Oakland Unified School District ("District") is seeking proposals from qualified persons, firms, partnerships, corporations, associations, or professional organizations to provide full architectural planning and design services for the District’s Lincoln Elementary School Water Intrusion Repair Project ("Project"), involving, without limitation, replacement of the building envelope.

Respondents to this Request for Proposals ("RFP") must mail or deliver five (5) bound copies, one (1) unbound copy, and one (1) electronic copy on CD or USB flash drive of the Proposal, labeled “Proposal for Architectural Services – Lincoln Elementary School Water Intrusion Repair Project,” conforming to the requirements of this RFP to:

OAKLAND UNIFIED SCHOOL DISTRICT
Cesar Monterrosa, Director of Facilities Planning & Management
955 High Street, Oakland, CA 94601
Re: RFP #012-17

ALL RESPONSES ARE DUE PER THE SCHEDULE SUMMARY. Proposals received after this date and time will not be accepted and will be returned unopened. Oral, facsimile, or email Proposals will not be accepted. Each Proposal must conform and be responsive to the requirement set forth in this RFP.

The District reserves the right to waive any informalities or irregularities in received Proposals. Further, the District reserves the right to reject any and all Proposals and to negotiate contract terms with one or more Respondents for one or more of the work items. The District retains the sole discretion to determine issues of compliance and to determine whether a Respondent is responsive, responsible, and qualified.

If you have any questions regarding this RFP, please email Mr. John Zilber at jzilber@ccorpusa.com and CC: Dr. Cesar Monterrosa, Director of Facilities Planning & Management, at cesar.monterrosa@ousd.org per the summary schedule below.
I. **RFP RESPONSE SCHEDULE SUMMARY**

The District reserves the right to change the dates on the schedule without prior notice.

<table>
<thead>
<tr>
<th>DATE/TIME</th>
<th>ACTION ITEM</th>
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<tr>
<td>Tuesday, December 19, 2017</td>
<td>Release of RFP #012-17.</td>
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<tr>
<td>Monday January 9, 2018 at 1:00 P.M.</td>
<td>Deadline for submission of written questions to District concerning RFP #012-17.</td>
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<tr>
<td>Friday, January 26, 2018 at 4:00 P.M.</td>
<td>Deadline for District to answer questions or issue addenda concerning RFP #012-17.</td>
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<tr>
<td><strong>Wednesday February 7, 2018 at 1:00 P.M.</strong></td>
<td><strong>Deadline for all submissions in response to RFP #012-17.</strong></td>
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<td>Wednesday February 28, 2018</td>
<td>Notification to selected Respondent(s) for negotiations.</td>
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II. **BACKGROUND**

Oakland Unified School District ("District") educates approximately 37,000 students at eighty-seven (87) school sites located in the City of Oakland. The District’s Lincoln Elementary School serves approximately 700 K-5 students and is located at 225 11th Street, Oakland, CA 94607.

The two-story Classroom Building B was completed in 2009. In 2015, OUSD responded to reports of water intrusion at this building coming from the site. A limited initial water testing investigation was performed that summer. It was determined that the water intrusion was too extensive to be repaired before school reopened in August 2015.

During summer 2016, destructive testing and permanent repairs were done at the East exterior stucco wall. Temporary mitigation measures were implemented at the roof as well as the north, south and west exterior stucco walls that fall.

The District is pursuing litigation for damages.

This Request for Proposals ("RFP") defines the architectural services sought from Respondents and generally outlines the Project requirements.
III. PROJECT DESCRIPTION

The Project involves, without limitation, replacement of the building envelope and related waterproofing for Lincoln Elementary School (“Site”), Classroom Building B. The scope includes, but is not limited to, roof, stucco walls, walkway grades, exterior window assemblies, and doors assemblies. Classroom B is a two story wood frame building that is approximately 20,000 GSF. Other classroom building on the site are not in the project scope. We are planning on vacating Building B during construction. The other classroom building at the Project Site will be occupied with teachers and students during the construction, unless the construction is confined to school vacation and holidays. The estimated construction cost is $3.1M. We anticipate construction to begin in June 2019. The scope of work for global permanent repairs includes 100% replacement of these components of the building envelope.

All Respondents must be experts in building envelopes and waterproofing systems design with demonstrated success in similar repair/replacement projects, including, but not limited to, projects involving work in occupied sites.

The Project is further defined in the attached EXHIBIT 1; site map along with a description of building defects and damages.

IV. SCOPE OF SERVICES

Any Respondent must be capable of providing full architectural services through the design and construction phases of the Project. The desired scope of services is set forth at Exhibit “A” to the District’s form Agreement for Architectural Services (“Agreement”), which is attached to this RFP as EXHIBIT 2.

V. LIMITATIONS

The award of a contract, if at all, is at the sole discretion of the District. The District reserves the right to contract with any person or entity responding to this RFP. The District makes no representation that participation in the RFP process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing a response to this RFP.

Proposals, and any other supporting materials submitted to the District in response to this RFP, will not be returned and will become the property of the District unless portions of the material are designated as proprietary at the time of submittal and are specifically requested to be returned. Vague designations and/or blanket statements regarding entire pages or documents are insufficient and will not bind the District to protect the designated matter from disclosure. Pursuant to Michaelis, Montanari, & Johnson v. Superior Court (2006) 38 Cal.4th 1065, Proposals shall be held confidential by the District and shall not be subject to disclosure under the California Public Records Act until after either: (1) the District and the successful Respondent have completed negotiations and entered into an agreement, or (2) the District has rejected all Proposals. Furthermore, the District will have no liability to Respondent or other party as a result of any public disclosure of any Proposal.

VI. FULL OPPORTUNITY

The District hereby affirmatively ensures that Disadvantaged Business Enterprises (“DBE”), Small Local Business Enterprises (“SLBE”), Small Emerging Local Business Enterprises
("SELBE"), and Disabled Veterans Business Enterprises ("DVBE") shall be afforded full opportunity to submit Proposals in response to this RFP and no Respondent will be discriminated against on the basis of race, color, gender, sexual orientation, political affiliation, age, ancestry, religion, marital status, national origin, medical condition, or disability in any consideration leading to the award of the contract. No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination in any consideration leading to the award of contract.

VII. **RESTRICTIONS ON LOBBYING AND CONTACTS**

From the period beginning on the date of the issuance of this RFP and ending on the date of the award of the contract, no person or entity submitting in response to this RFP, nor any officer, employee, representative, agent, or consultant representing such a person or entity, shall contact through any means or engage in any discussion regarding this RFP, the evaluation/selection process, or the award of the contract with any member of the District, Board of Education, or any member of the Citizens’ Oversight Committee. Any such contact shall be grounds for the disqualification of Respondent.

VIII. **LOCAL, SMALL LOCAL AND SMALL LOCAL RESIDENT BUSINESS ENTERPRISE PROGRAM**

On January 29, 2014, the District adopted a resolution amending the 2008 Local, Small Local and Small Local Resident Business Enterprise (L/SL/SLRBE) Program and increasing the mandatory local participation requirement from twenty percent (20%) to fifty percent (50%) percent for all capital program/construction related contracts and professional services agreements. As with all District projects, companies must be certified by the City of Oakland in order to earn credit toward meeting the participation requirement.

The basic Local Business Utilization (LBU) Policy requires that there is a mandatory fifty percent (50%) LBU participation with twenty-five percent (25%) or less Local Business Enterprise (LBE) participation and twenty-five percent (25%) or more Small Local Business Enterprise or Small Local Resident Business Enterprise (SLBE/SLRBE) participation.

