

Board Office Use: <b>Legislative File Info.</b>	
File ID Number	18- 1142
Introduction Date	6-6-2018
Enactment Number	18-0904
Enactment Date	6/6/18 os



**OAKLAND UNIFIED  
SCHOOL DISTRICT**

*Community Schools, Thriving Students*

# Memo

**To** Board of Education

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

**Board Meeting Date** June 6, 2018

**Subject** Amendment No. 1 to an Architectural Services Agreement -S. Meek  
Architecture - Claremont Middle School Kitchen Repair Project

**Action Requested** Approval by the Board of Education of Amendment No. 1, to an Architectural Services Agreement between the District and S. Meek Architecture, San Francisco, CA, for the latter to provide additional Architectural and Engineering services to complete the New Kitchen & Turf Field, in conjunction with the Claremont Middle School Kitchen Repair Project, extending Agreement term from April 27, 2017 through February 1, 2019 to January 31, 2020 for performance of services specified in the scope of work in an amount of \$196,665.00 increasing the previous contract amount from \$572,250.00 to a not-to-exceed amount of \$768,915.00. All remaining portions of the agreement shall remain in full force and effect.  
\*Agreement approved April 26, 2017; File No. 17-0626; Enactment No. 17-0493

**Discussion** The end date of original contract needed to extend 11 months and changes to scope of work.

**LBP** (Local business participation percentage) 50.00%

**Recommendation** Approval by the Board of Education of Amendment No. 1, to an Architectural Services Agreement between the District and S. Meek Architecture, San Francisco, CA, for the latter to provide additional Architectural and Engineering services to complete the New Kitchen & Turf Field, in conjunction with the Claremont Middle School Kitchen Repair Project, extending Agreement term from April 27, 2017 through February 1, 2019 to January 31, 2020 for performance of services specified in the scope of work in an amount of \$196,665.00 increasing the previous contract amount from \$572,250.00 to a not-to-exceed amount of \$768,915.00. All remaining portions of the agreement shall remain in full force and effect.  
\*Agreement approved April 26, 2017; File No. 17-0626; Enactment No. 17-0493

**Fiscal Impact** Fund 21, Measure J

**Attachments**

- Amendment No. 1, including scope of work
- Consultant Proposal
- Insurance Certificate



**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:** S Meek Architecture \_\_\_\_\_

**Project Name:** Claremont Kitchen Repair **Project No.:** 15127 \_\_\_\_\_

**Contract Term:** Intended Start: 4/27/2017 Intended End: 1/31/2020 \_\_\_\_\_

**Annual (if annual contract) or Total (if multi-year agreement) Cost:** \$196,665.00 \_\_\_\_\_

**Approved by:** Tadashi Nakadegawa \_\_\_\_\_

**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?**

S Meek was selected from an RFP for pre-qualified architects for the initial Kitchen Repair project (15100).

**Summarize the services this Vendor will be providing.**

Scope includes revised and additional Architectural & Engineering services to complete the Claremont Middles School New Kitchen & Turf Field project.  
 See Proposal as attached.

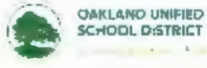
**Was this contract competitively bid?**  Yes (No if Unchecked)

If No, please answer the following:

1) How did you determine the price is competitive?

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 \$90,200 (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**



## AMENDMENT NO. 1 TO AGREEMENT FOR ARCHITECTURAL SERVICES CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and **S Meek Architecture**. OUSD entered into an Agreement with CONTRACTOR for services on April 26, 2017, and the parties agree to amend that Agreement as follows:

1.	<b>Services:</b>	<input type="checkbox"/> The scope of work is <u>unchanged</u> .	<input checked="" type="checkbox"/> <b>The scope of work has <u>changed</u>.</b>
<p><b>If scope of work changed:</b> Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. <u>Attach revised scope of work.</u></p> <p>The CONTRACTOR agrees to provide the following amended services: <b><u>The scope of work includes revised &amp; Additional Architectural &amp; Engineering services to complete the New Kitchen &amp; Turf field at Claremont.</u></b></p>			
2.	<b>Terms (duration):</b>	<input type="checkbox"/> The term of the contract is <u>unchanged</u> .	<input checked="" type="checkbox"/> The term of the contract has <u>changed</u> .
<p><b>If term is changed:</b> The contract term is extended by an additional <u>- 11 months</u>, and the amended expiration date is <u>January 31, 2020</u>.</p>			
3.	<b>Compensation:</b>	<input type="checkbox"/> The contract price is <u>unchanged</u> .	<input checked="" type="checkbox"/> The contract price has <u>changed</u> .
<p><b>If the compensation is changed:</b> The contract price is</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> increase of <u>\$196,665.00</u> to the original contract amount</p> <p style="margin-left: 40px;"><input type="checkbox"/> Decrease of \$_____ to original contract amount</p> <p style="margin-left: 40px;">and the contract total is Seven hundred Sixty-eight thousand, nine hundred fifteen No/100 dollars. (768,915.00)</p>			

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.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)

6. **Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.

**OAKLAND UNIFIED SCHOOL DISTRICT**

Aimee Eng 6/7/18  
 \_\_\_\_\_  
 Aimee Eng, President,  
 Board of Education Date

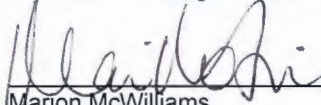
Kyla Johnson-Trammell 6/7/18  
 \_\_\_\_\_  
 Kyla Johnson-Trammell, Superintendent  
 Secretary, Board of Education Date

Timothy White 5/14/18  
 \_\_\_\_\_  
 Timothy White, Deputy Chief Date

**CONTRACTOR**  
Swannah Meek 5/11/18  
 \_\_\_\_\_  
 Contractor Signature Date

\_\_\_\_\_  
 Print Name, Title

Facilities, Planning and Management

  
 \_\_\_\_\_  
 Marion McWilliams,                      5/16/18  
 General Counsel, Facilities, Planning and Management                      Date

**EXHIBIT "A" Scope of Work**

**Contractor Name: S. Meek Architecture**

**Billing Rate: \$196,665.00**

1. Description of Services to be Provided

The scope of work is revised for additional Architectural and Engineering services to complete the New Kitchen and Turf field at Claremont Middle School.

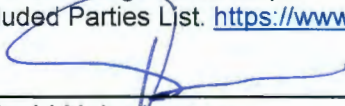
2. Specific Outcomes:

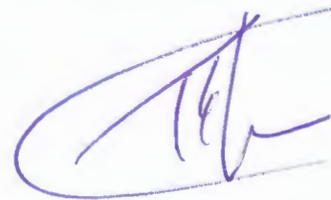
Create equitable opportunities for learning; and provide accountability for quality.

