

SECTION III

1. SCHEDULE OF COVERED STATES

A. This endorsement only applies in the states listed in this Schedule of Covered States.

B. If a state, shown in Item 3.A. of the Information Page, approves this endorsement after the effective date of this policy, this endorsement will apply to this policy. The coverage will apply in the new state on the effective date of the state approval.

C. Schedule of Covered States:

Countersigned by _____

F

Authorized Representative

1922, Ln 19



OAKLAND UNIFIED SCHOOL DISTRICT
Community Schools, Thriving Students

DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

Project Information			
Project Name	Elmhurst Boiler Replacement Project	Site	202
Basic Directions			
Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.			
Attachment Checklist	<input type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider		

Contractor Information					
Contractor Name	Byrens Kim Design Works	Agency's Contact	Dong Kim		
OUSD Vendor ID #	1009281	Title	Project Manager		
Street Address	681 4 th Street	City	Oakland	State	CA Zip 94607
Telephone	510-452-3224	Policy Expires	9-1-2017		
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
OUSD Project #	15120				

Term			
Date Work Will Begin	6-29-2017	Date Work Will End By <small>(not more than 5 years from start date)</small>	12-31-2018

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$100,000.00
Pay Rate Per Hour (if Hourly)	\$	If Amendment, Changed Amount	\$
Other Expenses		Requisition Number	

Budget Information				
If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition				
Resource #	Funding Source	Org Key	Object Code	Amount
9350	Fund 21, Measure J	2029905894	6215	\$100,000.00

Approval and Routing (in order of approval steps)				
Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.				
	Division Head	Phone	510-535-7038	Fax 510-535-7082
1.	Director, Facilities Planning and Management			
	Signature	Date Approved		
2.	General Counsel, Department of Facilities Planning and Management			
	Signature	Date Approved	4/21/17	
3.	Deputy Chief, Facilities Planning and Management			
	Signature	Date Approved		
4.	Senior Business Officer, Board of Education			
	Signature	Date Approved		
5.	President, Board of Education			
	Signature	Date Approved		

PT



Directions	
Services beyond the original contract cannot be provided until the amendment is fully approved and PO is increased by Procurement.	
<ol style="list-style-type: none"> To be eligible for an amendment, term end date of the contract cannot not be expired. If expired, a new contract is necessary. Insert the amendment number (i.e. if this is the first amendment enter "1," second enter "2," etc.) at the top of the amendment. If contract total amount has increased, the scope of work must change. OUSD contract originator creates new requisition with the original PO number referenced in the item description. 	
When the contract amendment is approved, Procurement will add additional funds to the <u>original</u> Purchase Order.	
Attachment Checklist	<ul style="list-style-type: none"> Contract amendment packet including Board Memo and Amendment Form Board approved copy of the original contract and any prior Amendments.

Contractor Information					
Contractor Name	Byrens Kim Design Works		Contractor's Contact	Dong Kim	
OUSD Vendor ID #	000832		Title	Manager	
Street Address	681 4th Street		City, State	Oakland, CA	Zip Code 94607
Telephone	408-435-9000		Email (required)		

Compensation and Terms					
Current Contract Amount	\$100,000.00	OUSD Vendor ID #	000832	Start Date of Original Contract	6-28-2017
Amount of Increase	5,300	Original PO #		Current Term End Date	12-31-2018
Amount of Decrease		New Requisition #		New Term End Date*	12-31-2019
New Total Contract Amount	105,300	% Change		*Must be no more than five years from the start date	

Budget Information (If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition)			
Requisition No.	Budget Number	Resource Name	Amount
	210-9350-0-9663-8500-6215-202-9180-9905-9999-99999	9350/9663	\$ 5,300.00
			\$ 0.00
			\$ 0.00
			\$ 0.00

Contract History			
	OUSD Enactment #	Exact Name of Contract	Contract Amount
Agreement	17-1052	Elmhurst Middle School Boiler Replacement	100,000.00
Amend #	OUSD Enactment #	General Description of Reason for Amendment	Revised Contract Amount

OUSD Contract Originator Information					
Name of OUSD Contact	Tadashi Nakadegawa		Email	tadashi.nakadegawa@ousd.org	
Site/Dept. Name	Department of Facilities Planning and Management		Site #	918	Phone 510-535-7038

Approval and Routing (In order of approval steps)				
Services above original contract cannot be provided before the amendment is fully approved and the PO amount is increased by Procurement.				
		Signature - Approved	Denied - Reason	Date
1.	Administrator/Manager			9/29/18
2.	Resource Manager (if restricted funds)			
3.	Network Superintendent/Executive Director			
4.	Chief/Deputy Chief			9/18/18
5.	Legal (if increase takes contract above \$90,200)			9/28/18
6.	Superintendent, Board of Education	Signature on the legal contract		