The full version of the District’s latest Local, Small Local and Small Local Resident Business Enterprise Program can be found by going to the District home page:

```
ousd.org > Programs & Services > Facilities Planning & Management Department > Bids and Requests for Proposals > Bidding Information > 2014 Amendment to Local Business Participation Policy
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Respondents must submit a description of the partnership team’s L/SL/SLRBE composition clearly indicating the name of the firms and percentages of participation on the following form ("Local Business Participation Worksheet").

[REMAINDER OF PAGE INTENTIONALLY BLANK]
## LOCAL BUSINESS PARTICIPATION WORKSHEET

### Prime Consultant:
- **RFP:**
- **Date:**

<table>
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<tr>
<th>Team Member</th>
<th>Projected Percent of Total Fee Per Team Member</th>
<th>LBE %</th>
<th>SLBB %</th>
<th>SLBR %</th>
<th>City of Oakland Certification Number</th>
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Approval – LBU Compliance Officer
IX. PROPOSAL REQUIREMENTS

A. Format

Respondents to this RFP must comply with the following format requirements. Material must be in 8-1/2 x 11 inch format with font no less than 11 point font size. Proposals shall include divider tabs labeled with boldface headers below; e.g., the first tab would be entitled "Cover Letter," the second tab would be entitled "Table of Contents," etc.

Proposals shall be no more than thirty (30) single-sided pages or fifteen (15) double-sided pages in length. This page limitation excludes front/back covers, divider sheets/tabs, and allowed appendices. Proposals containing more than the authorized number of pages will not be considered.

Provide five (5) bound copies, one (1) unbound copy, and one (1) electronic copy of the Proposal. The unbound copy shall be marked "Copy for Reproduction," and shall be formatted as follows:

- No divider sheets or tabs.
- Pages with proprietary information removed.
- A cover sheet listing Respondent’s name, the total number of pages, and identifying those pages that were removed due to proprietary information.

The electronic copy will only be accepted via flash drive or CD in the following programs: Microsoft Office Suite or PDF.

B. Content

1. Cover Letter (maximum of 2 pages)

- Provide a letter of introduction signed by an authorized officer of Respondent. If Respondent is a joint venture, duplicate the signature block and have a principal or officer also sign on behalf of each party to the joint venture.
- Include a brief description of why Respondent is well suited for, and can meet, the District’s needs.
- Clearly identify the individual(s) who are authorized to speak for Respondent during the evaluation process.
- Include one (1) of the follow statements:

  "[INSERT RESPONDENT’S NAME] received a copy of the District’s form of Agreement for Architectural Services ("Agreement") attached as EXHIBIT 2 to the RFP. [INSERT RESPONDENT’S NAME] has reviewed the indemnity and insurance provisions contained in the Agreement. If given the opportunity to contract with the District, [INSERT RESPONDENT’S NAME] has no objections to the use of the Agreement."

  OR
“[INSERT RESPONDENT’S NAME] received a copy of the District’s form of Agreement for Architectural Services (“Agreement”) attached as Exhibit 2 to the RFP. [INSERT RESPONDENT’S NAME] has reviewed the indemnity and insurance provisions contained in the Agreement. If given the opportunity to contract with the District, [INSERT RESPONDENT’S NAME] has objections to the use of the Agreement, only as identified in Tab 8 (Comments on Form of Agreement).”

- Certify that no official or employee of the District, nor any business entity in which an official of the District has an interest, has been employed or retained to solicit or assist in the procuring of the resulting contract(s), nor that any such person will be employed in the performance of any/all contract(s) without immediate divulgence of this fact to the District.

- Certify that no official or employee of Respondent has ever been convicted of an ethics violation.

- Include evidence that Respondent is legally permitted to conduct business in the State of California and properly licensed to perform the services.

- Sign below the following language: “By virtue of submission of this Proposal, [INSERT RESPONDENT’S NAME] declares that all information provided is true and correct.”

2. Respondent Information

- Company name.
- Address.
- Telephone.
- Fax.
- Website.
- Name and email of main contact.
- Federal Tax I.D. Number.
- License Number.
- Type of organization (i.e. corporation, partnership, etc.). If a joint venture, describe the division of responsibilities between participating companies, offices (location) that would be the primary participants, and percentage interest of each firm.

- A brief description and history of the firm, including number of years the firm has been in business and date firm was established under its given name.

- Number of employees (licensed professionals, technical support).

- Location of office where the bulk of services solicited will be performed.
• State of California certification for your firm of Small Business or Disabled Veteran Business Enterprise status, if any.

• Provide Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE) Worksheet included in Section VIII of this RFP.

• Provide Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion attached as EXHIBIT 3 to this RFP.

3. Relevant Qualifications

• Briefly describe Respondent’s approach to and/or experience with each of the following:
  o Exterior Waterproofing (building envelope) expertise;
  o Exterior facade replacement projects as opposed to new construction projects.
  o Designed experience for projects with an occupied site;
  o Cost estimating, including some history of cost estimates versus actual bid amount on three (3) school projects awarded in the last five (5) years.
  o Quality control/assurance procedures, including coordination of design disciplines and DSA final certification.
  o K-12 school projects that were approved by the DSA;
  o Construction cost reduction measures such as, but not limited to, value engineering in design and construction.

4. Relevant Project Experience

• Provide information about prior services furnished by Respondent in the last ten (10) years on a minimum of five (5) K-12 educational projects, and list the following for each project:
  o District name and name of contact person, title, telephone number, and email address to be contacted for a reference.
  o Project name and location.
  o Beginning and end dates of project (i.e., Notice of Completion and DSA final certification).
  o Square footage.
  o Main program elements.
  o Original budget, bid amount, and final amount at close-out.
  o Number of RFI’s and Change Orders of each project.
o Briefly state relevance of the project for consideration in this RFP.

o Specify role of Respondent if work was not exclusively by Respondent (i.e., joint venture, association).

o Key individuals of Respondent involved and their roles in the project.

o Any sub-consultants that worked with Respondent.

- Identify any and all K-12 educational projects that have not been closed-out by DSA and provide explanation.

5. Project Team Summary

- Identify key team members, including subconsultants, and state their qualifications relevant to the Project.

- The District expects that the team shall remain intact through the duration of the Project. If a team member must leave, the District reserves the right to approve that team member’s replacement.

6. Litigation History

- Provide a comprehensive five (5)-year summary of Respondent’s litigation, arbitration and negotiated/settled history with previous clients. State the issues in the litigation, the status of the litigation, names of parties, and outcome.

- A Proposal failing to provide the requested information on lawsuits or litigation, and responses which assert attorney-client privilege and fail to provide the information requested, will be considered non-responsive, disqualified from the selection process, and will not be evaluated.

7. Fee Proposal

- Fee proposal shall include hourly billing rates by position (proposed); staffing plan (proposed); and reimbursable schedule (proposed). Proposal shall provide a Schedule of Rates (“SOR”) by position, by company entity, for each position proposed by Respondent, whether submitting as a prime with subconsultant(s), or as joint venture or partnership. The SOR should identify proposed reimbursable by category. Travel and related expenses shall be reimbursed in accordance with the federal government Joint Travel Regulation.

- A form of the Agreement has been distributed with this RFP as EXHIBIT 2. The final form of the Agreement will incorporate the final scope of work and not-to-exceed fee negotiated between the District and the selected Respondent.

8. Comments on Form of Agreement

- Respondents must thoroughly review the Agreement attached to this RFP as EXHIBIT 2 and confirm in writing that, if given the opportunity to contract with the District, Respondent has no substantive objections to the use of the District’s standard agreement, or identify any term or condition of the Agreement that the Re-
respondent requests modifying, deleting, or adding. Respondents must clearly explain what modification would be sought and specify alternate language.

- Respondent, if selected, will be precluded from negotiating changes that have not been identified in the Proposal. The District will review but is not obligated to accept any proposed changes.

9. **Appendix**

- Firm brochure/history/background, reprints, etc.
- Key team member resumes.

X. **SELECTION PROCESS**

A. **Criteria**

The District will evaluate all timely Proposals. Each Proposal must be complete. Incomplete Proposals will be considered non-responsive and grounds for disqualification. The District retains the sole discretion to determine issues of compliance and to determine whether a Respondent is responsive, responsible, and qualified. The District will identify Respondent(s) that can provide the greatest overall benefit to the District.

The criteria for evaluating submissions may include, without limitation, the following:

- Demonstrate experience and expertise with exterior facaded and roof replacement, renovations/repairs and exterior waterproofing;
- Demonstrate experience in working on an occupied site;
- Demonstrate experience and results of firm and proposed personnel;
- References from clients contacted by the District;
- Proven technical, scheduling and cost management capacities;
- Demonstrate experience with K-12 schools and DSA;
- If selected, firm(s) must be able to begin design work;
- Value of services under proposed fees; and
- Overall responsiveness of the Proposal.

B. **Interviews**

The District, at its sole discretion, may elect to interview selected Respondent(s). The District may elect to interview one or more Respondents. If a Respondent is requested to come for an interview, the key proposed Project staff will be expected to attend the interview. The interview will be an opportunity for the District’s to review the Respondent’s proposal and other matters the District deems relevant to its evaluation. *Any comments or proposed changes to the form of Agreement attached hereto as EXHIBIT 2 shall be provided in writing in Tab 8 and may be the subject of inquiry at the interview.*
C. District Investigations

The District may perform investigations of Respondents that extend beyond contacting the references identified in the Proposals. The District may request a Respondent to submit additional information pertinent to the review process. The District also reserves the right to investigate and rely upon information from any other available sources in addition to any documents or information submitted.

XI. FINAL DETERMINATION AND AWARD

The District reserves the right to contract with any person or entity responding to this RFP for all or any portion of the work described herein, to reject any Proposal as non-responsive, and/or not to contract with any Respondent for the services described herein. The District makes no representation that participation in the RFP process will lead to an award of contract or any consideration whatsoever. The District reserves the right to contract with any firm not participating in this process. The District shall in no event be responsible for the cost of preparing any Proposal in response to this RFP, including any supporting materials.

Awarding of contract(s) is at the sole discretion of the District. The District may, at its option, determine to award contract(s) only for portions of the scope of work identified herein. In such case, the successful Respondent(s) will be given the option not to agree to enter into the contract and the District will retain the right to negotiate with any other Respondent selected as a finalist. If no finalist is willing to enter into a contract for the reduced scope of work, the District will retain the right to enter into negotiations with any other Respondent to this RFP.

XII. SUBMISSION GUIDELINES

Respondents to this RFP must mail or deliver five (5) bound copies, one (1) unbound copy, and one (1) electronic copy on CD or USB flash drive of the Proposal, labeled “Proposal for Architectural Services – Lincoln Elementary School Water Intrusion Repair Project,” conforming to the requirements of this RFP to:

OAKLAND UNIFIED SCHOOL DISTRICT
Cesar Monterrosa, Director of Facilities Planning & Management
955 High Street, Oakland, CA 94601
Re: RFP #012-17

ALL RESPONSES ARE DUE BY 1:00 P.M., ON MONDAY, FEBRUARY 12, 2018. Proposals received after this date and time will not be accepted and will be returned unopened. Oral, facsimile, or email Proposals will not be accepted. Each Proposal must conform and be responsive to the requirement set forth in this RFP.

The District hereby notifies all Respondents that it will affirmatively insure that, in any contract entered into pursuant to this RFP, minority business enterprises will be afforded full opportunity to submit in response to this RFP and no respondent will be discriminated against on the grounds of race, color, sex, age, ancestry, religion, marital status, national origin, medical condition or physical disability on consideration for the award.

WE THANK YOU FOR YOUR INTEREST IN THE DISTRICT’S PROJECT.
EXHIBIT 1

PROJECT DESCRIPTION

11TH STREET

Project Name: Lincoln Elementary School Water Intrusion Repair Project

Below is an edited copy of a report the OUSD commissioned to identify deficiencies and recommend repairs at Lincoln Elementary School - Building B.

The listed information is not intended to absolve respondents/anyone from their own investigation or due diligence and that this is for information purposes only.
A. **Leak Investigation**

The listed information was gathered by visual observations and limited destructive testing and water testing. The testing included the following building components:

1. Window assemblies,
2. Stucco cladding,
3. Roofing,
4. Door assemblies,
5. Breezeways,

B. **Window Assemblies/Testing & Findings**

Window testing included negative air water testing and destructive testing at 4 windows. Prior to spray water testing the interior finishes were removed around the windows. Prior to spray water testing the interior finishes were removed so interior leaks during the spray water testing could be observed and checked for historical water stains and or damage within the wall cavity. Historical water stains were observed at all 4 windows within the wall cavity or on interior finishes.

During the water testing 1 window leaked without negative air pressure, and 3 windows leaked with negative air pressure. After the testing the exterior stucco was removed around the windows, it was observed “shiners” which are fasteners that were installed to secure the windows to the framing were misaligned and missed the framing and were poking holes in the self-adhered flashings. Perimeter sealants were missing around the interior side of the sills, jambs and heads of the windows. The window sills lacked sill pan flashings and head flashings with end dams.

1. **Repair Option**: Breaking stucco and removal of 100% of the windows for replacement, and possibly salvaging the glazing. The existing SAM in the opening will have to be removed and replaced so it extends the full width of the opening. It is also recommended to install new pan flashings and head flashings with end dams. Install new perimeter sealants over backer rod around the perimeter of the window at the leading interior edge.

   Install new 3 coat stucco where stucco was removed, terminate stucco into casing beads within 5/8 inch” from the jambs and sills of the windows to allow for a new sealant joint over backer rod at the perimeters of the windows.

C. **Stucco/Testing & Findings: East Elevation**

The leak investigation was started on the east wall of classroom 166. The testing consisted of water testing and destructive testing. Prior to spray testing, an 18inch wide strip of the interior gypsum sheathing was removed at the bottom of the wall. The interior gypsum was removed so leaks within the wall cavity could be observed during the spray testing. After the wall was opened up extensive water damage and biological growth on the wood framing and plywood was observed.

Approximately half of the exterior side of the east wall was staged with scaffolding. The scaffolding provided the access needed to reach the upper walls and reveals. Four series of 17 different spray tests were performed, starting from the ground floor up to the top of the parapet wall cap, including at the inside face of the parapet wall.

Approximately 13 + - leaks were observed during the course of the investigation. The first leaks became evident when the first horizontal revel above grade level was
spray tested. The metal hose bib box was a leak source too. The last leak developed in the classroom below when the vertical control joint at the inside corner at the parapet walls was spray tested.

After the spray testing of the stucco walls was completed the stucco walls were opened at various locations. Extensive damage to the building paper, plywood behind the building paper, and structural wood framing was observed. The reveals had extensive and heavy rust on all sides. It appeared that the leaks were in alignment with reveals. It was also noted that the reveals have a very short back leg, lack sealants at laps and were not properly integrated with the building paper.

Photographic documentation of the leaks and damage are in OUSD files.

D. Stucco/Testing & Findings: South Elevation

The stucco was water tested and destructively tested at 4 locations at control joints where emergency sealants (not removed during testing) had been installed as a way to mitigate leaks. One water box was destructively tested. Pre-test damage was observed at 4 locations, and at 2 locations leaked were seen during the water tests.

The reveals appeared similar at the other elevations of the building so it was assumed that they were probably leaking. Emergency sealant repairs were made on all the exposed reveals on all elevations of the buildings, to minimize water intrusion and the resulting damage. All the exposed reveals were temporary sealed.

1. Repair Recommendations: Complete removal of all the stucco, associated flashing, reveals, etc., down to the substrate. After the stucco removal the substrate should be checked for water damage and all water damaged wood framing components should be removed and replaced. Install new 3-coat stucco assembly, reveals, integral flashings and sealants in accordance with code and the manufactures printed instructions.

E. Roofing/Testing & Findings

The BUR was surveyed, numerous leaks were investigated and the roof was destructively tested. Roof leaks are being reported in classrooms 261, 262, 263, 264, 265 and 266, which are upper level classrooms directly below the roof.

Several leak sources were identified when the roof was water tested; including pitch pans, roof vents and HVAC conduit couplings. After the water testing the BUR was destructively tested in several locations. The roofing components that were water tested included a pitch pan, 2 lead roof jacks, 2 composition base flashings, and a metal coping cap at the mechanical screen. The deficiencies within the BUR membrane included, dis-bonded cap sheet, delamination of roofing felts, improper roof at roof vent flanges and unprimed lead collars.

During the roof survey, numerous deficiencies were identified, including: ponding water resulting from lack of slope in the roof deck, composition base flashing end laps are dis-bonded, improperly installed pitch pans, cracked roofing cement and granule loss in the surfacing cap sheet, and open counter flashing laps.