3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input type="checkbox"/> Develop social, emotional and physical health	<input type="checkbox"/> Safe, healthy and supportive schools
<input checked="" type="checkbox"/> Create equitable opportunities for learning	<input checked="" type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input type="checkbox"/> Full service community district

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>

  
 \_\_\_\_\_  
 Tadashi Nakadegawa  
 Director, of Facilities Planning & Management



S MEEK ARCHITECTURE

EXHIBIT A

Professional Services Supplement

PSS number 01

In accordance with the agreement dated 3/13/17

Between: Oakland Unified School District  
And: S Meek Architecture

For the Project: Architectural and Engineering Services  
Claremont Middle School OUSD#15127

- Authorization is requested  To proceed with additional services  
 To proceed with revised scope of basic services  
 To incur reimbursable expenses for consultant
- Notification is made  To proceed with additional services  
 To proceed with revised scope of basic services

The following adjustment: for separate DSA submittal, reduced Site, and traditional delivery for Bldg. A request is made for professional services associated with

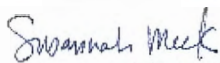
- Splitting the base contract into (2) DSA submissions, and into separate Construction Administration Phases
- Removing scope associated with parking lot, portable removal, and building C.
- adding scope for civil, landscape, electrical, food service, architectural redesign based on alternate building footprint
- Change from Design Build Delivery of modular building to Full Services A/E for modular building (structural engineering excluded as Modular Mfr will be the Structural Engineer)
- increased level of CHPS support, including KEMA
- additional site and District meetings August 2017-March 2018
- extension of time (contract will extend past February 2019 listed in Contract Article 4)
- revision of Contract Exhibit "D" payment schedule to reflect revised scope
- Optional - adding a cost estimate for the 50% CD package for the Field portion of project
- DSA submission application fee for OTC field project, \$3,375 + 10% = \$3,713 estimate

Schedule – The intent is to allow construction of the field to occur during the summer 2018. Approval by DSA is proposed to be an over-the-counter OTC by late April, 2018. The New Building design phase is anticipated to start upon LLB contractor selection and be submitted to DSA in October, 2018.

Compensation requested: \$192,953 Lump Sum

Reimbursable: \$3713 requested for DSA OTC; additional agency fees to be paid by OUSD

TOTAL FEE REQUESTED, PSS 1 \$ 192,953 + \$3712 = \$196,665

Submitted by:	 Susannah Meek 3/14/18 S Meek Architecture	Authorization is given or notification is acknowledged by:	
		OUSD	Date



Community Schools  
Training Students

LBU EVALUATION FOR OUSD VARIOUS PROJECTS ARCHITECTURAL SERVICES UNDER \$5 MILLION

RFP NO. 13158

March 2015

FIRM/TEAM	LBE/SLBE/SLRBE Firms Names	RESPONSIVE Y/N	PERCENTAGE	Preference Points	NOTES
	L. Luster & Associates	SLBE	2.0%		This firm is certified with the City of Oakland as a SLBE (Certification # 7309). On bid proposal, firm was listed as a LBE
	Keller Mitchell	SLRBE	5.0%		
<b>murakami Nelson Architectural Corporation</b>		Y	<b>76.0%</b>	<b>4pt</b>	
	murakami Nelson	SLBE	55.0%		No Resident Verification Received
	R.P. Gallagher & Associates	SLBE	9.0%		
	H&M Mechanical Group	SLBE	12.0%		

<b>S Meek Architecture</b>		Y	<b>50.0%</b>	<b>2pt</b>	
	KPW Structural Engineers	SLBE	10.0%		
	H&M Mechanical Group	SLBE	12.0%		
	FW Associates, Inc.	LBE	15.0%		
	Urban Design Consultants Engineers	LBE	6.0%		
	Leland Saylor Associates	LBE	3.0%		
	Golden Associates Landscape Architects	SLBE	4.0%		

<b>Shah Kawasaki Architects</b>		Y	<b>100%</b>	<b>4pt</b>	
	Shah Kawasaki Architects	SLBE	60%		
	YEI Engineers	SLBE	17%		
	KPW Structural Engineers	SLBE	10%		
	Sandis Civil Engineers	LBE	8%		
	Keller Mitchell	SLRBE	5%		
<b>Studio Perez Architecture</b>		Y	<b>52.0%</b>	<b>2pt</b>	
	H&M Mechanical Group	SLBE	20.0%		
	EDesignC	LBE	16.0%		
	KPW Structural Engineers	SLBE	11.0%		
	Leland Saylor Associates	LBE	5.0%		





SMEEKAR-01

FRANCISCON

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/31/2018

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).

<b>PRODUCER</b> License # 0E67768 <b>IOA Insurance Services</b> 3875 Hopyard Road Suite 240 Pleasanton, CA 94588	<b>CONTACT NAME:</b> Dulce Mendoza-Martinez	
	<b>PHONE (A/C, No, Ext):</b> (925) 660-1398	<b>FAX (A/C, No):</b>
<b>E-MAIL ADDRESS:</b> Dulce.Mendoza-Martinez@ioausa.com		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURER A:</b> Sentinel Insurance Company, Ltd		<b>11000</b>
<b>INSURER B:</b> RLI Insurance Company		<b>13056</b>
<b>INSURER C:</b> The Hanover Insurance Company		<b>22292</b>
<b>INSURER D:</b>		
<b>INSURER E:</b>		
<b>INSURER F:</b>		

**INSURED**


**S Meek Architecture**  
 3040 24th Street  
 San Francisco, CA 94110

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **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	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR	X	X	57SBWKB0015	01/24/2018	01/24/2019	EACH OCCURRENCE \$ <b>2,000,000</b>	
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>1,000,000</b>	
							MED EXP (Any one person) \$ <b>10,000</b>	
							PERSONAL & ADV INJURY \$ <b>2,000,000</b>	
							GENERAL AGGREGATE \$ <b>4,000,000</b>	
							PRODUCTS - COMP/OP AGG \$ <b>4,000,000</b>	
							\$	
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	57SBWKB0015	01/24/2018	01/24/2019	COMBINED SINGLE LIMIT (Ea accident) \$ <b>2,000,000</b>	
							BODILY INJURY (Per person) \$	
							BODILY INJURY (Per accident) \$	
							PROPERTY DAMAGE (Per accident) \$	
							\$	
	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$	
							AGGREGATE \$	
							\$	
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N    N/A If yes, describe under DESCRIPTION OF OPERATIONS below			X	PSW0003900	01/24/2018	01/24/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER
								E.L. EACH ACCIDENT \$ <b>1,000,000</b>
								E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b>
								E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
C	<b>Professional Liab.</b>			X	LHFA20316805	01/24/2018	01/24/2020	Per Claim <b>2,000,000</b>
C	<b>Professional Liab.</b>			X	LHFA20316805	01/24/2018	01/24/2020	Aggregate <b>2,000,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 RE: Claremont Kitchen Repair - 5750 College Avenue Oakland CA.  
 Oakland Unified School District is included as additional insured on Commercial General Liability and Hired and Non-Owned Auto Liability, as required by written contract. Waiver of Subrogation and Primary and Non-Contributory Provision included on Commercial General Liability Policy, as required by written contract. Waiver of Subrogation Provision included on Workers Compensation policy, as required by written contract. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Professional Liability is a claims made policy and includes Waiver of Subrogation Provision as required by written contract.

<b>CERTIFICATE HOLDER</b>	<b>CANCELLATION</b>
Oakland Unified School District ATTN: Tadashi Nakadegawa 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 



## BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

### 3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

### 4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 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.

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

### b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

### 7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

#### a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

#### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

#### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

#### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

#### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

#### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **A.** – Coverages.

#### (5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **k.** of Section **A.** – Coverages.

## BUSINESS LIABILITY COVERAGE FORM

### (6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

### (7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

#### (a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### (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.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

#### c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

## 8. Transfer Of Rights Of Recovery Against Others To Us

### a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

### 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.

## BUSINESS LIABILITY COVERAGE FORM

### F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

#### 1. Additional Insured - Designated Person Or Organization

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, 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; or
- b. In connection with your premises owned by or rented to you.