1. Repair Recommendations: 100% removal of the BUR down to the wood substrate. Once the BUR is removed the substrate should be inspected for water damage and all water damaged substrate materials should be removed and replaced. The roof deck should be surveyed for slope, and all low sloped areas should be corrected so all areas of the roof have minimum slope to meet the code and manufacturers requirements.
F. Door Assemblies/Testing & Findings

Man doors provide access to the classrooms from the courtyard, and the breezeways. 6 classroom doors were destructively tested. Numerous defects, leaks and some water damage was observed. Some of the observed defects included:

- Door thresholds have reverse slope,
- Door thresholds lack pan flashings.
- Door thresholds were not installed into a full bed of sealant,
- Door threshold fasteners are not sealed, deteriorated and backing out,
- Door threshold leaks cause some damage to the linoleum tiles,
- Daylight is visible from the inside the classroom through a closed door (Doors are not water tight)
- Metal door jambs have water damage.

1. Repair Recommendations: Removal of the existing door thresholds, and weather-stripping. Install new stainless steel pan flashings with end dams into a full bed of sealants. Install new compression weather-stripping at the jambs and head conditions. Remove the rust from the door jambs and prep, prime and paint door jambs.

G. 2nd Level Breezeway/Testing & Findings

The 2nd level breezeway is located on the south elevation of the building and provides access to the classrooms on the second floor. Visual observations indicated numerous defects. Some of the observed defects included:

- Topping slab has reverse slope,
- Topping slab has extensive cracking,
- Unsealed penetrations.

1. Repair Recommendations: Bead blast surface to remove all containments and prepare surface for new coatings. Route and fill all cracks with an epoxy resin. Add slope to all areas where slope is less than ¼ inch per foot with a polymer modified cement. Install new pedestrian coatings over entire breezeways, with a slip resistance surface. Classroom door thresholds shall be removed and replaced to allow for new pedestrian coatings.

H. Security Screen/Testing & Findings

There is a security screen on the south side of the building. The security screen runs from the ground floor up to the soffit of the roof and runs the full length of the covered breezeways. The security was not painted in some locations.

1. Repair Recommendations: Painting the security screen at all areas where the paint was omitted.
AGREEMENT FOR ARCHITECTURAL / ENGINEERING / DESIGN SERVICES
Greater Than $88,300

BY AND BETWEEN

OAKLAND UNIFIED SCHOOL DISTRICT

AND

[ARCHITECT]

FOR

LINCOLN ELEMENTARY SCHOOL PROJECT

, 2017
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AGREEMENT FOR ARCHITECTURAL SERVICES

This Agreement for Architectural Services is made as of the ___ day of __________ 2017, between the Oakland Unified School District, a California public school district (“District”), and __________________________ (“Architect”) (individually a “Party” and collectively the “Parties”), for the following project (“Project”):

Replacement of building envelope and related waterproofing at Lincoln Elementary School, located at 225 11th Street, Oakland, CA 94607.

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. Bid Set: The plans, drawings, and specifications at the end of the Construction Documents Phase that DSA has approved and that the District can use to go out to bid for construction of the Project.

1.1.5. 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.

1.1.6. Construction Change Documents (“CCD”): The documentation of changes to the DSA-approved construction documents.

1.1.7. Construction Cost Budget: The total cost to District of all elements of the Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with this Agreement. The Construction Cost Budget does not include the compensation of the Architect and Consultants, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the District, including construction management.
1.1.8. **Construction Manager:** The District’s representative on the Project if the District retains a construction manager, project manager, or owner’s representative.

1.1.9. **Contractor:** One or more licensed contractors under contract with the District for construction of all or a portion of the Project.

1.1.10. **Consultant(s):** Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Architect.

1.1.11. **Day(s):** Unless otherwise designated, “day(s)” means calendar day(s).

1.1.12. **District:** The Oakland Unified School District.

1.1.13. **DSA:** The Division of the State Architect.

1.1.14. **Extra Services:** District-authorized services outside of the scope in Exhibit “A” or District-authorized reimbursables not included in Architect’s Fee.

1.1.15. **Laboratory of Record:** The District-designated laboratory(ies) for testing of concrete, soils, materials, and other required testing.

1.1.16. **Project:** Replacement of building envelope and related waterproofing at Lincoln Elementary School.

1.1.17. **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.

1.1.18. **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.

1.1.19. **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.

1.1.20. **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. The District reserves the right to retain the services of a Construction Manager at any time. The Construction Manager, if any, shall be authorized to give Architect Services authorizations and issue written approvals and notices to proceed on behalf of District. The District reserves the right to designate a different Construction Manager at any time. Any task, including, but not limited to, reviews or approvals that the District may perform pursuant to this Agreement may be performed by the Construction Manager, unless that task indicates it shall be performed by the Governing Board of the District.

2.3. Architect shall provide Services that comply with professional architectural standards, including the standard of care applicable to architects designing California public school facilities in or around the same geographic area as the District and applicable requirements of federal, state, and local law including, without limitation:


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.


2.3.9. 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, and shall provide code required supervision of special inspectors not provided by 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: ________________________________

   Project Director: ________________________________

   Project Architect(s): ________________________________

   Project Architect(s): ________________________________

   Other: ________________________________

   Major Consultants:

   Electrical: ________________________________

   Mechanical: ________________________________

   Structural: ________________________________

   Civil: ________________________________

   Other: ________________________________

3.3. The Architect shall not change any of the key personnel listed above without prior notice to and written approval by District, unless said personnel cease to be employed by Architect. In either case, District shall be allowed to interview and approve replacement personnel.

3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice the Architect shall have five (5) days to remove that person from the Project and replace that person with personnel acceptable to the District. All lead or key personnel for any Consultant must also be designated by the Consultant and shall be subject to all conditions previously stated in this paragraph.

3.5. Architect represents that the Architect has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of the Services and that no person having any such interest shall be employed by Architect.

3.6. Architect shall comply with Education Code section 17302(a) and agrees that any plans, models, specifications and/or estimates included in the Services shall be prepared under the supervision of licensed personnel, and that licensed personnel shall be in “responsible charge” of persons who observe the construction.

Article 4. Schedule of Services
The Architect shall commence Services under this Agreement upon receipt of a Notice to Proceed and shall prosecute the Services diligently as described in Exhibit “A,” so as to proceed with and complete the Services in compliance with the schedule in Exhibit “C.” Time is of the essence and failure of Architect to perform Services on time as specified in this Agreement is a material breach of this Agreement. It shall not be a material breach if a delay is beyond the Architect’s and/or 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 ________________________ Dollars ($_________) based on the rates set forth in Exhibit “D.”

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

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 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. All finished or unfinished documents, studies, meeting minutes, program documents, reports, calculations, drawings, maps, models, photographs, technology data and reports prepared by the Architect under this Agreement.
8.5.5. 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.

10.2. 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. 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 12. Responsibilities of the District

12.1. 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.

12.2. 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.

12.3. 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.

12.4. 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.

12.5. The District shall timely provide to the Architect all relevant information in its possession regarding the Project that is necessary for performance of Architect’s Services and as requested by Architect.

12.6. District shall pay all fees required by agencies having jurisdiction over the Project.

Article 13. Liability of District

13.1. 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.
13.2. 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 14. Nondiscrimination**

14.1. 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.

14.2. Architect shall comply with any and all applicable regulations and laws governing nondiscrimination in employment.

**Article 15. Insurance**

15.1. Architect shall comply with the insurance requirements for this Agreement, set forth in Exhibit “E.”

15.2. 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 16. 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 17. 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 18. 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 19. Law, Venue

19.1. 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.

19.2. 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 20. Alternative Dispute Resolution

20.1. Architect’s Invoices.

20.1.1. 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").

20.1.2. 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.

20.1.3. 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.

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

20.2.1. 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.
20.2.2. **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 may submit the dispute to non-binding mediation administered by JAMS (or other agreed upon rules) under its construction industry mediation rules, unless waived by mutual stipulation of both Parties.

20.2.3. **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.

20.3. 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 21. 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 22. Severability**

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

**Article 23. Employment Status**

23.1. Architect shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which the Architect performs the Services; provided
always, however, that the Services to be provided by Architect shall be provided in a manner consistent with all applicable standards and regulations governing such Services.

23.2. Architect understands and agrees that the Architect’s personnel are not and will not be eligible for membership in or any benefits from any District group plan for hospital, surgical or medical insurance or for membership in any District retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee.

23.3. Should District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Architect is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Architect which can be applied against this liability). District shall then forward those amounts to the relevant taxing authority.

23.4. Should a relevant taxing authority determine a liability for Services performed by Architect for District, upon notification of such fact by District, Architect shall promptly remit such amount due or arrange with District to have the amount due withheld from future payments to Architect under this Agreement (again, offsetting any amounts already paid by Architect which can be applied as a credit against such liability).

23.5. A determination of employment status pursuant to the preceding two (2) paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Architect shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Architect is an employee for any other purpose, then Architect agrees to a reduction in District’s liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Architect was not an employee.

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

Article 24. Warranty and Certification of Architect

24.1. Architect warrants and certifies that the Architect is properly certified and licensed under the laws and regulations of the State of California to provide the Services that it has agreed to perform.

24.2. Architect warrants and certifies that it is aware of the provisions of the California Labor Code that require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with those provisions before commencing the performance of the Services of this Agreement.
24.3. Architect warrants and certifies that it is aware of the provisions of California Labor Code that require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects (“Prevailing Wage Laws”). Since the Architect is performing Services as part of an applicable “public works” or “maintenance” project, and since the total compensation is One Thousand Dollars ($1,000) or more, the Architect agrees to fully comply with and to require its Consultant(s) to fully comply with all applicable Prevailing Wage Laws.

24.3.1. Architect shall ensure that it and its subconsultants comply, 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 25. Cost Disclosure - Documents and Written Reports

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

Article 26. Notices and Communications

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

**Oakland Unified School District**  
955 High Street  
Oakland, CA 94601  
ATTN: ________________  
Email: ____________________

**Architect:**  
ATTN: ________________  
Email: ____________________

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 five (5) days after deposit in the United States mail. Any notice by email shall be effective upon acknowledgment of receipt, if so requested.

Article 27. Disabled Veteran Business Enterprise Participation Policy

Architect shall comply with the requirements of the District’s Disabled Veteran Business Enterprise Participation Policy, as applicable, which has a participation goal for disabled veteran business enterprises (DVBEs) subcontractors of at least three (3) percent or meet the good faith effort. To the extent feasible and pertaining to futurehirings, 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. The District’s DVBE Policy is attached hereto as Exhibit G and incorporated herein.
Article 28. District’s Right to Audit

28.1. District retains the right to review and audit, and the reasonable right of access to Architect’s and any Consultant’s premises to review and audit the Architect’s compliance with the provisions of this Agreement (“District’s Audit Right”). The District’s Audit Right includes the right to inspect, photocopy, scan, and to retain copies, outside of the Architect’s premises, of any and all Project-related records, documents and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District shall keep this information confidential, as allowed by applicable law.

28.2. The District’s Audit Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines are necessary to discover and verify that the Architect is in compliance with the requirements of this Agreement.

28.3. If there is a claim for additional compensation or for Extra Services, the District’s Audit Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the District determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

28.4. The Architect shall maintain complete and accurate records for a minimum of 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.

28.5. The Architect shall include audit provisions in any and all of its subcontracts, and shall ensure that this Article is binding upon all Consultants.

28.6. Architect shall comply with these provisions within fifteen (15) days of the District’s written request to review and audit any or all of Architect’s Project-related documents, records and information.

28.7. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of more than Ten Thousand Dollars ($10,000), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of the District, or as part of any audit of the District, for a period of three (3) years after final payment under the Agreement.

Article 29. Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE) Architect shall comply with the requirements of the District’s L/SL/SLRBE Program, as applicable, which may require a fifty percent (50%) mandatory minimum local participation requirement in the performance of this Agreement. The District’s L/SL/SLRBE Program is attached hereto as Exhibit F and incorporated herein.

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 set forth in this Agreement.

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 H** 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

Kyla John-Trammel, Superintendent & Secretary, Board of Education

Joe Dominguez, Deputy Chief, Facilities Planning and Management

**ARCHITECT**

By:  

Its:

**APPROVED AS TO FORM:**

OUSD Facilities Legal Counsel
EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF ARCHITECT

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EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF ARCHITECT

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

1. SCOPE OF PROJECT

   Project Name: Lincoln Elementary School Water Intrusion Repair Project

   The new two-story Classroom Building B was completed in 2009. In 2015, OUSD responded to reports of water intrusion at this building coming from the site. A limited initial water testing investigation was performed that summer. It was determined that the water intrusion was too extensive to be repaired before school reopened in August 2015.

   During summer 2016, destructive testing and permanent repairs were done at the east exterior stucco wall. Temporary mitigation measures were implemented at the roof as well as the north, south and west exterior stucco walls that fall. The scope of work for global permanent repairs includes 100% replacement of these components of the building envelope as well as others.

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, if applicable, 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, 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
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; a 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 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 unless it is a District-adopted sole source product standard.

2.7. **Mandatory Assistance.** 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").

2.8. **Reserved**

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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.


2.9.6.1. 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. **Reserved**

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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, and schematic design preparation and estimating that are part of the work of the Project. Architect shall also identify milestone activities or dates, specific task responsibilities, required completion times necessary for the review and approval by the District and by all regulatory agencies and additional definition of deliverables.

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

3.2. **Development of Architectural Program**

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

3.2.1. Perform pre-design investigations to establish appropriate guidelines around which and within which the Project is to be designed. Identify design issues relating to functional needs, directives and constraints imposed by regulatory codes. Review all data pertinent to the Project including survey, site maps, geotechnical reports and recommendations, soil testing results reports, and pertinent historical data, and other relevant information provided by District.

3.2.2. Review DSA codes pertaining to the proposed Project design.

3.2.3. Identify design issues relating to functional needs, directives and constraints imposed by applicable regulatory codes.

3.2.4. Based on survey and topography data provided by the District, input into computer and develop existing conditions base for the Schematic Design Phase.

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

3.2.6. Develop District standards for facilities and construction, including but not limited to designation of any material, product, thing or service by...
specific brand or trade name pursuant to Public Contract Code section 3400, subdivision (c).

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 Project 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 Project 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;

3.6. **Meetings**

During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below, in Section 10.

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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, 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.

4.4. **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 Project(s). 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 Project 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 any District-provided cost estimate(s).

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. One (1) copies, only in electronic format, of the Building Information Model Archive for this Project phase.

4.11.8. 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.
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. 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 in Section 10.

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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.

5.2. 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.

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 Project 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; and

5.9.6. 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.

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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 Project 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

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

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

6.1.9.3. Specifications shall be in CSI format.

6.1.10. Deliverables and Numbers of Copies

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:

6.1.11. Updated program document;
6.1.12. Two (2) copies of reproducible copies of working drawings;

6.1.13. Two (2) copies of specifications;

6.1.14. Two (2) copies of statement of requirements for testing and inspection of service for compliance with Construction Documents and applicable codes;

6.1.15. Two (2) copies of a statement indicating any authorized changes made to the design from the last Phase and the cost impact of each change on the previously approved Construction Cost Budget. If no design changes occur but shifts of costs occur between disciplines, identify for District review; and

6.2. **Construction Documents – 100% Completion Stage:**

6.2.1. **Architectural**

   6.2.1.1. Completed site plan.

   6.2.1.2. Completed floor plans, elevations, and sections.

   6.2.1.3. Architectural details and large blow-ups completed.

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

   6.2.1.5. Fixed equipment details and identification completed.

   6.2.1.6. Reflected ceiling plans completed.

6.2.2. **Structural**

   6.2.2.1. Structural floor plans and sections with detailing completed.

   6.2.2.2. Structural calculations completed.

6.2.3. **Mechanical**

   6.2.3.1. Large scale mechanical details complete.

   6.2.3.2. Mechanical schedules for equipment completed.

   6.2.3.3. Completed electrical schematic for environmental cooling and exhaust equipment.

   6.2.3.4. Complete energy conservation calculations and report.

6.2.4. **Electrical**
6.2.4.1. Lighting and power plan showing all switching and controls. Fixture schedule and lighting details completed.

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 Project 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 District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.

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

6.2.7. Specifications

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

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

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

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

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

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

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

6.2.7.6. Specifications shall be in CSI format.

6.2.8. **Constructability Review**

The District and/or its designee shall conduct a construction review of the Construction Documents. A report shall be given to the Architect who shall make necessary changes along with providing written comments for each item listed in the report. Conducting a constructability review does not excuse the Architect’s obligation to provide Services that shall comply with professional architectural standards, including the standard of care applicable to architects designing public school facilities and applicable requirements of federal, state, and local law.

6.2.9. **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 copy of each item in electronic format:

6.2.9.1. Updated program document;

6.2.9.2. Two (2) reproducible copies of working drawings;

6.2.9.3. Two (2) copies of specifications;

6.2.9.4. Two (2) copies of engineering calculations;

6.2.9.5. Two (2) copies of revised Construction Cost Budgets;

6.2.9.6. Two (2) copies of statement of requirements for testing and inspection of service for compliance with Construction Documents and applicable codes;
6.2.9.7. Two (2) copies of DSA file including all correspondence, meeting, back check comments, checklists to date;

6.2.9.8. Two (2) copies of a statement indicating any authorized changes made to the design from the last Phase and the cost impact of each change on the previously approved Construction Cost Budget. If no design changes occur but shifts of costs occur between disciplines, identify for District review; and

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

6.3.1. The Construction Documents final back-check stage shall be for the purpose of the Architect incorporating all regulatory agencies' comments into the drawings, specifications, and estimate. All changes made by the Architect during this stage shall be at no additional cost to the District.

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

6.3.2. The final contract documents delivered to the District upon completion of the Architect’s work shall be the Bid Set and shall consist of the following:

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

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

6.3.3. Architect shall update and refine the Consultants’ completed Construction Documents.

6.3.4. Conclusion of Construction Document Phase requires final stamp-out by DSA.

6.4. **Meetings**

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

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7. BIDDING PHASE

Upon District’s acceptance of Architect’s work in the previous Phase and assuming District has not delayed or terminated the Agreement, the Architect shall perform Bidding Phase services for District as follows:

7.1. Contact potential bidders and encourage their participation in the Project.

7.2. Coordinate the development of the bidding procedures and the construction Contract Documents with the District.

7.3. The development of the bidding procedures and the construction contract documents shall be the joint responsibility of the District and the Architect. Nevertheless, 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.

7.4. Attend bid walk(s) as scheduled.

7.5. While the Project is being advertised for bids, all questions concerning intent shall be referred to the District for screening and subsequent processing through Architect.

7.6. In the event that items requiring interpretation of the drawings or specifications are discovered during the bidding period, those items shall be analyzed by the Architect for decision by the District as to the proper procedure required. Corrective action will be in the form of an addendum prepared by the Architect and issued by the District.

7.7. Attend bid opening.

7.8. Coordinate with subconsultants.

7.9. Respond to District questions and clarifications.

7.10. Deliverables and Number 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:

7.10.1. Two (2) copies of meeting report/minutes from kick-off meeting;

7.10.2. Two (2) copies of meeting report/minutes from pre-bid site walk;

7.10.3. Upon completion of the Bidding Phase, Architect shall produce a Conforming Set of plans and specifications incorporating all addenda issued thus far. Architect shall supply District with two (2) complete, reproducible sets of plans and specifications marked as a Conforming Set, and one (1) electronic set of plans in AutoCAD 2006 or compatible
set and one (1) electronic copy of the conforming specifications in Microsoft Word; and

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8. **CONSTRUCTION ADMINISTRATION PHASE**

Upon District’s acceptance of Architect’s work in the previous Phase and assuming District has not delayed or terminated the Agreement, the Architect shall perform Construction Administration Phase services for the District as follows:

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

8.2. **Construction Oversight and Project Certification Process** (if Project is subject to DSA jurisdiction)

8.2.1. Architect shall ensure that the Project Inspector is approved by the DSA for the Project by submitting the applicable Inspector’s Qualification Record (form DSA 5 or more current version, if applicable) to and by obtaining approval from the DSA prior to commencement of construction and prior to requesting issuance of project inspections cards (form DSA 152 or more current version, if applicable).

8.2.2. Architect shall request issuance of the proper number of project inspection cards (forms DSA 152 or more current version, if applicable) by electronically submitting form DSA 102-IC (or more current version, if applicable) to the DSA after the construction contract has been awarded. Architect shall provide project inspection cards to the Project Inspector prior to commencement of construction.

8.2.3. Prior to commencement of construction, Architect shall provide (1) a copy of the DSA approved construction documents and (2) the DSA approved Statement of Structural Tests and Special Inspections (form DSA 103 or more current version, if applicable) prepared by Architect to the Project Inspector and Laboratory of Record.

8.2.4. Architect shall prepare and submit a Contract Information form (form DSA 102 or more current version, if applicable) for all construction contracts.

8.2.5. Architect shall maintain such personal contact with the Project as is necessary to assure themselves of compliance, in every material respect, with the DSA-approved construction documents. Personal contact shall include visits to the Project site by the Architect or engineer or their qualified representative to observe construction.

8.2.6. Architect shall notify DSA as to the disposition of materials noted on laboratory testing, and/or special inspection, reports as not conforming to the DSA-approved construction documents.

8.2.7. Architect shall respond to DSA field trip notes as necessary.
8.2.8. Architect shall submit an interim Verified Report (form DSA 6-AE or more current version, if applicable) to the DSA electronically and a copy to the Project Inspector for each of the applicable nine (9) sections of form DSA 152 prior to the Project Inspector signing off that section of the project inspection card.

8.2.9. Architect shall submit a Statement of Final Actual Project Cost (form DSA 168 or more current version, if applicable) to the DSA.

8.2.10. Architect shall submit Verified Reports (form DSA 6-AE or more current form, if applicable) to the DSA and to the Project Inspector if any of the following events occur: (1) when construction is sufficiently complete in accordance with the DSA-approved construction documents so that the District can occupy or utilize the Project; (2) work on the Project is suspended for a period of more than one month; (3) the services of the Architect are terminated for any reason prior to completion of the Project; or (4) DSA requests a Verified Report.

8.3. Change Orders

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

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

8.4. Submittals

8.4.1. Architect shall review and approve or take other appropriate action upon Contractor's submittals such as: shop drawings, Project data, samples, Construction Change Documents and change orders, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents, including documented CHPS/HPI credits.

8.4.2. Architect shall review contractor’s schedule of submittals and advise the District on whether that schedule is complete. Architect shall provide the District with proposed revisions to this schedule and advise the District on whether the District should approve this schedule.

8.4.3. Architect’s action upon Contractor’s submittals shall be taken as expeditiously as possible so as to cause no unreasonable delay in the
construction of the Project or in the work of Contractor(s), while allowing sufficient time in the Architect’s professional judgment to permit adequate review. In no case shall the review period associated with a single, particular submittal exceed ten (10) business days from its receipt by the Architect, unless the complexity of the submittal warrants a longer time period for the review to be mutually agreed upon by both parties. Architect’s response to each submittal shall be a substantive and acceptable response. This 10-day time period shall not include time when a submittal is within the District’s control or if the submittal is being reviewed by DSA. In no way does this provision reduce Architect’s liability if it fails to prepare acceptable documents.

8.5. **RFIs.** During the course of construction as part of the basic services, Architect must respond to all Requests for Information (“RFI”) as expeditiously as possible so as not to impact and delay the construction progress. In no case shall the review period associated with an RFI exceed seven (7) calendar days from the receipt by the Architect. Architect’s response to each RFI shall be a substantive and acceptable response. This 7-day time period shall not include time when a submittal is within the District’s control or if the submittal is being reviewed by DSA. In no way does this provision reduce the Architect’s liability if it fails to prepare acceptable documents. Architect must verify that RFIs are passed through the Project Inspector, if any.

8.6. **Notices of Deficient Work.** On the basis of on-site observations, the Architect shall keep the District informed of the progress and the quality of the work, and shall endeavor to guard the District against defects and deficiencies in the work. Architect shall notify the District in writing of any defects or deficiencies in the work by any of the District’s contractors that the Architect may observe, and shall provide this written notice within twenty-four (24) hours of Architect’s observation of defective or deficient work. However, the Architect shall not be a guarantor of the contractor’s performance. Further, the Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work.

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

8.7.1. Architect shall provide to Contractor(s), electronic “background” copies of all plans on which the Contractor(s) shall indicate its “As-Builts” in electronic format back to the District.

8.8. **Record Drawings.** Only if requested specifically by the District, Architect shall incorporate all information on all As-Builts, sketches, details, and clarifications, and prepare one (1) set of final Record Drawings for the
District. The Record Drawings shall incorporate onto one (1) set of electronic drawings, all changes from all As-Builts, sketches, details, and clarifications, including, without limitation, all requests for information, Construction Change Documents and change orders based upon the construction Contractor’s representations of actual construction. Architect shall deliver the Record Drawings to the District at completion of the construction in a format acceptable to the District, and it shall be a condition precedent to the District’s approval of the Architect’s final payment. Architect may insert the following notice on the Record Drawings:

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

8.9. O&M Manuals / Warranties. Architect shall review equipment, operation and maintenance manuals, and a complete set of warranty documents for all equipment and installed systems, to ensure that they meet the requirements of the plans and specifications.

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

8.11. Payment Statements. Recommendations of Payment by Architect constitute Architect’s representation to the District that work has progressed to the point indicated to the best of Architect’s knowledge, information, and belief, and that the quality of the work is in general conformance with the Contract Documents.

8.12. Deliverables and Number 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:

8.12.1. Two (2) copies of meeting report/minutes from kick-off meeting;

8.12.2. Two (2) copies of observation reports;

8.13. Meetings

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

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9. **CLOSEOUT PHASE**

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

9.1.1. Architect shall review the Project and observe the construction as required to determine when the Contractor has completed the construction of the Project and shall prepare punch lists of items that remain in need of correction or completion.

9.1.2. Architect shall collect from the Contractor, review, and forward to the District all written warranties, operation manuals, spare parts, lien waivers, and Certificates of Inspection and Occupancy with Architect’s recommendation as to the adequacy of these items.

9.1.3. Architect shall use its diligent efforts to prepare or collect, as applicable, and provide to DSA, all reports required by DSA related to the design and construction of the Project.

9.1.4. Architect shall obtain all required DSA approval on construction change directives and addenda to the contractor’s contract that have not already received DSA approval.

9.1.5. Architect shall prepare verified report(s) for the Project (DSA-6A/E Verified Report, Rev 04/08, or more recent revision if available).

9.1.6. Architect shall prepare a set of Record Drawings for the Project, as requested by the District.

9.1.7. Architect shall review and prepare a package of all warranty and O&M documentation.


9.1.9. Architect shall have primary responsibility to coordinate all Services required to close-out the design and construction of the Project with the District and among Consultants.

9.2. When the design and construction of the Project is complete, the District shall prepare and record with the County Recorder a Notice of Completion for the Project.

9.3. **Deliverables and Number of Copies**

9.3.1. Two (2) copies of punch lists for each site; and

9.3.2. Upon completion of the Project, all related project documents, including As-Builts and Record Drawings. These are the sole property of the District.
9.3.3. DSA Project Certification.

9.4. Meetings

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

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10. MEETINGS / SITE VISITS / WORKSHOPS

10.1. Architect shall attend, take part in, and, when indicated, conduct meetings, site visits and workshops, as indicated below. Architect shall chair, conduct, take, and distribute minutes of all coordination meetings with its Consultant(s) during the entire Design Phase. Architect shall invite the District and/or its representative to participate in these meetings. Architect shall keep a separate log to document design/coordination comments generated in these meetings.

10.2. General Meeting, Site Visit and Workshop Requirements

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

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

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

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

10.3. Meetings During Project Initiation Phase (two (2) meeting(s))

10.3.1. Within the first week following execution of the Agreement, the Architect shall participate in one (1) Project kick-off meeting for all sites to determine the Project intent, scope, budget and timetable, which shall encompass the following:

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

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