#### 2. Additional Insured - Managers Or Lessors Of Premises

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

#### 3. Additional Insured - Grantor Of Franchise

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

#### 4. Additional Insured - Lessor Of Leased Equipment

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

- b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

#### 5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) Any "occurrence" that takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

#### 6. Additional Insured - State Or Political Subdivision - Permits

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

## BUSINESS LIABILITY COVERAGE FORM

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

### 7. Additional Insured – Vendors

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- b. The insurance afforded to the vendor is subject to the following additional exclusions:

- (1) This insurance does not apply to:
  - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - (b) Any express warranty unauthorized by you;
  - (c) Any physical or chemical change in the product made intentionally by the vendor;
  - (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

### 8. Additional Insured – Controlling Interest

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

a. Their financial control of you; or

b. Premises they own, maintain or control while you lease or occupy these premises.

## BUSINESS LIABILITY COVERAGE FORM

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

### 9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, 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:

- (1) In the performance of your ongoing operations for the additional insured(s); or
- (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

### 10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

## G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **HIRED AUTO AND NON-OWNED AUTO**

This endorsement modifies insurance provided under the following:

### **BUSINESS LIABILITY COVERAGE FORM**

This coverage is subject to all provisions in the **BUSINESS LIABILITY COVERAGE FORM** not expressly modified herein:

#### **A. Amended Coverage:**

Coverage is extended to "bodily injury" and "property damage" arising out of the use of a "hired auto" and "non-owned auto".

#### **B. Paragraph B. EXCLUSIONS** is amended as follows:

1. Exclusion **g. Aircraft, Auto or Watercraft** does not apply to a "hired auto" or a "non-owned auto".
2. Exclusion **e. Employers Liability** does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract".
3. Exclusion **f. Pollution** is replaced by the following:

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
  - (1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";
  - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
  - (3) Being stored, disposed of, treated or processed in or upon the covered "auto".
- b. Before the "pollutants" or any property in which the "pollutants" are contained are

moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate, or are discharged or released directly from an "auto" part designed by its manufacturer to hold, store, receive, or dispose of such "pollutants"; and
- (2) The "bodily injury" and "property damage" does not arise out of the operation of any equipment listed in paragraphs **15.b.** and **15.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

(2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage as a result of the maintenance or use of a covered "auto".

4. With respect to this coverage, the following additional exclusions apply:

**a. Fellow employee**

Coverage does not apply to "bodily injury" to any fellow "employee" of the "insured" arising out of the operation of an "auto" owned by the "insured" in the course of the fellow "employee's" employment.

**b. Care, custody or control**

Coverage does not apply to "property damage" involving property owned or transported by the "insured" or in the "insured's" care, custody or control.

C. With respect to "hired auto" and "non-owned auto" coverage, Paragraph **C. WHO IS AN INSURED** is deleted and replaced by the following:

The following are "insureds":

a. You.

b. Your "employee" while using with your permission:

- (1) An "auto" you hire or borrow; or
- (2) An "auto" you don't own, hire or borrow in your business or personal affairs; or
- (3) An "auto" hired or rented by your "employee" on your behalf and at your direction.

c. Anyone else while using a "hired auto" or "non-owned auto" with your permission except:

- (1) The owner or anyone else from whom you hire or borrow an "auto".
- (2) Someone using an auto while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
- (3) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from an "auto".
- (4) A partner (if you are a partnership), or a member (if you are a limited liability

company) for an "auto" owned by him or her or a member of his or her household.

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

D. With respect to the operation of a "hired auto" and "non-owned auto", the following additional conditions apply:

**1. OTHER INSURANCE**

a. Except for any liability assumed under an "insured contract" the insurance provided by this Coverage Form is excess over any other collectible insurance.

However, if your business is the selling, servicing, repairing, parking or storage of "autos", the insurance provided by this endorsement is primary when covered "bodily injury" or "property damage" arises out of the operation of a customer's "auto" by you or your "employee".

b. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

**2. TWO OR MORE COVERAGE FORMS OR POLICIES ISSUED BY US**

If the Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

E. The following definitions are added:

**G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS:**

1. "Hired auto" means any "auto" you lease, hire, rent or borrow. This does not include any auto you lease, hire, rent or borrow from any of your "employees", your partners (if you are a partnership), members (if you are a limited liability company),

or your "executive officers" or members of their households.

This does not include a long-term leased "auto" that you insure as an owned "auto" under any other auto liability insurance policy or a temporary substitute for an "auto" you own that is out of service because of its breakdown, repair, servicing or destruction.

2. "Non-owned auto " means any "auto" you do not own, lease, hire, rent or borrow which is used in connection with your business. This includes:
  - a. "Autos" owned by your "employees" your partners (if you are a partnership), members (if you are a limited liability company), or your "executive officers", or members of their households, but only while used in your business or your personal affairs.
  - b. Customer's "auto" that is in your care, custody or control for service.



**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA**

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 the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2% of the California workers' compensation premium otherwise due on such remuneration.

Schedule

**Person or Organization**

All persons or organizations that are party to a contract that requires you to obtain this agreement, provided you executed the contract before the loss.

**Job Description**

Jobs performed for any person or organization that you have agreed with in a written contract to provide this agreement.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective 01-24-2018  
Insured  
S. Meek Architecture

Policy No. PSW0003900  
Insurance Company  
RLI Insurance Company

Endorsement No.

Countersigned By \_\_\_\_\_

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA**

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 the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

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Schedule

**Person or Organization**

All persons or organizations that are party to a contract that requires you to obtain this agreement, provided you executed the contract before the loss.

**Job Description**

Jobs performed for any person or organization that you have agreed with in a written contract to provide this agreement.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