10.3.1.3. During this meeting, the Architect shall:

10.3.1.3.1. Identify and review pertinent information and/or documentation necessary from the District for the completion of the Project.
10.3.1.3.2. Review and explain the overall Project goals, general approach, tasks, work plan and procedures and deliverable products of the Project.

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

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

10.3.2. Participate in three (3) additional meetings as requested by District.

10.4. **Initial Site Visits (two (2) meeting(s))**

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

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

10.5. **Meetings During Architectural Program (two (2) meeting(s))**

10.5.1. Architect shall participate in one (1) public community information site meeting, per site, to receive input from the community regarding its wishes and expectations regarding the design of Architect’s work on the Project and the schedule of use of the sites during construction.

10.5.2. Architect shall conduct one (1) site visit/meeting, with the District’s facilities team to gather information from District facilities team and site personnel and to make a visual presentation regarding the Project.

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

10.5.4. Architect shall conduct a minimum of three (3) additional meetings as requested by District.

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

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

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

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

10.6.1.3. District shall provide input and requirements;

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

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

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

10.6.2. Architect shall conduct a minimum of three (3) additional meetings as requested by District.

10.7. Meetings During Design Development Phase (two (2) meeting(s))

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

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

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

10.7.2. Value Engineering Workshop (two (2) meeting(s))

Architect shall conduct value engineering workshop(s), as requested by the District, including all of Architect’s consultant(s), the District, and the Construction Manager during the Design Development Phase. This workshop shall be ongoing and may include several meetings.

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

10.8.1. Prior to beginning work on the fifty percent (50%) design package, Architect shall conduct __________ (__) meeting(s), per package of submittal, with the District to revise the Design Development package and receive comments.
10.8.2. At the time designated for completion of the fifty percent (50%) submittal package, Architect shall conduct _________ (__) meeting(s), per package or submittal, with the District to review the following:

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

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

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

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

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

10.9. **Meetings During Bidding Phase (two (2) meeting(s))**

10.9.1. Attend and take part in _________ (__) pre-bid coordination meeting(s) with District.

10.9.2. Attend and take part in _________ (__) meeting(s), per package of submittal, with all potential bidders, District staff, and Construction Manager.

10.9.3. Conduct one (1) kick-off meeting, per site, with the successful bidder/proposer, District staff, and Construction Manager to finalize the roles and responsibilities of each party and provide protocols and processes to follow during construction.

10.10. **Meetings During Construction Administration Phase (three (3) meeting(s)), plus weekly Project meetings until entire Project is complete**

10.10.1. Unless otherwise reasonably agreed to by the Parties, Architect shall visit the Project site as necessary or when requested, and in no case less than once per week, sufficient to determine that the Project is being constructed in accordance with the plans and specifications, and to resolve discrepancies in the Contract Documents and to monitor the progress of the construction of the Project. Architect may coordinate these site visits so that it observes more than one site on one site visit to the District.
10.10.2. Conduct weekly Project meetings with District staff to review with District staff the progress of the work at each site. This is expected to be __________ (__) meetings, per site, but Architect acknowledges that the Project may not be completed in this timeframe and agrees to attend weekly project meetings, at no additional cost to the District, until the work at each Project site is complete.

10.10.3. Architect shall ensure that Consultant(s) visit the site in conformance with this agreement and that Consultant agreements shall reference District requirements for Construction Phase services.

10.11. Reserved

10.12. Governing Board Meetings (two (2) meeting(s))

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

[END OF EXHIBIT A]
EXHIBIT B

CRITERIA AND BILLING FOR EXTRA SERVICES

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

1. Providing services made necessary by the default of Contractor(s), by major defects, or deficiencies in the work of Contractor(s).

2. In the absence of a final Certificate of Payment or Notice of Completion, providing Services more than sixty (60) days after the date of completion of work by contractor(s) and after Architect has completed all of its obligations and tasks under the Agreement.

3. Providing deliverables or other items in excess of the number indicated in Exhibit “A.” Before preparing, providing, sending, or invoicing for extra deliverables, Architect shall inform the District that expected deliverables may be in excess of the number indicated in Exhibit “A,” so that District can procure the additional deliverables itself or direct Architect to procure the deliverables at District’s expense or on District’s account at a specific vendor.

4. Providing services as directed by the District that are not part of the Services of this Agreement.

5. Providing services as an expert and/or witness for the District in any mediation, arbitration, and/or trial in which the Architect is (1) not a party, and (2) did not in any way cause the dispute that is being adjudicated.

6. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement.

<table>
<thead>
<tr>
<th>Job Title</th>
<th>Hourly Rate</th>
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<tbody>
<tr>
<td>Principal In Charge:</td>
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<td>Project Director:</td>
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<td>Project Architect(s):</td>
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<td>Project Architect(s):</td>
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<td>Principal In Charge:</td>
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<td>Project Director:</td>
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<tr>
<td>Project Architect(s):</td>
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</tbody>
</table>

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

SCHEDULE OF SERVICES

1. Promptly after the execution of this Agreement, the Architect shall prepare and submit for approval to the District a Schedule of Services showing the order in which Architect proposes to carry out Architect's Services ("Schedule of Services"). The Schedule of Services shall apply to the completion of all services listed hereunder within the times established by this Agreement. The Schedule of Work shall be in the form of a progress chart clearly delineating all important increments and review dates. Architect shall update the Schedule of Services on a monthly basis and deliver two (2) hard copies and one (1) electronic copy to the District along with the monthly billing.

2. Architect shall complete Services required under the Development of Architectural Program section within _________ calendar days after written authorization from the District to proceed.

3. Architect shall complete Services required under the Schematic Design Phase within _________ calendar days after written authorization from District to proceed.

4. Architect shall complete Services required under the Design Development Phase within _________ calendar days after receipt of a written authorization from District to proceed.

5. Architect shall complete Services required under Construction Documents Phase within _________ calendar days after written authorization from District to proceed, and as more specifically indicated below. Excluded from this duration is the time associated with the Construction Documents back-check stage.
   5.1. 50% Submittal Package _________ calendar days
   5.2. 100% Submittal Package _________ calendar days
   5.3. Final Contract Documents after Final Back-Check Stage _________ calendar days

6. The durations stated above include the review periods required by the District and all other regulatory agencies.

7. All times to complete tasks set forth in this Exhibit are of the essence, as indicated in the Agreement. If delays in the Schedule of Services are incurred as a result of the District’s inability to comply with requested meeting schedules, Architect shall maintain the right to request an adjustment in the Schedule of Services if deemed necessary to meet the deadlines set forth in this Exhibit. If approved, those extensions shall be authorized in writing by the District.
EXHIBIT D
PAYMENT SCHEDULE

A. Compensation

1. The payment of consideration to Architect as provided herein shall be full compensation for all of Architect’s Services incurred in the performance hereof, including, without limitation, all costs for personnel, travel within two hundred (200) miles of a Project location, offices, per diem expenses, printing and shipping of deliverables in the quantities set forth in Exhibit “A,” or any other direct or indirect expenses incident to providing the Services. Except as expressly set forth in the Agreement and Exhibit “B,” there shall be no payment for extra costs or expenses.

2. The total compensation to Architect shall be as stated in Article 6 of the Agreement.

3. District shall pay Architect for all Services contracted for under this Agreement pursuant to the following schedule (“Payment Schedule”):

<table>
<thead>
<tr>
<th>PERCENTAGE OF TOTAL FEE PER PHASE</th>
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<tbody>
<tr>
<td>Phase</td>
</tr>
<tr>
<td>Pre-Design/Architectural Program Development Phase</td>
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<tr>
<td>Schematic Design Phase</td>
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<tr>
<td>Design Development Phase</td>
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<tr>
<td>Construction Documents Phase-Submittal to DSA</td>
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<tr>
<td>Approval by DSA</td>
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<tr>
<td>Bidding Phase</td>
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<tr>
<td>Construction Administration Phase</td>
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<tr>
<td>Close Out Phase</td>
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<tr>
<td>Generate Punch List</td>
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<tr>
<td>Sign Off On Punch List</td>
</tr>
<tr>
<td>Receive and Review All M &amp; O Documents</td>
</tr>
<tr>
<td>Filing All DSA Required Close Out Documents</td>
</tr>
<tr>
<td>Receiving DSA Close Out, including DSA approval of the final set of Record Drawings</td>
</tr>
<tr>
<td>TOTAL BASE COMPENSATION</td>
</tr>
</tbody>
</table>

B. Method of Payment

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

2. As a precondition of payment, Architect shall submit to District documentation showing proof that payments were made to Architect’s consultant(s).

3. Architect shall submit to the District for approval a copy of the Architect’s monthly pay request format.
4. Upon receipt and approval of Architect’s invoices, except as provided in subdivision 4.f. below, the District agrees to make payments within thirty (30) days of receipt of the invoice as follows:

a. For Schematic Design Phase:

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

b. For Design Development Phase:

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

c. For Construction Documents Phase:

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

d. For Bidding Phase:

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

e. For Construction Administration Phase:

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

   1. Monthly payments for the percentage of Services complete, up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon the District’s agreement that the Architect can generate a Punch List as part of the Closeout Phase.

f. For Closeout:

   Lump sum payment no sooner than thirty-five (35) days and no later than forty-five (45) days after completion of all items in this Phase.

5. Format and Content of Invoices:

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review/Respond RFI’s, Const. Admin Mtgs., Review Shop Drawings, Field Sketches</td>
<td>5.5</td>
</tr>
<tr>
<td>Prepare Construction Documents: floor plans, exterior elevations, consultant coordination.</td>
<td>7.5</td>
</tr>
<tr>
<td>Master Budget update, Master Schedule Update, Board Presentation, Accounting coordination</td>
<td>6.5</td>
</tr>
<tr>
<td>Review COR 11; review scope of same and plans and specifications for appropriateness of same; prepare rejection of COR 11 for review by district, CM, IOR.</td>
<td>1.2</td>
</tr>
</tbody>
</table>
EXHIBIT E

INSURANCE REQUIREMENTS

Architect shall procure, prior to commencement of the Services of this Agreement, and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services hereunder by the Architect, his or her agents, representatives, employees and Consultant(s). Architect's liabilities, including but not limited to Architect's indemnity or defense obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Architect’s failure to maintain or renew coverage or to provide evidence of coverage or of renewal during the term of this Agreement, as required or when requested, may be treated as a material breach of contract by the District.

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

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

1.1. **Commercial General Liability.** Two Million dollars ($2,000,000.00) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to each project/location or the general aggregate limit shall be twice the required occurrence limit.

1.2. **Commercial Automobile Liability, Any Auto.** Two Million dollars ($2,000,000.00) per accident for bodily injury and property damage.

1.3. **Workers' Compensation Liability.** For all of the Architect’s employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Architect shall keep in full force and effect, a Workers' Compensation policy. The Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.

1.4. **Employers Liability.** For all of the Architect’s employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Architect shall keep in full force and effect, an Employers Liability policy. That policy shall provide employers' liability coverage with minimum liability coverage of Two Million dollars ($2,000,000.00) per occurrence. The Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.

1.5. **Professional Liability.** This insurance shall cover the prime design professional and his/her liability arising from the services of consultant(s) with a minimum of Two Million dollars ($2,000,000.00) aggregate limit, and subject to no more than twenty-five thousand dollars ($25,000) per claim deductible, coverage to continue through completion of construction plus “tail” coverage for two (2) years thereafter.
The District reserves the right to modify the limits and coverages described herein, with appropriate credits or changes to be negotiated for such changes.

2. **Deductibles and Self-Insured Retention:**

The Architect shall inform the District in writing if any deductibles or self-insured retention exceeds twenty-five thousand dollars ($25,000). At the option of the District, either:

2.1. The District can accept the higher deductible; or

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

2.3. Architect shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

3. **Other Insurance Provisions:**

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

3.1. The District, its representatives, consultants, trustees, officers, officials, employees, agents, and volunteers, including Construction Manager ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Architect; instruments of Service and completed operations of the Architect; premises owned, occupied or used by the Architect; or automobiles owned, leased, hired or borrowed by the Architect. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.

3.2. For any claims related to the projects, the Architect’s insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of the Architect’s insurance and shall not contribute with it.

3.3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.

3.4. The Architect’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3.5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District. At the option of the District, the Architect shall be the party required to provide the District this notice in lieu of the Architect’s insurance provider.

4. **Acceptability of Insurers:**
Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. The Architect shall inform the District in writing if any of its insurer(s) have an A.M. Best’s rating less than A:VII. At the option of the District, either:

4.1. Accept the lower rating; or
4.2. Require the Architect to procure insurance from another insurer.

5. **Verification of Coverage:**

Prior to commencing with its provision of Services under this Agreement, Architect shall furnish the District with:

5.1. Certificates of insurance showing maintenance of the required insurance coverage; and

5.2. Original endorsements affecting general liability and automobile liability coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before Services commence.
EXHIBIT F

LOCAL, SMALL LOCAL AND SMALL LOCAL RESIDENT BUSINESS ENTERPRISE PROGRAM

Attached is the District’s Board Policy and Administrative Regulations on its Local, Small Local and Small Local Resident Business Enterprise Program applicable to this Project, which Developer agrees to be bound.

[See Next Page]
OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 7115

Capital Program / Construction Related Local, Small Local and Small Local Resident Business Enterprise Program (2014 L/SL/SLRBE)

Background

In order to provide economic opportunity for its residents and businesses and stimulate economic development, the Oakland Unified School District ("District") implemented in December of 2008 a program that has directly impacted how public funds are spent. The 2008 program, commonly referred to as the Local, Small Local and Small Local Resident Business Enterprise Program (2008 L/SL/SLRBE) has proven to be a great success, stimulating economic development through the support and empowerment of the local community, especially groups that have historically been placed at a disadvantage. The District's primary goal under the 2008 L/SL/SLRBE was to partner with the local community and demonstrate its leadership by harnessing local resources in order to achieve maximum local benefits.

The 2008 L/SL/SLRBE established a twenty percent (20%) mandatory local participation requirement on all District contracts and professional service agreements. The ensuing years have demonstrated that the Program was an overwhelming success, most particularly on District construction projects and construction related professional services agreement, demonstrating that there is more than sufficient capacity among Oakland construction industry businesses to increase the mandatory participation thresholds for construction related solicitations.

District Policy Effective February 1, 2014

Therefore, the District amends the 2008 L/SL/SLRBE (2014 L/SL/SLRBE) to require fifty percent (50%) mandatory local participation on all District capital program / construction related contracts and professional service agreements.

There is a fifty (50) % minimum participation requirement for all formally bid public works construction contracts over $45,0001 and formally solicited construction related contracts professional services contracts, including, but not limited to, architects, construction managers, inspectors, testing labs and geotechnical engineers, over $84,1002. All informal construction contracts below $45,000 and all informal construction related professional services contracts below $84,100.00 will include outreach to certified local firms such that a minimum of three local certified firms are included in the solicitation.