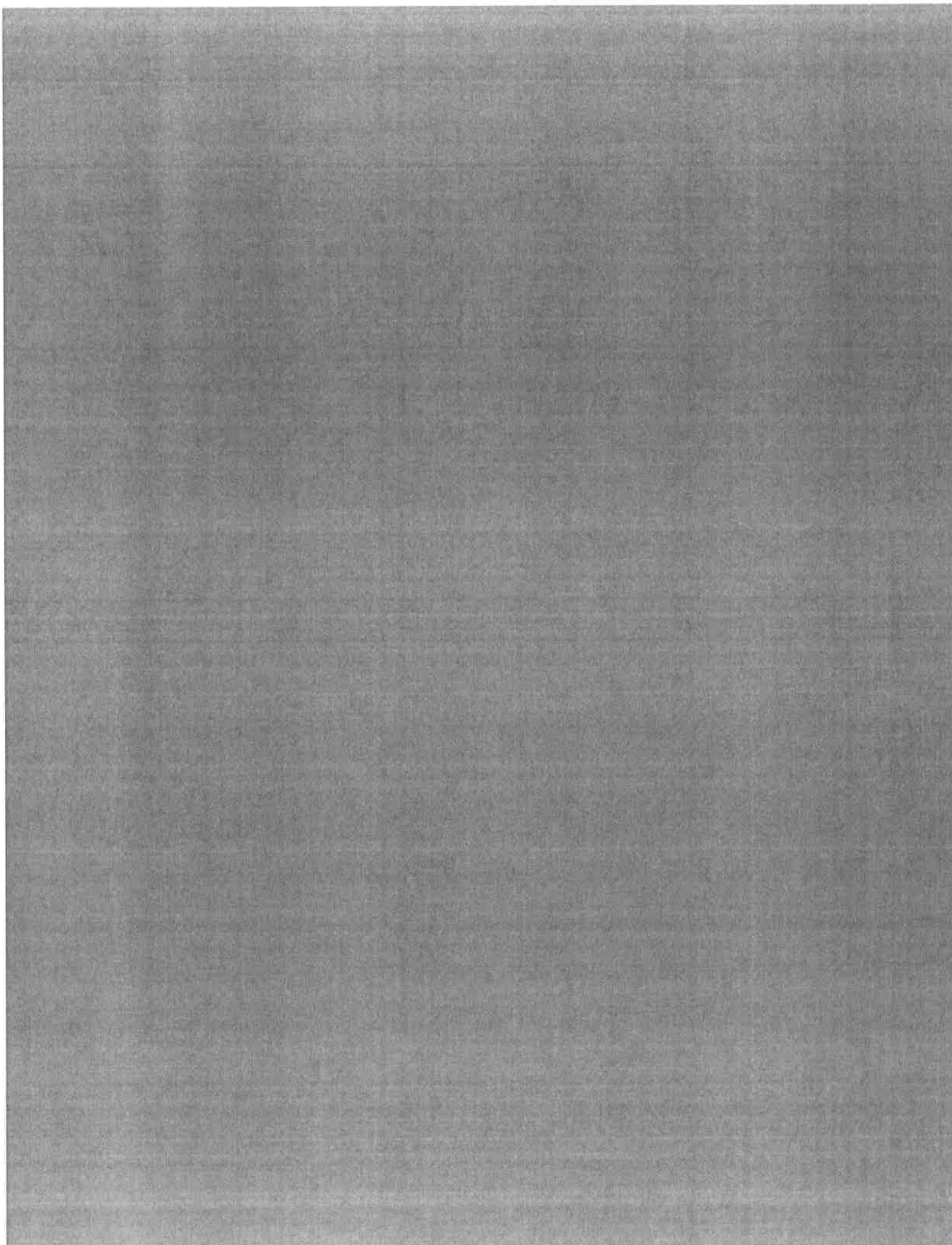
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Endorsement Effective 01-24-2018  
Insured  
S. Meek Architecture

Policy No. PSW0003900  
Insurance Company  
RLI Insurance Company

Endorsement No.

Countersigned By \_\_\_\_\_



<b>Board Office Use: Legislative File Info.</b>	
File ID Number	17-0626
Introduction Date	4-26-2017
Enactment Number	17-0493
Enactment Date	4/26/2017



OAKLAND UNIFIED  
SCHOOL DISTRICT

# Memo

**To** Board of Education

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

**Board Meeting Date** April 26, 2017

**Subject** Agreement for Architectural Services - S Meek Architecture - Claremont Kitchen Repair Project

**Action Requested** Approval by the Board of Education of an Agreement for Architectural Services between the District and S Meek Architecture, Oakland, CA., for the latter to provide Architectural, Engineering & Design services to the New Multi-purpose building, building C, including the turf, in conjunction with the Claremont Kitchen Repair Project, more specifically delineated in the scope of services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing April 27, 2017 and concluding no later than February 1, 2019, in an amount not-to exceed \$572,250.00

**Discussion** Current design of buildings do not meet programmatic needs such as the existing new multi-purpose building, building C and the turf field that require further improvements.

**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 S Meek Architecture, Oakland, CA., for the latter to provide Architectural, Engineering & Design services to the New Multi-purpose building, building C, including the turf, in conjunction with the Claremont Kitchen Repair Project, more specifically delineated in the scope of services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing April 27, 2017 and concluding no later than February 1, 2019, in an amount not-to exceed \$572,250.00

**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:** S Meek Architecture

**Project Name:** Claremont Kitchen Repair **Project No.:** 15127

**Contract Term:** Intended Start: 4/27/2017 Intended End: 2/1/2019

**Annual (if annual contract) or Total (if multi-year agreement) Cost:** \$572,250.00

**Approved by:** Tadashi Nakadegawa

**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?**

She was selected from an RFP for pre-qualified architects for the initial Kitchen Repair project (15100). S Meek Architecture was available to meet the schedule of an emergency project.

**Summarize the services this Vendor will be providing.**

A/E Services for Claremont MS Project, including:  
 New Multi-Purpose Building  
 Building C  
 Sitework, including Turf Field

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

If No, please answer the following:

1) How did you determine the price is competitive?

It was compared to projects with similar scope and cost.

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 \$88,300  
BY AND BETWEEN  
OAKLAND UNIFIED SCHOOL DISTRICT  
AND  
S. MEEK ARCHITECTURE ARCHITECTS  
FOR  
THE CLAREMONT KITCHEN REPAIR PROJECT**

**TABLE OF CONTENTS**

<b>Article 1</b>	<b>Definitions .....</b>	<b>1</b>
<b>Article 2</b>	<b>Scope, Responsibilities, and Services of Architect .....</b>	<b>3</b>
<b>Article 3</b>	<b>Architect Staff .....</b>	<b>7</b>
<b>Article 4</b>	<b>Schedule of Services .....</b>	<b>8</b>
<b>Article 5</b>	<b>Construction Cost Budget .....</b>	<b>8</b>
<b>Article 6</b>	<b>Fee and Method of Payment .....</b>	<b>10</b>
<b>Article 7</b>	<b>Payment for Extra Services or Changes .....</b>	<b>10</b>
<b>Article 8</b>	<b>Ownership of Data .....</b>	<b>10</b>
<b>Article 9</b>	<b>Termination of Agreement .....</b>	<b>12</b>
<b>Article 10</b>	<b>Architect Indemnity .....</b>	<b>13</b>
<b>Article 11</b>	<b>Mandatory Mediation for Claims .....</b>	<b>14</b>
<b>Article 12</b>	<b>Fingerprinting .....</b>	<b>15</b>
<b>Article 13</b>	<b>Responsibilities of the District .....</b>	<b>15</b>
<b>Article 14</b>	<b>Liability of District .....</b>	<b>15</b>
<b>Article 15</b>	<b>Nondiscrimination .....</b>	<b>16</b>
<b>Article 16</b>	<b>Insurance .....</b>	<b>16</b>
<b>Article 17</b>	<b>Covenant Against Contingent Fees .....</b>	<b>16</b>
<b>Article 18</b>	<b>Entire Agreement/Modification .....</b>	<b>16</b>
<b>Article 19</b>	<b>Non-Assignment of Agreement .....</b>	<b>17</b>
<b>Article 20</b>	<b>Law, Venue .....</b>	<b>17</b>
<b>Article 21</b>	<b>Alternative Dispute Resolution .....</b>	<b>17</b>
<b>Article 22</b>	<b>Severability .....</b>	<b>18</b>
<b>Article 23</b>	<b>Employment Status .....</b>	<b>19</b>
<b>Article 24</b>	<b>Warranty and Certification of Architect .....</b>	<b>20</b>
<b>Article</b>	<b>Cost Disclosure - Documents and Written Reports .....</b>	<b>20</b>
<b>Article 26</b>	<b>Notices and Communications .....</b>	<b>20</b>
<b>Article 27</b>	<b>Disabled Veteran Business Enterprise Participation .....</b>	<b>20</b>
<b>Article 28</b>	<b>District's Right to Audit .....</b>	<b>21</b>
<b>Article 29</b>	<b>Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE) .....</b>	<b>22</b>
<b>Article 30</b>	<b>Other Provisions .....</b>	<b>22</b>

<b>EXHIBIT "A" - RESPONSIBILITIES AND SERVICES OF ARCHITECT</b>	<b>A-1</b>
<b>EXHIBIT "B" - CRITERIA AND BILLING FOR EXTRA SERVICES</b>	<b>B-1</b>
<b>EXHIBIT "C" - SCHEDULE OF SERVICES</b>	<b>C-1</b>
<b>EXHIBIT "D" - PAYMENT SCHEDULE</b>	<b>D-1</b>
<b>EXHIBIT "E" - INSURANCE REQUIREMENTS</b>	<b>E-1</b>

**CERTIFICATES**

**Contract #1: Architectural / Engineering / Design Greater Than \$87,700 - OUSD - S. MEEK ARCHITECTURE - CLAREMONT KITCHEN REPAIR - \$572,250.00**

Revised August 1, 2016

## **AGREEMENT FOR ARCHITECTURAL SERVICES**

This Agreement for Architectural Services is made as of the **13TH day of MARCH 2017**, between the **Oakland Unified School District**, a California public school district ("District"), and **S. MEEK ARCHITECTURE** ("Architect") (individually a "Party" and collectively the "Parties"), for the following project ("Project"):

Modernization and/or New Construction of **Claremont Middle School**, located at **5750 College 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. The term Architect means the Design Professional in General Responsible Charge on this Project.
  - 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. **Bld 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 Change Documents ("CCD")**: The documentation of changes to the DSA-approved construction documents.
- 1.1.10. **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.
- 1.1.11. **Construction Manager**: The District's representative on the Project if the District retains a construction manager, project manager, or owner's representative.
- 1.1.12. **Contractor**: One or more licensed contractors under contract with the District for construction of all or a portion of the Project.
- 1.1.13. **Consultant(s)**: Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Architect.
- 1.1.14. **Day(s)**: Unless otherwise designated, "day(s)" means calendar day(s).
- 1.1.15. **District**: The **Oakland Unified School District**.
- 1.1.16. **DSA**: The Division of the State Architect.
- 1.1.17. **Extra Services**: District-authorized services outside of the scope in **Exhibit "A"** or District-authorized reimbursables not included in Architect's Fee.
- 1.1.18. **Laboratory of Record**: The District-designated laboratory(ies) for testing of concrete, soils, materials, and other required testing.
- 1.1.19. **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.

1.1.19.1. **LOD100:** The overall massing of BIM Elements indicative of area, height, volume, location, and orientation may be modeled in three dimensions.

1.1.19.2. **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.

1.1.19.3. **LOD300:** BIM Elements' three dimensional object geometry and location are confirmed.

1.1.19.4. **LOD400:** BIM Elements include shop/fabrication drawing details.

1.1.19.5. **LOD500:** BIM Elements' three dimensional object geometry and location exactly match that information depicted in the As-Builts.

1.1.20. **Project:** Modernization and/or New Construction of Claremont Middle School

1.1.21. **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.

1.1.22. **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.

1.1.23. **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.

1.1.24. **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. If the District does not obtain the services of a construction manager for this Project, Architect recognizes that that Architect may have to assume certain coordination and management responsibilities, including tracking Requests for Information ("RFI"), providing RFI responses, and leading all coordination meetings between the District, Project Inspectors, and Contractors on the Project.

- 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. Business and Professions Code of the State of California.
  - 2.3.5. Education Code of the State of California.
  - 2.3.6. Government Code of the State of California.
  - 2.3.7. Labor Code of the State of California, division 2, part 7, Public Works and Public Agencies.
  - 2.3.8. Public Contract Code of the State of California.
  - 2.3.9. U.S. Copyright Act.
- 2.4. All persons providing professional services hereunder shall be properly licensed as required by California law.
- 2.5. The District Intends to award the Project to Contractor(s) pursuant to a competitive bid process. District reserves its right to use alternative delivery methods and the Architect's scope of work may be adjusted accordingly.
- 2.6. **Storm Water.** Architect acknowledges that all California public school districts are obligated to develop and implement the following storm water requirements, and Architect shall provide the design for the same, without limitation:
  - 2.6.1. A municipal Separate Storm Sewer System ("MS4"). An MS4 is a system of conveyances used to collect and/or convey storm water, including, without limitation, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

- 2.6.2. A Storm Water Pollution Prevention Plan ("SWPPP") that contains specific best management practices ("BMPs") and establishes numeric effluent limitations at:
  - 2.6.2.1. Sites where the District engages in maintenance (e.g., fueling, cleaning, repairing) of transportation activities.
  - 2.6.2.2. Construction sites where:
    - 2.6.2.2.1. One (1) or more acres of soil will be disturbed, or
    - 2.6.2.2.2. the project is part of a larger common plan of development that disturbs one (1) or more acres of soil.
- 2.6.3. Architect shall conform its design work to the District's storm water requirements indicated above, that are approved by the District and applicable to the Project, at no additional cost to the District. In addition, as required Architect shall develop a grading and drainage plan and a site plan from architectural information showing a final development of the site. This drawing will also include a horizontal and vertical control plan and a utility infrastructure plan. The Services described in this subparagraph shall be provided by a professional civil engineer who contracts with or is an employee of the Architect.
- 2.7. 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. Architect shall require each of the Consultants retained by it to execute agreements with standard of care and indemnity provisions commensurate with this Agreement, but Architect shall remain solely responsible and liable to District for all matters covered by this Agreement.
- 2.8. 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.
- 2.9. 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.

2.9.1. If the Project is subject to DSA jurisdiction, then Architect, and its Consultants, if any, shall comply with all the DSA requirements, including without limitation, all the requirements included and/or referenced in the following forms:

2.9.1.1. Form DSA IR A-6, Construction Change Document Submittal and Approval Process.

2.9.1.2. Form DSA IR A-18: Use of Construction Documents Prepared by Other Professionals, if modular/relocatable structures used.

2.9.1.3. Form DSA IR A-24, Construction Phase Duties of the School District, Contractor and Design Professional.

2.9.1.4. Form DSA PR 07-01: Pre-Check Approval Process, if modular/relocatable structures used.

2.9.1.5. Form DSA PR 07-02: Over-The-Counter Review of Projects Using Pre-Check Approved Design, if modular/relocatable structures used.

2.9.1.6. Form DSA PR 13-01, Construction Oversight Process Procedure.

2.9.1.6.1. Each of Architect's duties as provided in the Construction Oversight Process Procedure shall be performed timely so as not to result in any delay to the Project.

2.9.1.7. Form DSA PR 13-02, Project Certification Process.

2.9.2. Architect acknowledges the provisions in **Exhibit "A"** during the Construction Administration Phase entitled "Duty to Timely Respond to DSA Inquiries."

2.10. 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.