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1The District uses the alternative bidding procedures of the California Uniform Public Construction Cost Accounting Act., Pub. Contract Code, § 22000, et seq., the “CUPCCA”.

2 Subject to annual increases pursuant to Public Contract Code 20111(a).
Emergency Contracts

L/SL/SLRBE businesses will be given first priority in the performance of emergency work as defined in Public Contract Code section(s) 22000-22045 which formulates and establishes procedures for bidding, contracting, and purchasing goods and services under the California Uniform Construction Cost Accounting Act.

Compliance Monitoring and Penalties

To ensure compliance with the program, the contractor or consultant shall provide records upon request and permit the District to review all pertinent records and documents of the contractor and subcontractors. The contractor or consultant shall provide a copy of all subcontractor agreements, purchase orders and/or other verification of the total amount to be paid to each subcontractor, supplier, etc., prior to commencement of work.

Prevailing Wages

State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Workers employed on construction, alteration or demolition projects in California that use public funds are paid the prevailing wage.

Local Subcontracting Outreach

To ensure full disclosure of contracting and subcontracting opportunities available through the Oakland Unified School District, each of the District’s awarding departments must post contracting opportunities on the District’s website.

The District is in collaboration with the City of Oakland, Office of Contract Compliance & Employment Services, which maintains a list of certified for profit and not-for-profit businesses and organizations. The list is divided by trade or profession and includes contact information as and if the certification type is either Local Business Enterprise (LBE) or a Small Local Business Enterprise (SLBE). In addition, the District, through its Local Compliance Officer, maintains a list of Small Local Business Enterprises (SLBE’s) which are also owned by residents of City of Oakland (SLRBE). Each agency conducting a construction related solicitation is required to obtain responses from certified firms appropriate to the nature and scope of the particular solicitation. Upon request, mailing lists of certified firms.

See Administrative Regulation 7115

1/29/14
OAKLAND UNIFIED SCHOOL DISTRICT

Administrative Regulations

AR 7115

Capital Program / Construction Related Local, Small Local and Small Local Resident Business Enterprise Program (2014 L/SL/SLRBE)

Background

In order to provide economic opportunity for its residents and businesses and stimulate economic development, the Oakland Unified School District (“District”) implemented in December of 2008 a program that has directly impacted how public funds are spent. The 2008 program, commonly referred to as the Local, Small Local and Small Local Resident Business Enterprise Program (2008 S/SL/SLRBE) has proven to be a great success, stimulating economic development through the support and empowerment of the local community, especially groups that have historically been placed at a disadvantage. The District’s primary goal under the 2008 L/SL/SLRBE was to partner with the local community and demonstrate its leadership by harnessing local resources in order to achieve maximum local benefits.

The 2008 L/SL/SLRBE established a twenty percent (20%) mandatory local participation requirement on all District contracts and professional service agreements. However, following implementation of the 2008 L/SL/SLRBE, the ensuing years have demonstrated that the Program was an overwhelming success, most particularly on District construction projects and construction related professional services agreement, demonstrating that there is more than sufficient capacity among Oakland construction industry businesses to increase the mandatory participation thresholds for construction related solicitations.

District Policy Effective February 1, 2014

Therefore, the District has resolved to amend the 2008 L/SL/SLRBE (2014 L/SL/SLRBE) to require fifty percent (50%) mandatory local participation on all District capital program / construction related contracts and professional service agreements. The Amended 2014 L/SL/SLRBE program still provides for preference points on construction related professional services contracts and bid discounts on construction contracts, (up to 5 points or 5%) as the proposer’s level of local, small local and small local resident business participation increases.

There is a fifty (50)% minimum participation requirement for all formally bid public works construction contracts over $45,000\(^1\) and formally solicited construction related contracts professional services contracts, including, but not limited to, architects, construction managers, inspectors, testing labs and geotechnical engineers, over $84,100\(^2\). All informal construction contracts below $45,000 and all informal construction related professional services contracts below $84,100.00 will include outreach to certified local firms such that a minimum of three local certified firms are included in the solicitation. Specifics of the new policy are detailed under the “Program Guidelines” section below.


\(^2\) Subject to annual increases pursuant to Public Contract Code 20111(a).
Verified Results of the 2008 L/SL/SLRBE Program

Since 2008, the quantifiable impacts of the Program include:

- Increases in the number of Oakland certified businesses participating in District construction contracting projects and construction related professional services agreements;
- Increases in the circulation of local dollars within the Oakland community and revitalization of Oakland’s economic base through reinvestment of General Obligation bond dollars; and
- Increases in the development and capacity enhancement of Oakland certified businesses.

The Amended 2014 L/SL/SLRBE continues to provide economic opportunity to local residents and businesses by supporting local economic development while paying competitive prices for construction related goods and services.

Part 1.

Definitions

1) **Availability** - The number of certified L/SL/SLRBE firms, by trade, ready and willing to compete for work within the District’s geographical boundaries (interchangeable with that of the City of Oakland).

2) **Commercially useful function** - The business is directly responsible for providing the materials, equipment, supplies or services to the District as required by the solicitation or request for quotes, bids or proposals.

3) **Contractor/Consultant/Vendor** - The individual, partnership, corporation, joint venture or other legal entity entering into a contractual agreement with the District.

4) **Dealer** - A firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers.

5) **District** – Refers to the District’s geographical boundaries which are interchangeable with that of the City of Oakland. Depending upon context, reference to District may also include the Oakland Unified School District, its Board of Education, Superintendent and other authorized representatives.

6) **Emergency Work** - A public works contract awarded because of imminent danger (e.g. fires, floods, earthquakes) or immediate threat to the health, safety and welfare of Oakland residents and meeting the District’s legal requirements for waiving normal bidding procedures.
7) **Fixed office** – A fixed office is dedicated office space, owned or leased by the local business, in an established, non-portable building where regular work pertinent to the contract is conducted. For small local business certifications, the fixed office shall be the primary business location of the business. For small local business and small local resident business certifications, a residence may qualify as a fixed office provided that all the following conditions are met: (a) the business conducted in the residence complies with all applicable City of Oakland zoning regulations relating to Home Occupations; and (b) the residence is the primary business location of the business and contributes not less than 51% of the gross receipts of business. A fixed distribution point is a non-portable warehouse or an outside shipping yard owned or leased by the local business, where shipping, receiving and the owner and employees regularly and exclusively conduct distribution of goods and commodities on behalf of the business.

8) **Informal professional services contracts** – For purposes of establishing a threshold for determining the application of the L/SL/SLRBE Program only, informal professional service contracts are valued at or under the current year’s threshold pursuant to Public Contract Code Section 20111(a). (For 2014 the threshold is $84,100.00, subject to annual adjustments). For informal professional services contracts, 75% of the work shall be awarded to small local firms or small local resident firms.

9) **Local Business Enterprise (LBE)** – An Oakland business (a) with a substantial presence in the District’s geographic boundaries (b) fully operational for 12 consecutive months and (c) a valid business tax certificate.

10) **Local Certified Trucker** – A business, locally owned and operated within the District’s geographic boundaries, engaged in transporting goods on trucks to or from a specified location and holds a valid certification as a trucking contractor.

11) **Local Manufacturer** – A firm that operates or maintains a factory or establishment located within the District’s geographic boundaries that produce on the premises the materials or supplies purchased.

12) **Public works contract** – Any construction, alteration, demolition, or repair work done under contract and paid for in whole or in part with public funds.

13) **Size Standard** – One factor used to determine a small business. The District follows the Size Standard utilized by the City of Oakland’s certification process.

14) **Small construction contracts** – For purposes of establishing a threshold for determining the application of the L/SL/SLRBE Program only, small construction contracts are valued at $45,000 and under. For informally bid small construction contracts, 75% of the work shall be awarded to small local or small local resident firms.

15) **Small Local Business Enterprise (SLBE)** – A business that (a) meets the Size Standard set by the City of Oakland for small businesses; (b) is an independent business headquartered in the District’s geographical area; (c) has a substantial presence within the District’s geographic boundaries; (d) is a full operation conducting business for at least 12 consecutive months, and; (e) holds a valid business tax certificate.
16) Small Local Resident Business Enterprise (SLRBE) – A business that (a) meets the Size Standard set by the City of Oakland for small businesses; (b) is an independent business headquartered in the District’s geographical area; (c) is wholly owned and operated by persons whose principal place of residence is located within the boundaries of District’s geographical area; (d) is a full operation conducting business for at least 12 consecutive months, and; (e) holds a valid business tax certificate.

17) Subcontractor/Sub-consultant - The individual, partnership, corporation or other legal entity that contracts to perform part of or all of the obligations of another’s contract.

18) Subsidiary/Affiliate - Part of a larger company with national offices located in other cities outside Oakland, and controlled by a home office or headquarters outside Oakland.

19) Substantial Presence – A fixed and established place where work is carried on of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify. Businesses with offices both within and outside of the District that seek certification as a local business must demonstrate the existence of a bona fide local office in accordance with the following criteria:

a) Independent Office Site: The local office can and does function as an independent office site. The local office is not merely a sham operation set up by a non-local business for the purpose of gaining L/SL/SLRBE certification;

b) Fixtures and Equipment: The local office contains all fixtures and/or equipment, including but not limited to, as appropriate, computer(s) software, copy machine(s), furniture, vehicle(s), tools, appliances and/or machinery necessary to operate the business for which the certification is sought;

c) Space: The local office contains all space necessary to operate the business for which certification is sought, including but not limited to, as appropriate, office space, warehouse space, parking, yard area and/or shop area;

d) Dedicated Personnel: The local office must be the main office for assigned personnel who conduct a full range of the business’ activities out of the local office including but not limited to, as appropriate, professional, clerical and/or administrative staff assigned and dedicated to the local office as necessary to operate the business for which certification is sought;

e) Daily Function: The local office functions on a daily basis, or a regular basis as otherwise appropriate, providing all services to operate the business for which certification is sought.

20) Tier - The level of the relationship between the prime contractor and subcontractors, or between subcontractors.

21) Waiver - An intentional action by the Board of Education, excusing a contractor or a department from adhering to and/or complying with a District policy.

Program Requirements

There is a 50% minimum participation requirement for all construction contracts over $45,000 and all construction related professional services contracts over $84,100. (Subject to annual increases pursuant to Public Contract Code section 20111(a)) All construction contracts below $45,000 and all
professional services contracts below $84,100.00 must include outreach to certified local firms such that the respondent can demonstrate that a **minimum of three local certified firms** were included in the solicitation.

The 50% local business participation requirement must be met with a **maximum** participation of 25% for Local Business Enterprises (LBE) and a **minimum** participation of 25% for Small Local and Small Local Resident Business Enterprises (SLBE / SLRBE). Any percentage combination of SLBE’s and SLRBE may be used to calculate the full 50% requirement. In the case of construction projects where trucking is warranted, 50% of the total trucking dollars must be allotted to certified (Oakland) Local Truckers.

Prior to the issuance of a formal invitation for bid, the District shall insure that there are at least three certified businesses listed in the industry, trade or profession that constitutes a major category of work. If at least three L/SL/SLRBEs are not certified, then the requirement may, subject to the discretion of the District, be waived, or the 50% requirement may be re-set from 50% all the way to 0%, depending on the particular circumstances at time of bid.

The District’s awarding authority shall request an availability analysis if there is reason to believe that the availability of certified firms will not satisfy the 50% requirement. The request must be made in time for completion prior to issuing an invitation for bids, request for proposals or any other solicitation.

Contractors are required to submit a completed Subcontractor Listing on the form provided by the District with the bid solicitation. The Subcontractor Listing provides the District with a formal list of subcontractors, the trade or service area to be provided, bid amounts and certification status on businesses that will be used on the project.

The Subcontractor Listing will be used by the District to calculate the level of certified local business participation. Unless a requirement is waived due to limited availability, the determination of responsive and responsible will include meeting the 50% minimum participation requirement.

For purposes of determining that the 50% L/SL/SLRBE business participation minimum is met and is valid, the District is currently utilizing the certification process, as amended in 2012, developed by the City of Oakland pursuant to its Local and Small Local Profit and Not for Profit business Enterprise Program.

Each prime or lead contractor is urged to obtain, from each certified subcontractor, a copy of either the certification letter or certificate issued by the City of Oakland. The certification letter and certificate include the certification number and date of expiration.

Certifications must be current and valid prior to the submittal due date in order for the local participation to count toward meeting the 50% businesses participation requirement. Certification status is confirmed during the compliance evaluation process.

Bid discounts are awarded for every 10% of additional contract dollars attributable to certified firms over the 50% minimum threshold requirement for responsive bids. No more than five percent (5%) in additional bid discounts or three (3) additional preference points may be earned.
Tier 1: Mandatory

50% Mandatory Requirement can be met with: 25% (or less) Local Business participation and 25% (or more) Small Local or Small Local Resident Business participation.

<table>
<thead>
<tr>
<th>LBE Maximum Participation</th>
<th>SLBE Minimum Participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>25%*</td>
</tr>
</tbody>
</table>

Total: 0% to 25% 25% to 50%

Tier 2: Optional

Participation over and above the 50% requirement earns additional bid discounts and points up to a maximum of a 5% bid discount and 5 preference points as long as the participation increases between SLBE’s and/or SLRBE’s or additional participation is achieved entirely with SLRBE’s.

<table>
<thead>
<tr>
<th>LBE Maximum Participation</th>
<th>SLBE/SLRBE Minimum Participation</th>
<th>Total LBE/SL-SLBE Participation</th>
<th>Bid Discount / Preference</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>35%</td>
<td>60%</td>
<td>3%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LBE Maximum Participation</th>
<th>SLBE/SLRBE Minimum Participation</th>
<th>Total LBE/SL-SLBE Participation</th>
<th>Bid Discount / Preference</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>45%</td>
<td>70%</td>
<td>4%</td>
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</table>

<table>
<thead>
<tr>
<th>LBE Maximum Participation</th>
<th>SLBE Minimum Participation</th>
<th>SLRBE Minimum Participation</th>
<th>Total LBE/SL-SLBE Participation</th>
<th>Bid Discount / Preference</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>35%</td>
<td>20%</td>
<td>80%</td>
<td>5%</td>
</tr>
</tbody>
</table>
Maintaining Participation

Incentives are earned based on the level of participation proposed prior to the award of a contract. Once a project begins, it is important to achieve and maintain the participation for which incentives were earned. Prime Contractors and consultants must maintain the L/SL/SLRBE percentages indicated at the time of a contract award and throughout the term of the contract.

Should the prime contractor or consultant fail to maintain the L/SL/SLRBE participation listed at the time the contract is awarded; the District may impose a penalty equal to the amount that should have been awarded to the listed L/SL/SLRBE businesses, and/or may stop the work upon approval by the full Board of Education. The Prime contractor shall be afforded the opportunity to request a due process hearing before the assessment of penalties and/or any decision to stop the work.

If the District modifies the original scope of work, the contractor must make reasonable efforts to maintain the time of bid L/SL/SLRBE participation for which incentives were earned. If change orders affect only one discipline, staff may use their discretion to allow adjustments to L/SL/SLRBE percentages for the change order portion of the work. Upon request, District staff will help firms to determine methods of maintaining percentages.

Substitution of Listed Subcontractors (Construction Contracts)

Unless otherwise specified in the contract documents, and in accord with California law, Prime contractors who have entered into a contract agreement with the District cannot substitute a listed subcontractor, including any listed L/SL/SLRBE used to meet participation requirements, without prior approval of the District.

The District will grant substitution of a listed subcontractor on the following conditions:
1. A written statement from the listed sub contractor agreeing to the substitution,
2. When the listed sub contractor has been given a reasonable opportunity to execute a contract, yet fails to, or refuses to execute a written contract when such written contract is based upon the District’s conditions and scope of work,
3. When a listed sub contractor becomes insolvent,
4. When the listed sub contractor fails or refuses to satisfy contractual agreements,