2.11. Architect shall coordinate with the District's DSA Project Inspector(s) and the Laboratory of Record.

2.12. Architect shall give efficient supervision to Services, using its best skill and attention. Architect shall carefully study and compare all contract documents, drawings, specifications, and other instructions ("Contract Documents") and shall at once report to District, Construction Manager, and Contractor, any error, inconsistency, or omission that Architect or its employees may discover, in writing, with a copy to District's Project Inspector(s). Architect shall have responsibility for discovery of errors, inconsistencies, or omissions.

- 2.13. In addition, the District may have a constructability review of Architect's design documents. Architect shall conform any design documents to the constructability review as part of the Services under this Agreement and shall not be entitled to any compensation as Extra Services for this activity.
- 2.14. Architect shall provide computer-generated pictures downloaded to computer files, updated as requested by the District, that the District may use on its website.
- 2.15. Architect shall coordinate and integrate its work with any of the following information and/or services as provided by District:
  - 2.15.1. Ground contamination or hazardous material analysis.
  - 2.15.2. Any asbestos and/or lead testing, design or abatement.
  - 2.15.3. 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.
  - 2.15.4. Historical significance report.
  - 2.15.5. Soils investigation.
  - 2.15.6. Geotechnical hazard report, except as indicated in **Exhibit "A."**
  - 2.15.7. Topographic surveys of existing conditions.
  - 2.15.8. State and local agency permit fees.
  - 2.15.9. Commissioning Agent and Reports.
  - 2.15.10. 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: Susannah Meek  
Project Director: Susannah Meek  
Project Architect(s): Susannah Meek  
Major Consultants:  
Electrical: FW Associates  
Mechanical: H&M Mechanical  
Structural: KPW Engineers  
Civil: Calichi Design Group  
Landscape: PGA Design  
Cost Estimator: Leland Saylor Associates  
BIM Mgr.: Modulus  
Food Service: The Marshall Associates Inc.

- 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 perform services **commencing April 27, 2017** under this Agreement upon receipt of a Notice to Proceed and shall prosecute the Services diligently as described in **Exhibit "A," concluding no later than February 1, 2019**, 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 Architect's 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. The District may, in its sole discretion, do one, or a combination, of the following if any of the following events in Article 5.4 occur:
  - 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.
- 5.4. If any of the following events occur, the District may exercise any one, or any combination, of the actions set forth in Article 5.3 above:
  - 5.4.1. The lowest responsive base bid received is in excess of five percent (5%) of the Construction Cost Budget; or
  - 5.4.2. If the combined total of base bid and all additive alternates come in ten percent (10%) or more under the Construction Cost Budget; or
  - 5.4.3. If 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.



## **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 **Five hundred seventy-two thousand, two hundred fifty dollars and no cents (\$572,250.00)**.

- 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.

The obligation of Section 8.5 of this Agreement shall survive the termination of this Agreement for any reason whatsoever.

- 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, but the 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 actions, errors or omissions, recklessness, or willful misconduct that caused the District to terminate the Agreement. 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 two (2) years, the Architect may terminate this Agreement by giving written notice.

## **Article 10. Architect Indemnity**

- 10.1. To the full 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 claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim"), that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Architect, its directors, officials, officers, employees, contractors, subcontractors, consultants, subconsultants or agents, including without limitation the payment of all consequential damages. Architect shall also, to the furthest extent permitted by California law, defend the Indemnified Parties at Architect's own expense, including attorneys' fees and costs, from any and all Claim(s) and allegations relating thereto.

- 10.1.1. The following shall be Claims:

10.1.1.1. 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.

10.1.1.2. 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.

- 10.2. Architect shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim. Architect's obligation pursuant to Article 10.1 includes reimbursing the District for the cost of any settlement paid by the Indemnified Parties and for any and all fees and costs,

including but not limited to legal fees and costs, expert witness fees, and consultant fees, incurred by the Indemnified Parties in the defense of any Claim(s), or to enforce the indemnity herein. Architect's obligation to defend or to indemnify shall not be restricted to insurance proceeds. District shall also have the right to accept or reject any legal representation that Architect proposes to defend the Indemnified Parties.

- 10.3. 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.
- 10.4. 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 (10<sup>th</sup>) 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. 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 and as requested by Architect.
- 13.6. 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 in connection with this Agreement.
- 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 and no others.

#### **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.** If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process. 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. Attorneys' Fees**

In the event either party shall bring any action or legal proceeding for damages for any alleged breach of any provision of or performance under this Agreement, to terminate this Agreement, or to enforce, protect or establish any term or covenant of this Agreement or right or remedy of either party, the prevailing party shall be entitled to recover, as a part of the action or proceeding, reasonable attorneys' fees and court costs, including consultants' fees, attorneys' fees and costs for appeal, as may be fixed by the court. The term "prevailing party" shall mean the party who received substantially the relief requested, whether by settlement, dismissal, summary judgment, judgment, or otherwise.

## **Article 23. 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 24. Employment Status**

- 24.1. 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.
- 24.2. 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.
- 24.3. 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.
- 24.4. 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).
- 24.5. 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.
- 24.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

## **Article 25. Warranty and Certification of Architect**

- 25.1. 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.
- 25.2. 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 of this Agreement.
- 25.3. 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.
  - 25.3.1. Architect shall ensure that it and its subconsultants comply, if applicable, 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 26. 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 27. Notices and Communications**

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

**Oakland Unified School District**  
955 High Street  
Oakland, CA 94601  
Tel: 510-535-7038

ATTN: Tadashi Nakadegawa

**Architect:**  
S. Meek Architecture  
3040 24<sup>th</sup> Street  
San Francisco, CA 94110  
**415-543-5505**  
**Attn: Susannah Meek**

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 28. 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 29. District's Right to Audit**

- 29.1. 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.
- 29.2. 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.
- 29.3. 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.
- 29.4. The Architect shall maintain complete and accurate records for a minimum of ten (10) 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.
- 29.5. The Architect shall include audit provisions in any and all of its subcontracts, and shall ensure that this Article is binding upon all Consultants.
- 29.6. 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.
- 29.7. 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 30. 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](http://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. Architect shall be responsible for the cost of reviewing CCDs and/or change orders caused by the Architect's willful misconduct, recklessness, or negligent acts, errors or omissions. Without limiting Architect's liability for indirect cost impacts, the direct costs for change orders for which Architect shall be liable shall equal the difference between the cost of the change order and the reasonable cost of the work had that work been a part of the originally prepared Contract Documents. These amounts shall be paid by Architect to District or the District may withhold those costs from amounts owing to Architect.
- 30.2. 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.
- 30.3. 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.
- 30.4. 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).
- 30.5. 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.