5. When the listed sub contractor fails to meet contract insurance requirements, or
6. When the District or the duly authorized officer determines that the work performed by the listed sub contractor is substantially unsatisfactory, or not in accordance with the contract agreement or that the sub contractor is substantially delaying or disrupting the progress of the work.

Prior to the approval of the prime consultant request for substitution, the District shall give notice, in writing, to the listed sub contractor, of the Prime contractor’s request for substitution and/or the reason for such request. The sub contractor who has been so notified shall have five (5) working days in which to submit to the District written objections to the substitution. Failure to file such written objection shall constitute the sub contractor’s consent to the substitution.

If written objections are filed, the District shall give written notice of a hearing date to the prime and sub contractor within five (5) working days. At the hearing, the prime and sub contractor will present their cases and the Hearing Officer will make a determination.
Emergency Contracts

L/SL/SLRBE businesses will be given first priority in the performance of emergency work as defined in Public Contract Code section(s) 22000-22045 which formulates and establishes procedures for bidding, contracting, and purchasing goods and services under the California Uniform Construction Cost Accounting Act.

Compliance Monitoring and Penalties

To ensure compliance with the program, the contractor or consultant shall provide records upon request (within ten calendar days) and permit the District to review all pertinent records and documents of the contractor and subcontractors. The contractor or consultant shall provide a copy of all subcontractor agreements, purchase orders and/or other verification of the total amount to be paid to each subcontractor, supplier, etc., prior to commencement of work. A penalty of one percent (1%) of the contract amount or one thousand dollars ($1,000) per day (whichever is less) may be applied if records or documents are not provided within the specified time. The District shall deem such refusal a material breach of contract, in which case the District may terminate the contract and/or stop the work until compliance is met. In addition, the contractor or subcontractors may be debarred from participating in future District contracts for a period of six months to five years, and may lose certification.

The subcontractor’s progress payment report must be submitted with each progress payment in order for the progress payment to be processed. Also, prime contractors and/or prime consultants will provide the District with executed copies of its subcontractor/sub consultant agreements to verify dollar amounts stated for all L/SL/SLRBEs. Contractors must also provide information with each progress payment indicating payments made to L/SL/SLRBEs in order to receive subsequent progress payments.

Prevailing Wages

State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Workers employed on construction, alteration or demolition projects in California that use public funds are paid the prevailing wage, which is the basic hourly rate the majority of workers in a particular craft or classification earn. The prevailing wage also is based on the locality and nearest labor market. The California Department of Industrial Relations, (Divisions of Labor Statistics and Research) annually determines prevailing wages and may be reached at www.dir.ca.gov/DLSR/PWD.

The Prime contractor shall include in its contracts with its sub contractors, requirements that its sub contractors’ employees and their subcontractors’ employees shall be compensated in an amount no less than the general prevailing wage rate of per diem wages pursuant to the California Labor Code Sections 1770, et seq.

The prevailing wage requirement will be monitored and enforced by the District in accordance with state law. In addition to any other rights provided by California law to recover compensation, a worker that has been paid less than the prevailing wage rates shall have a right to commence an action or proceeding against the employer of the worker for the difference between the prevailing wage rates and
the amount paid to such worker for each calendar day or portion thereof for which the worker was paid less than the compensation required to be paid under the provisions of this agreement.

**Local Subcontracting Outreach**

To ensure full disclosure of contracting and subcontracting opportunities available through the Oakland Unified School District, each of the District’s awarding departments must post contracting opportunities on the District’s website, www.ousd.org

The District is in collaboration with the City of Oakland, Office of Contract Compliance & Employment Services, which maintains a list of certified for profit and not-for profit businesses and organizations. The list is divided by trade or profession and includes contact information as and if the certification type is either Local Business Enterprise (LBE) or a Small Local Business Enterprise (SLBE). In addition, the District, through its Local Compliance Officer, maintains a list of Small Local Business Enterprises (SLBE’s) which are also owned by residents of City of Oakland (SLRBE). Each agency conducting a construction related solicitation is required to obtain responses from certified firms appropriate to the nature and scope of the particular solicitation. Upon request, mailing lists of certified firms.

**Joint Venture Agreements**

A business that is bidding or competing for District construction related contracts may associate with a certified Small Local or Small Local Resident business to compete for contracts as a joint venture, and thereby meet the mandatory participation requirements of the L/SL/SLRBE policy. (The association of a Local Business Enterprise with a non-local business will not qualify as a joint venture under this Program, however, an LBE that associates with a SLBE or SLRBE will receive an additional 2% - 2 point preference over a non-local / SLBE/SLRBE joint venture association.) A joint venture should be between two entities with the same discipline or licensing as required by the awarding department. Approved Joint ventures will receive up to the maximum bid discount credit on construction and professional services contracts, as detailed in the Program Incentives Section of this Policy, above.

The parties must agree to enter into the relationship for at least the life of the project.

*Basic Elements of the Joint Venture Agreement:*
A Joint Venture must submit a Joint Venture Agreement two weeks prior to the bid due date.
Each agreement must include, but not limited to the following:
1. Detailed explanation of the financial contribution of each partner;
2. List of the personnel and equipment used by each partner;
3. Detailed breakdown of the responsibilities of each partner;
4. Explanation of how the profits and losses will be distributed;
5. Description of the bonding capacity of each partner; and
6. Management or incentive fees available for any one of the partners (if any).

*Commercially Useful Functions Performed by Joint Venture Partners:*
Each JV partner must perform a “commercially use function” as that term is defined herein. A SLBE/SLRBE that relies on the resources and personnel of a non-SLBE/SLRBE firm will not be deemed to perform a “commercially useful function”.

Page 9 of 17
Joint Venture License Requirements: Each joint venture partner must possess licenses appropriate for the discipline for which a proposal is being submitted. If a joint venture is bidding on a single trade project, at the time of bid submittal, each of the joint venture partners must hold a Joint Venture License (or demonstrate that a Joint Venture License application is pending with the Contractors State License Board) and possess the requisite specialty license for that trade bid.

Delineation of Joint Venture Work:
The SLBE/SLRBE partner must clearly define the portion of the work it will perform during the project. This work must be of the similar type of work the SL/SLRBE partner performs in the normal course of its own business. The Joint Venture Agreement must specify the project bid items to be performed by each individual joint venture partner. Lump sum joint venture participation is not acceptable.

Responsibilities of the SLBE/SLRBE Joint Venture Partners:
1. The SLBE/SLRBE partner must share in the ownership, control, management responsibilities, risks, and profits of the joint venture in proportion with level of participation in the project;
2. The SLBE/SLRBE partner must perform work that is commensurate with its experience.
3. The SLBE/SLRBE partner must use its own employees and equipment to perform its portion of the project.

Application of Bid Discounts for Joint Venture Agreements:
To be eligible for a bid discount, at the time of bid submittal, each joint venture partner must hold a Joint Venture License (in the case of construction contracts only, successfully demonstrate that a Joint Venture License application is pending with the Contractors State License Board) and each must have the license that is appropriate for the project as required in the contract document of the contract award authority.

Other Joint Venture Conditions
The District’s Facilities Director or designee must first approve the SLBE/SLRBE Joint Venture Agreement before the joint venture is eligible for bid discounts. Any changes must also receive the prior approval of the District’s Facilities Director or designee. In addition to any other information required by conditions specified herein, each SLBE/SLRBE joint venture must provide upon request, cancelled checks and any other financial records to the District.

Additional Considerations

Prime contractors shall not impose any unreasonable additional criteria on subcontractors that are not required by the District. Any demand on an L/SL/SLRBE subcontractor that would change the way the subcontractor does business will be deemed unreasonable. The prime contractor shall not selectively impose criteria upon local certified businesses that are not applied to other business in similar contractual relationships with the prime.

All bids submitted shall be made available to the public upon bid opening as required by the Public Contract Code.
END Part I

Part II.

Certification

The following is the certification process utilized by the City of Oakland. It is printed in its entirety, adopted without modification and incorporated by reference into the Oakland Unified School District’s Local Business Policy. The Board of Education reserves the right, as deemed appropriate, to develop the District’s own, independent certification process, which shall supersede the City of Oakland’s criteria. In addition, the District shall adopt a proof of residency process (similar to that used for enrolling students in Oakland Unified School District schools) to verify that the criteria for Small Local Resident Business Enterprise certifications are met. (A list of documents that will be required by the District as proof of residency can be found at the end of this Part II.)

City of Oakland Certification Criteria
The City of Oakland now certifies both for-profit and not-for-profits operations. Certification criteria apply to both for profit and not-for-profit organizations.

1. An established operation located and doing business or operating within the geographical boundaries of the City of Oakland.

2. Fully operational for at least twelve (12) consecutive months prior to applying for certification.
3. A valid City of Oakland Business Tax certificate issued no less than twelve (12) months prior to applying for certification. All payments must be current and the certificate must reflect the address of the local business.

4. A fixed office that reflects a substantial presence in the geographical boundaries of the City of Oakland. Post Office boxes, temporary locations, and moveable work sites will not establish status as a local business. In the case of trucking firms, the truck inventory must be located within the city limits. A fixed office is a dedicated office space, owned or leased by the local business, in an established, non-portable building where regular work pertinent to the contract is conducted. For SLBE certification, the fixed office shall be the primary business location of the business. A residence may qualify as a fixed office provided the following conditions are met: (a) the business conducted in the residence complies with Oakland Zoning Regulations relating to Home Occupations; and (b) the residence is the primary business location of the business and contributes not less than 51% of the gross receipts of business. A fixed distribution point is a non-portable warehouse or an outside shipping yard owned or leased by the local business, where shipping, receiving and the owner and employees regularly and exclusively conduct distribution of goods and commodities on behalf of the business.

5. The owner or employees (person hired and paid directly by the local business to conduct work solely on behalf of the business at its fixed office or distribution point) shall be available during normal operating hours.

6. A LBE/SLBE must comply with all applicable Federal, State and local regulations, including, but not limited to the City of Oakland Zoning Regulations.

7. All taxes, fees, permit fees, and fines shall be current.

8. Upon request by the City’s certifying officer, a LBE/SLBE must possess and make available for inspection the following documentation citing the Oakland business street address:

   a. Executed (i.e. signed by all parties) copies of past/current contracts;
   b. Oakland Business Tax Certificate and federal tax identification number;
   c. Executed lease or other written agreement for occupancy of the Oakland office;
   d. Business cards and Utility bills (including but not limited to telephone, gas, electric, or water bills)

9. A business requesting certification shall supply the City with all such additional information, as the City may deem relevant to make a determination on its eligibility for certification. The City may wish to review additional documents that may include, but may not be limited to:

   a. Commercial advertising
   b. On-site signage
   c. Letterhead
   d. Previous Lease Agreements
   e. Marketing materials
f. Listing in the telephone book.

10. Small local businesses must present or make available copies of federal tax returns showing gross revenues for the three most recent fiscal years in order for the City to determine compliance with established business size standards.

Certification Eligibility Standards
Ownership and Control for Small Local Business Enterprise
The following standards shall be used by the City to determine if a firm is owned and controlled by one or more owners or businesses and eligible for certification as a Small Local Business Enterprise:

1. An eligible small local business shall be an independent business. The ownership and control of the SLBE shall be real, substantial and continuing and shall go beyond the pro forma ownership of the firm as reflected in its ownership documents. The small local business owner shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance rather than form of arrangements. Recognition of the business as a separate entity for tax, corporate or local status purposes is not necessarily sufficient for recognition as an SLBE. In determining whether a potential SLBE is an independent business, the City shall consider all relevant factors, including the date the business started, the adequacy of its resources for the work of the contract, and the degree to which financial, equipment leasing and other relationships with non local firms.

2. The owner(s) of the small local business must also possess the power to direct or cause the direction of the management and policies of the firm. Also, the owner shall make the day-to-day, as well as major decisions on matters of management, policy and operations. The firm shall not be subject to any formal or informal restrictions, which limit the customary discretion of the owners. There shall be no restrictions that would prevent the local business owners, without the cooperation or vote of any non-local owners, from making a business decision of the firm. (i.e. bylaws provisions, partnership agreements or charter requirements for cumulative voting rights)

- Where the actual management of the firm is contracted out to individuals other than the owners, those persons who have the ultimate power to hire and fire the managers are, for the purposes of this part, considered controlling the business.

- The contribution of capital or expertise by the local owner(s) to acquire their interests in the firm shall be real and substantial.

- Newly formed firms and firms whose ownership and/or control have changed since the date of the advertisement of the contract are closely scrutinized to determine the reasons for the timing of the formation of or change in the firm.

- A previous and/or continuing employer-employee relationship between or among present owners are carefully reviewed to ensure that the employee-owner has management responsibilities and capabilities.
• Any relationship between a SLBE and non-SLBE, which has an interest in the SLBE, is carefully reviewed to determine if the interest of the non-SLBE conflicts with the ownership and control requirements.

• SLBEs will be considered bona fide if the ownership interests are real and continuing, and not created solely to meet the City goals for SLBE participation. The SLBEs included in the contract must perform commercially useful services and/or supplies and not merely act as a passive conduit. In the event the City has reason to question the ownership of SLBEs, the burden of proof is on the claimant and/or contractor to provide documentation to substantiate the SLBE business enterprise status.

Size Standards for Small Businesses
The City has established a size limit in order to set forth criteria and define small local businesses. In making the determination relative to size, the City will use thirty percent (30%) of the United States Small Business Administration’s Small Business Size standards. Size is based on gross revenues realized by the firm for the three most recent fiscal years that the firm is doing business.

LBE/SLBE Certification Process

Step 1 – The Application: Download Applications from the web site maintained by Contract Compliance & Employment Services (CC & ES). From Oaklandnet.com, select Contract Compliance on the “go to” link. Requests for certification applications can be made by phone, facsimile, electronic mail, in writing or in person. When submitting the application, remember to attach a copy of the most recent Business Tax Certificate and have the application notarized. If you are applying as a small business, attach the last three most recent business tax returns.

Step 2 – The Review Process: The City of Oakland employs a three-tier certification process as standard operating procedure. This process is used to determine the degree of difficulty and time necessary to complete the review.

✓ Tier I – The application, upon review by staff, is complete and accurate, and requires no further action. Analysis, recommendation and notification as to the status of the application to certify or deny certification will be conducted within 10 working days. Tier I applications are typically LBE re-certifications.

✓ Tier II – The application, upon review by staff, requires additional information (e.g. application information is incomplete or requires clarification, supporting documents missing, etc.) If the application is incomplete, additional documentation will be requested and must be submitted within 10 working days. Analysis, recommendation and notification as to the status of the application to certify or deny certification will be conducted within 10 working days.

✓ Tier III – The application, upon review by staff, necessitates a desk audit and site visit. The desk audit and site visit will be conducted within 15 working days. All parties are asked to cooperate fully with the investigation. Failure or refusal to furnish requested information or failure to cooperate voids the application. If the audit and review results in a satisfactory determination,
analysis, recommendation and notification as to the status of the application to certify or deny certification will be conducted within 10 working days after the site visit.

During the process of certification, the City may review any documentation or information it deems necessary to determine whether the applicant meets the definition of a local business set forth in the section 2.01 of this document.

To ensure complete and accurate determination in a timely fashion, it is requested that all potential LBE/SLBE participants submit an application for certification a minimum of three (3) weeks prior to a bid opening or submittal of a proposal. In order to receive LBE or SLBE credit for listed subcontractors and suppliers certifications must be complete and existing at the date and time of bid opening or submittal due dates.