- 30.6. **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.
- 30.7. **Exhibits A through E** and all Certificates attached hereto are hereby incorporated by this reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

**ACCEPTED AND AGREED** on the date indicated below:

**OAKLAND UNIFIED SCHOOL DISTRICT**

James Harris, President, Board of Education \_\_\_\_\_ Date

Devin Dillon, Superintendent & Secretary, Board of Education \_\_\_\_\_ Date

  
Joe Dominguez, Deputy Chief, Facilities Planning and Management \_\_\_\_\_ Date


**ARCHITECT**



3/24/17

By: Susannah Meek, Principal, S Meek Architects \_\_\_\_\_ Date  
Its:

**APPROVED AS TO FORM:**

 \_\_\_\_\_ 3/27/17  
OUSD Facilities Legal Counsel - General Counsel \_\_\_\_\_ Date

**EXHIBIT "A"**

**RESPONSIBILITIES AND SERVICES OF ARCHITECT**

**TABLE OF CONTENTS**

<b>1.</b>	<b>SCOPE OF PROJECT.....</b>	<b>2</b>
<b>2.</b>	<b>BASIC SERVICES.....</b>	<b>3</b>
<b>3.</b>	<b>PRE-DESIGN AND START-UP SERVICES .....</b>	<b>11</b>
<b>4.</b>	<b>SCHEMATIC DESIGN PHASE.....</b>	<b>14</b>
<b>5.</b>	<b>DESIGN DEVELOPMENT PHASE .....</b>	<b>18</b>
<b>6.</b>	<b>CONSTRUCTION DOCUMENTS PHASE.....</b>	<b>22</b>
<b>7.</b>	<b>BIDDING PHASE .....</b>	<b>29</b>
<b>8.</b>	<b>CONSTRUCTION ADMINISTRATION PHASE.....</b>	<b>30</b>
<b>9.</b>	<b>CLOSEOUT PHASE .....</b>	<b>33</b>
<b>10.</b>	<b>MEETINGS / SITE VISITS / WORKSHOPS .....</b>	<b>34</b>



## EXHIBIT "A"

### RESPONSIBILITIES AND SERVICES OF ARCHITECT

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

#### 1. SCOPE OF PROJECT

**Claremont Middle School, 5750 College Avenue, Oakland, CA**  
MP Building, Building C Classrooms, Turf Field and Parking  
OUSD Project No. 15127

##### NEW MULTI-PURPOSE BUILDING

Architect/Engineer building drawings ready to bid at conclusion of DD phase for Design Build Construction Delivery by Owner;  
Engineer low voltage/power wiring/Fire Alarm/Intrusion plans complete for DSA submittal;  
Limited Architect/Engineer support and review during the construction document phase;  
Architect/Engineer Bidding support;  
Architect/Engineer support during construction administration and closeout phase;

##### BUILDING C

Architect/Engineer full services traditional design and construction phases for renovations to accommodate three SDC classrooms with accessible compliant path of travel and compliant restrooms;  
Evaluation and proposed modifications to the existing fire alarm detection within Bldg C and Fire Alarm Panel replacement as determined to be needed by OUSD;

##### SITework

Demolition of existing portables, existing cafeteria;  
Accessible Path-of-Travel to Bldg C, to new MP Bldg, to parking, etc as required;  
Landscaping reorganization and minimum improvements surrounding new work;  
Turf field (OUSD project # 17101, 6/20/16 project in its entirety);  
Civil engineering, full scope to support utilities at new building, drainage, SWPPP and Stormwater C.3 plan;

##### Included in Scope

CHPS designed Multi-purpose building project (CHPS documentation by design build contractor and architect's role is limited to coordination with regards to the building; very limited associated Site work included in the CHPS as the existing school yard improvements were completed 6 years ago; BLDC C excluded from CHPS;  
Opinion of Probable Construction Cost for Bldg C and Site work at SD, DD and CD phase;

##### Excluded from Scope:

Surveys –topo, utility surveys, hazardous material, existing utility capacity, utility potholing, etc;  
Geotech Investigations and Recommendations, except for specific Geotech included in Turf Field per Miller Pacific proposal, attached).  
DSA documents for MP Bldg which are under the Design Build Contractor, except the aforementioned low voltage and Fire Alarm DSA plans;  
Submission in Increments (the Design Build MP building plans will be submitted at same time as sitework and Building C);  
Permit/Agency fees except as directly reimbursed by reimbursable allowance;

## **2. BASIC SERVICES**

Architect agrees to provide the services described below:

- 2.1. 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.
  - 2.1.1. If the Project involves permanent modular or relocatable buildings, then Architect may delegate responsibility for the design, observation of in-plant construction, and first-time site installation of the permanent modular or relocatable buildings fabricated in the manufacturer's in-plant facility to the manufacturer's design professional ("MDP"). Architect shall, however, maintain responsibility for ensuring that:
    - 2.1.1.1. the MDP adequately performs such design, observation of in-plant construction, and first-time site installation;
    - 2.1.1.2. the MDP performs all requisite testing;
    - 2.1.1.3. the MDP fully completes and timely submits all necessary forms, including but not limited to completion of form DSA 1-MR (or more current version, if applicable), form DSA 102-IC (or more current version if applicable), form DSA 152 (or more current version, if applicable), form DSA 152-IPI (or more current version, if applicable), and all other related applicable forms; and
    - 2.1.1.4. the MDP's work is properly coordinated with Architect's work during all phases of the Project.
- 2.2. Architect will use all due care and diligence to confirm that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and publishes any potentially relevant information that could, in any way, have an impact on a Contractor's cost of performance. Architect shall advise the District of the most effective methods of identifying and securing such information as part of each stage of design. Architect shall track for District's benefit all such suggested and disclosed information.
- 2.3. 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;
  - 2.3.1. Physical characteristics;

- 2.3.2. Legal limitations and utility locations for the Project site(s);
- 2.3.3. Written legal description(s) of the Project site(s);
- 2.3.4. Grades and lines of streets, alleys, pavements, and adjoining property and structures;
- 2.3.5. Adjacent drainage;
- 2.3.6. Rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries and contours of the Project site(s);
- 2.3.7. Locations, dimensions and necessary data with respect to existing buildings, other improvements and trees;
- 2.3.8. Information concerning available utility services and lines, mechanical and other services, both public and private, above and below grade, including inverts and depths;
- 2.3.9. Surveys, reports, as-built drawings; and
- 2.3.10. 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, then, at the soonest possible time after Architect has become aware that this additional information is needed, 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 in writing, this additional information and service shall be procured through the Architect, who may invoice the District for those services as Extra Services.

- 2.4. **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.

- 2.5. **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.
- 2.6. **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.
- 2.7. **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.
- 2.8. **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.

2.8.1. **CHPS VERIFIED PLUS HPI INCENTIVE WITH OPSC ELIGIBILITY TRACK**

2.8.1.1. **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.

2.8.1.1.1. 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.

2.8.1.1.2. 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.

**2.8.2. CHPS VERIFIED ONLY/ NO OPSC HPI ELIGIBILITY TRACK**

**2.8.2.1. 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.

**2.8.2.1.1.** 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.

**2.8.2.1.2.** 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.

2.8.2.1.3. 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.

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

2.8.3.1. **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.

2.8.3.1.1. 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.

- 2.8.3.1.2. 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.



## 2.9. 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 all the DSA requirements, including without limitation, all the requirements included and/or referenced in the most recent versions of the following forms:

- 2.9.1 Form DSA IR A-6, Construction Change Document Submittal and Approval Process.
- 2.9.2 Form DSA IR A-18: Use of Construction Documents Prepared by Other Professionals, if modular/relocatable structures used.
- 2.9.3 Form DSA IR A-24, Construction Phase Duties of the School District, Contractor and Design Professional.
- 2.9.4 Form DSA PR 07-01: Pre-Check Approval Process, if modular/relocatable structures used.
- 2.9.5 Form DSA PR 07-02: Over-The-Counter Review of Projects Using Pre-Check Approved Design, if modular/relocatable structures used.
- 2.9.6 Form DSA PR 13-01, Construction Oversight Process Procedure.
  - 2.9.6.1 Each of Architect's duties as provided in the Construction Oversight Process Procedure shall be performed timely so as not to result in any delay to the Project.
- 2.9.7 Form DSA PR 13-02, Project Certification Process.

## 2.10. 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.

- 2.10.1. 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.
- 2.10.2. 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.

- 2.10.3. **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.

### **3. PRE-DESIGN AND START-UP SERVICES**

#### **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.

### **3.3. Construction Cost Budget**

- 3.3.1. 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:
  - 3.3.1.1. 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.
  - 3.3.1.2. 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.
  - 3.3.1.3. Contingencies for design, bidding, and construction are to be included as individual line items, with the percentage and base of calculation clearly identified.
  - 3.3.1.4. 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.

3.3.1.5. 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.

3.3.1.6. 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.

3.3.2. 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.

#### **3.4. 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 with preliminary CHPS Scorecard.

#### **3.5. Deliverables and Numbers of Copies**

Within thirty (30) days of the end of this Phase, 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:

- 3.5.1. Two (2) copies of Architectural Program (include comparison between developed program and "model" program, include narrative explaining any substantial deviations);
- 3.5.2. Two (2) copies of Site Plan;
- 3.5.3. Two (2) copies of revised Construction Cost Budget;
- 3.5.4. Two (2) copies of final Schedule of Work;
- 3.5.5. Two (2) copies of meeting Reports/Minutes from Kick-off and other meetings;
- 3.5.6. Two (2) copies of renderings provided to District for public presentation;
- 3.5.7. Two (2) copies of preliminary CHPS/HPI scorecard(s); and
- 3.5.8. Two (2) copies, only in electronic format, of the Building Information Model Archive for this Project phase.

### **3.6. 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**

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**

- 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 Services under the Agreement.

#### **4.10. Construction Cost Budget**

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. 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.

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. Deliverables and Numbers of Copies**

Within thirty (30) days of the end of this Phase, 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:

- 4.11.1. Updated program document;
- 4.11.2. Two (2) copies of breakdown of Construction Cost Budget as prepared for this Phase;
- 4.11.3. Two (2) copies of meeting Reports/Minutes;
- 4.11.4. Two (2) copies of Schematic Design Package with alternatives;
- 4.11.5. Two (2) copies of a statement indicating changes made to the Architectural Program and Schedule;
- 4.11.6. CHPS/HPI scorecard with documentation for Design Credits, including preliminary Daylighting analysis documentation for CHPS credit EQ 1.1 updated to reflect Schematic Design.
- 4.11.7. 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.



4.11.8. Two (2) copies, only In electronic format, of the Building Information Model Archive for this Project phase.

4.11.9. Two (2) 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.

#### **4.12. Presentation**

4.12.1. Architect shall present and review with the District the detailed Schematic Design and CHPS documentation.

4.12.2. 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.

4.12.3. 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.

4.12.4. 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.

#### **4.13. Meetings**

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

### **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 Services:

#### **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. Exterior elevations of all proposed new buildings, existing buildings to be renovated and all architectural elements of the Project.

5.1.4. Identification of all fixed equipment to be installed in contract.

5.1.5. Interior finishes identified and located within the rooms of all buildings.

- 5.1.6. Site plan completely drawn with beginning notes and dimensions including grading and paving.
- 5.1.7. Preliminary development of details and large scale blow-ups.
- 5.1.8. Legend showing all symbols used on drawings.
- 5.1.9. Floor plans identifying all fixed and major movable equipment and furniture.
- 5.1.10. Further refinement of Outline Specification for architectural, structural, mechanical, electrical, civil and landscape manuals, systems and equipment.
- 5.1.11. Typical reflected ceiling development including ceiling grid and heights for each ceiling to be used, showing:
  - 5.1.11.1. Light fixtures.
  - 5.1.11.2. Ceiling registers or diffusers.
  - 5.1.11.3. Access Panels.
- 5.1.12. 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. Preliminary calculations for the structural systems including lateral force resistive systems, foundations, and all structural system components.
- 5.2.5. 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 Services 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:

5.8.1.1. 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.

5.8.1.2. 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.

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

5.8.2. 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.

## **5.9. Deliverables and Numbers of Copies**

Within thirty (30) days of the end of this Phase, Architect shall provide to the District a hard copy of the following items produced in this Phase, together with one (1) copy of each item in electronic format:

5.9.1. Updated program document;

5.9.2. Two (2) copies of Design Development drawing set from all professional disciplines necessary to deliver the Project;

5.9.3. Two (2) copies of Specifications;

- 5.9.4. Two (2) copies of revised Construction Cost Budget;
- 5.9.5. Two (2) 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; and
- 5.9.8. Two (2) 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 lead times and availability of all Project equipment, materials, supplies, and furnishings to ensure that all of these will be available to the Contractor in a timely fashion so as to not delay the Project and/or delay the District's beneficial occupancy of the Project. 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, all topographical elements, existing/proposed contour lines 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. Site utility plans started.

6.1.2.6. Fixed equipment details and identification started.

6.1.2.7. 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.

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. 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 five percent (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**

**6.2.2. 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. 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





## DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

**Project Information**

<b>Project Name</b>	Claremont Middle School Kitchen Repair	<b>Site</b>	210
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**Basic Directions**

**Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.**

<b>Attachment Checklist</b>	<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
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**Contractor Information**

<b>Contractor Name</b>	S. Meek Architecture	<b>Agency's Contact</b>	Susannah Meek		
<b>OUSD Vendor ID #</b>	V022417	<b>Title</b>	Project Manager		
<b>Street Address</b>	3040 24 <sup>th</sup> Street	<b>City</b>	San Francisco	<b>State</b>	CA
<b>Telephone</b>	415-543-5505	<b>Policy Expires</b>	<b>Zip</b>	94110	
<b>Contractor History</b>	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		
<b>OUSD Project #</b>	15127				

**Term**

<b>Date Work Will Begin</b>	4-26-2017	<b>Date Work Will End By</b> <small>(not more than 5 years from start date)</small>	1-21-2010
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**Compensation**

<b>Total Contract Amount</b>	\$ 572,250.00	<b>Total Contract Not To Exceed</b>	\$768,915.00
<b>Pay Rate Per Hour (If Hourly)</b>	\$	<b>If Amendment, Changed Amount</b>	\$ 196,665.00
<b>Other Expenses</b>		<b>Requisition Number</b>	

**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
<b>9450</b>	<b>Fund 21, Measure J</b>	<b>2109905890</b>	<b>6215</b>	<b>\$196,665.00</b>

**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.

	<b>Division Head</b>	<b>Phone</b>	510-535-7038	<b>Fax</b>	510-535-7082
1.	<b>Director, Facilities Planning and Management</b>				
	<b>Signature</b>				
		<b>Date Approved</b>	5/11/18		
2.	<b>General Counsel, Department of Facilities Planning and Management</b>				
	<b>Signature</b>				
		<b>Date Approved</b>			
3.	<b>Deputy Chief, Facilities Planning and Management</b>				
	<b>Signature</b>				
		<b>Date Approved</b>	5/14/18		
4.	<b>Senior Business Officer, Board of Education</b>				
	<b>Signature</b>				
		<b>Date Approved</b>			
5.	<b>President, Board of Education</b>				
	<b>Signature</b>				
		<b>Date Approved</b>			