Certification with another agency does not constitute certification with the City of Oakland. The City reserves the right to approve LBE/SLBE status from other government or City agencies. Firms or individuals who knowingly submit false information concerning their LBE/SLBE business status are subject to action or actions for fraud under the State and Federal False Claims Act and will be debarred from bidding on future City work for a period of three (3) years.

Other Considerations
In addition to the above the City shall give special consideration to the following circumstances in determining eligibility:

- Newly formed firms and firms whose ownership and/or control have changed since the date of the advertisement of the contract are closely scrutinized to determine the reasons for the timing of the formation of or change in the firm.
- Previous and/or continuing employer-employee relationships between or among present owners are carefully reviewed to ensure that the employee-owner has management responsibilities and capabilities.
- Any relationship between an LBE/SLBE and a business that is not an LBE/SLBE, which has an interest in the LBE, is carefully reviewed to determine if the interest of the non-LBE conflicts with the ownership and control requirements.
- A joint venture is eligible for certification if the LBE/SLBE partner of the joint venture meets the standards for an eligible LBE. The LBE partner is responsible for a clearly defined portion of the work to be performed and shares in the ownership, control, management responsibilities, risks and profits of the joint venture. The City Attorney’s office must approve joint venture agreements.
- The mentor and protégé must be certified prior to the submittal of a mentor-protégé agreement for approval.

Re-Certification
A City of Oakland certification is valid for a period of two years, unless otherwise specified. At the end of the certification period (October and April) the business may apply for re-certification. Notwithstanding the above, the City may require re-submittal of current documentation and information in the event a LBE/SLBE certification is challenged.
Appeal
Any firm that believes that it has been wrongfully denied certification as an LBE/SLBE or joint venture may file an appeal in writing. The written appeal must be signed and dated.

The appeal shall be filed no later than 30 days after the date of denial. The City may extend the time for filing, or waive the time limit in the interest of justice. The City may specify in writing the reason for so doing.

Third parties, who have reason to believe that another firm has been wrongfully denied or granted certification as an LBE/SLBE or joint venture, may advise the City in writing. This information is not considered an appeal.

The City ensures a prompt investigation, and may at its discretion, decertify the LBE/SLBE or joint venture pending the outcome of the investigation.

END Part II

Part III

OAKLAND UNIFIED SCHOOL DISTRICT
Small Local Resident Business Enterprise
(“SLRBE”)

Supplemental Certification Documentation

The following will be required to qualify as a SLRBE under OUSD’s Local Business Program:

Any three (3) of the following dated within 90 days. Must reflect the business owners’ CURRENT residential address:
a.) One to three utility bills from different agencies,
   i.e., PG&E, home telephone, water, garbage or cable; and/or

b.) Both automobile registration and automobile insurance; and/or

c.) Homeowner’s/renter’s insurance policy; and/or

d.) Property tax statement; and/or

e.) Official letter from a social service/government agency; and/or

f.) Rental/Lease Agreement or Grant Deed or Title (minimum one (1) year lease required)

END Part III

1/29/14
EXHIBIT G

DISABLED VETERANS BUSINESS ENTERPRISE PARTICIPATION POLICY

Attached is the District’s Disabled Veterans Business Enterprise Participation Policy applicable to this Project, which Developer agrees to be bound.

[See Next Page]
PART I. GENERAL

1.01 PURPOSE

A. To be eligible for an award of a construction contract, each bidder must agree to comply with the following Local Hiring and Disabled Veterans Business Enterprise (DVBE) requirements authorized by the Oakland Unified School District (“District”). The following information is only a summary of the requirements and the Prime Contractor is responsible for and must comply with all the details contained in the District Policy.

B. The District Policy is incorporated by reference as though fully set forth herein and provides that the failure of any bidder or contractor to comply with these requirements shall be deemed a material breach of contract. Copies of the District’s Local Hiring and DVBE Policy are available upon request at the Oakland Unified School District, Facilities Planning and Construction, 955 High Street, Oakland, CA, 94601.

The goals are as follows:

Disabled Veteran, 3%; Local Hiring, 50% of hours worked on a craft by craft basis; 100% of the apprenticeship hours, as set forth in Article XIV.II and XIV.IV.I of the Project Labor Agreement (“PLA”) adopted by the District. The Prime Contractor’s compliance with the Local Hiring and PLA Workforce Development Fund requirements shall be monitored by the PLA administrator, and compliance with the District’s DVBE requirements shall be monitored by the District’s Labor Compliance consultant or officer.

C. Questions regarding these Rules and Regulations and the accompanying forms for Construction Contracts should be directed to: OAKLAND UNIFIED SCHOOL DISTRICT c/o Juanita Hunter at 510-535-7044. Written responses should be addressed to: 955 High Street, Oakland, CA 94601.

D. Information from the CA Department of General Services on Disabled Veteran Business Enterprises can be found online at: http://www.pd.dgs.ca.gov/smbus

1.02 SUBMISSION OF FORMS

The following forms must be submitted with bids for projects of more than $15,000. These forms must be submitted by all Prime Contractors as specified in the Invitation for Bid. The Invitation for Bid will specify the DVBE and local hiring goals for each bid. Bids will not be opened until the submittal deadline of the DVBE forms. The District reserves the right to request information regarding the racial and ethnic composition of a contractor’s work force for information and record keeping purposes only.

A. OUSD Form 1: Prime Contractor Method of Compliance

This form must be completed by the Prime Contractor detailing how he/she will comply with the District’s DVBE requirement called for in the Invitation for Bid; otherwise his/her bid will be deemed non-responsive. The final determination of compliance will be based on the contract amount taking into account the District’s acceptance or rejection of any alternates.
B. **OUSD Form 2: Certification**

This form is to be completed by subcontractors and submitted to the Prime Contractor and used as backup to the Prime Contractors Method of Compliance form.

1.03 **SUBSTITUTION, REMOVAL, OR CONTRACT MODIFICATION OF DVBE**

No DVBE subcontractor, supplier, trucker, or other business listed on the District Form 2 (DVBE Subcontractor Participation) is to be substituted, removed from the contract, or have its contract modified in any way without prior District approval per Public Contract Code sections 4107 and 4110.

1.04 **PRIME CONTRACTOR CONTRACT REQUIREMENTS**

Whenever contract supplements, amendments, or change orders which require District approval are necessary, the contractor shall be required to comply with those participation goals which applied to the original contract with respect to the supplement, amendment, or change order.

Prime Contractors shall include in any subcontract with a DVBE a provision which provides that DVBE Subcontractor a remedy for the Prime Contractor’s non-compliance with his or her commitment to utilize DVBE Subcontractors. This contractual provision shall include an agreement by the Prime Contractor to compensate any DVBE Subcontractor if the Prime Contractor does not fulfill its commitment to utilize the DVBE Subcontractor. This contractual Provision shall also state that it is enforceable in a court of competent jurisdiction.

Suggested language for the agreement between the Prime Contractor and the Subcontractor is as follows:

“Prime Contractor shall fulfill its commitment to utilize and compensate DVBE Subcontractor to the full extent agreed to by Prime Contractor. In the event DVBE Subcontractor is not so utilized, Prime Contractor shall nonetheless compensate the Subcontractor if the Prime Contractor does not fulfill its commitment to utilize the DVBE Subcontractor. This provision shall be enforceable in court of competent jurisdiction.”

1.05 **DVBE QUALIFICATION REQUIREMENTS**

Unless otherwise determined, only DVBEs certified with the City of Oakland, the Port of Oakland, CalTrans, or the Regional Transit Agency are eligible for participation in Oakland Unified School District DVBE affirmative action requirements as follows:

A. If the selected bidder and/or subcontractors are already listed in the above stated agencies’ DVBE directories of certified firms, the District’s Contract Compliance Consultant will proceed with its evaluation of the bid or proposal for award of contract.

B. If the selected bidder and/or subcontractors have submitted application for certification with their bid or proposal, the District’s Contract Compliance Consultant will review the Application for certification review. The Contract Compliance Consultant will conduct a DVBE certification review of the non-certified bidders and subcontractors and will inform the District of which bidders or subcontractors are eligible. If time for the work is of the essence and approval is delayed for an unreasonable amount of time due to forms not being complete or delays by the District’s Contract Compliance Consultant, the selected bid for the specific project may be rendered non-responsive and awarded to another bidder.

1.06 **NON COMPLIANCE AND SANCTIONS**

A. **Noncompliance with District Policy**
A complaint of discrimination or noncompliance concerning DVBE participation initiated by any party after contract award will be processed in accordance with District Policy.

1. If the District Contract Compliance Consultant determines that there is cause to believe that a contractor has failed to comply with any of these requirements, the District’s Contract Compliance Consultant shall attempt to resolve the noncompliance through conciliation.

2. If the noncompliance cannot be resolved, the District’s Contract Compliance Consultant shall submit to the contractor and the District Board of Education a written Finding of Noncompliance. The contractor shall be given ten (10) calendar days to appeal the Finding to the Board of Education otherwise the Finding is final.

B. Willful or Bad Faith Noncompliance

1. If the District’s Contract Compliance Consultant determines that there is cause to believe that any construction-related professional service provider, contractor, or subcontractor has failed to comply in good faith with any of these requirements of District Policy, or contract provisions pertaining to DVBE utilization, the District’s Contract Compliance Consultant is empowered to conduct an investigation. After affording the contractor notice and an opportunity to be heard, the District’s Contract Compliance Consultant may impose sanctions for each violation. These sanctions shall include but are not limited to:

   a. If the contractor is a DVBE, deletion from OUSD’s list of DVBE certified entities and advise identified agencies of the District’s actions.

   b. Declare the contractor non-responsive and ineligible to receive the award.

   c. Declare the contractor an irresponsible bidder and disqualify the contractor from eligibility for providing goods or services to the District for a period of five (5) years, with a right to review and reconsideration by the District after two (2) years upon showing of corrective action indicating violations are not likely to recur.

   d. Determine that the contractor has willfully failed to comply with the provisions of District Policy and impose as liquidated damages whichever is the greatest of:

      1) An amount equal to the contractor’s net profit on the contract.
      2) Ten percent (10%) to the total amount of the contract.
      3) One thousand dollars ($1,000.00).

2. The contractor or subcontractor may within ten (10) calendar days appeal the District’s Contract Compliance Consultant’s decision to the District Board of Education which may sustain, reverse or modify the Contract Compliance Consultant’s findings and sanctions imposed, or take such other action as will effectuate the purpose of this program.

   An appeal by an aggrieved business under this subsection shall not stay the Contract Administrator’s findings.

3. The District’s Contract Compliance Consultant may require such reports, information, and documentation from contractors as are reasonably necessary to determine compliance with the requirements of District Policy.

4. The District’s Contract Compliance Consultant shall send a written notice to the Facilities Planning and Management Office to advise the District’s Controller that a determination of bad faith non-compliance has been made and that all payments due the contractor shall be withheld.
in the amount of the penalty assessed, as agreed to by the contractor or subcontractor and the District.

1.07 COMPLAINT PROCEDURES

Any contractor or subcontractor, who has submitted a bid for a particular project and has knowledge of or suspects a violation of District DVBE policy by another contractor or subcontractor warranting that contractor or subcontractor’s bid be rendered non-responsive because of the violations, may file a Formal Bid Protest by identifying in writing the violation, particular project and date of bid opening within five (5) calendar days of opening. A written protest should be addressed as follows:

Facilities Planning & Management
Attention: Deputy Chief
Director of Facilities
955 High Street
Oakland, California 94601

With a copy to:

Davillier-Sloan, Inc. Jake Sloan, Contract Compliance Consultant
1630 12th Street
Oakland, California 94607

Office of the State Administrator
Secretary to the Board of Education
1050 2nd Avenue, Workspace B-237
Oakland, California 94606
OLUSD FORM 1: METHOD OF COMPLIANCE
DVBE SUBCONTRACTOR/SUPPLIER CONSTRUCTION CONTRACTS.

Note: DVBE information is being collected for record keeping and informational purposes only and will not be considered in the award of contract.

DVBE DOLLAR PARTICIPATION OF BID/PROPOSAL. This section is to be completed for all Prime Contractor’s bid over $15,000.00 and for all modifications to that contract. Disabled Veteran Contractors claiming preference and all other Prime Contractors must complete the following and comply with the required percentage of DVBE subcontractors or meet the good effort for bids over $75,000.

PRIME BIDDER: ___________________________ CONTACT PERSON: ___________________________

ADDRESS: ___________________________

PHONE NUMBER: ___________________________ FAX NUMBER: ___________________________ TOTAL BID: ______________

PROJECT NAME OR DESCRIPTION: ___________________________

A. List your DVBE subcontractors/suppliers. If the subcontractor has a subordinate subcontractor, list the subordinate on the line following the subcontractor in brackets, e.g. (ABC Painting) and complete the information for both. In the appropriate DVBE column, enter the dollar amount and fill in the Ethnicity Code and Gender Code. If the subcontractor or supplier is a woman and not an ethnic minority, please add a separate page stating this fact.

B. Enter the total in Line B for each column.

C. Enter the dollar amount of the bid to be performed by non-DVBE firms.

D. Enter the dollar amount of the bid to be performed by the Prime Contractor.

E. Enter the sum of the column totals in Line B, C, and D.

NOTE: Please be aware that the final determination of DVBE compliance is made based on the contract amount resulting from the District’s acceptance or rejection of alternates.

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OAKLAND UNIFIED SCHOOL DISTRICT

DVBE POLICY
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| B. Subtotal |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| C. Other Subcontractor/Supplier |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| D. Prime Contractor |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| E. Total Bid |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |

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ETHNICITY CODES:
AA = AFRICAN AMERICAN
H = HISPANIC
W = WOMAN
A = ASIAN
NA = NATIVE AMERICAN

AGREEMENT FOR ARCHITECTURAL / ENGINEERING / DESIGN GREATER THAN $88,300
OUSD – [ARCHITECT] – Lincoln ES Water Intrusion Repair Project - $[VALUE]
EXHIBIT G
I declare, under penalty of perjury under the laws of the State of California, that I am utilizing the above DVBE subcontractors and subcontractor’s amounts as reflected in the bid documents for this project.

________________________________________  ________________  ________________
Owner/Authorized Representative (Signature/ Print)  Title  Date
Agreement for Architectural / Engineering / Design Greater than $88,300
OUSD – [ARCHITECT] – Lincoln ES Water Intrusion Repair Project - $[VALUE]
EXHIBIT G

### OUSD FORM 2
**SUBCONTRACTOR CERTIFICATION OF DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION**
To be completed by DVBE Subcontractor/Supplier or Subordinate Subcontractor/Suppliers.

*Note: DVBE information is collected for record keeping and informational purposes only.*

**PART I – IDENTIFICATION INFORMATION (check one)**

---

**Subcontractor/Supplier:**
A firm directly employed by a prime contractor.

**Subordinate Subcontractor/Supplier:**
A firm employed by subcontractor/supplier

**PRIME SUBCONTRACTOR NAME:**

---

**NAME OF FIRM:**
**BUSINESS ADDRESS:**

**CITY, STATE, ZIP:**
**TELEPHONE NUMBER:**

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**PART II – DVBE PARTICIPATION**
Subcontractors/Suppliers employed by architectural, engineering, environmental, land surveying or construction management firms complete this part after your employer is selected by the School District.

A. After reading the definitions of the reverse side, check the appropriate Business Enterprise designation of or your firm. Enter the dollar amount of the bid/proposal in the applicable Base Bid/Proposal and/or Alternate column(s).

B. List your DVBE subordinate subcontractor/suppliers: If you need additional space, use a separate page. Check their appropriate Business Enterprise designation. Enter the dollar amount of their bid/proposal in the applicable Base Bid/Proposal and/or Alternate column(s). All those listed must also complete one of these forms.

C. Enter the non-DVBE dollar amount included in your bid/proposal under the applicable Base Bid/Proposal and/or Alternate column(s).

D. Enter the Total of the Base Bid/Proposal and each Alternate column(s).

<table>
<thead>
<tr>
<th>Business Enterprise</th>
<th>DVBE</th>
<th>Base Bid/ $Proposal</th>
<th>Alternate #1 $</th>
<th>Alternate #2 $</th>
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<td>B. Subcontractor or Supplier</td>
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<td>C. Non DVBE Participation</td>
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**OAKLAND UNIFIED SCHOOL DISTRICT**
**DVBE POLICY**
**Page 8 of 9**
PART III - SUBCONTRACTOR/SUPPLIER AND SUBORDINATE SUBCONTRACTOR/SUPPLIER CHECK LIST

Your bid/proposal should contain the following: Copy of your and your subordinate subcontractor’s certification of DVBE status.

CERTIFICATION

I, __________________________ certify that I am this firm’s Chief Executive Officer. I am aware of Section 12560 et seq. of the Government Code providing for the imposition of treble damages for making false claims against the State and Section 10115.10 of the Public Contract Code making it a crime for intentionally making an untrue statement in this certification.

__________________________________________________________
Signature of Chief Executive Officer

__________________________________________________________
Date

OAKLAND UNIFIED SCHOOL DISTRICT

DVBE POLICY
Page 9 of 9
This form shall be executed by all architects, engineers, or roofing consultants who provide professional services related to the repair or replacement of a roof of a public school where the project is for repair of more than 25% of the roof or that has a total cost more than $21,000 (“roofing project”) and submitted to the District prior to the time professional services are engaged. Not applicable to a school district with an average daily attendance less than 2,500.

Certification of:  □ Architect  □ Engineer
         □ Roofing Consultant  □ Other ________________________

PROJECT/CONTRACT NO.: _____________________________ between Oakland Unified School District (“District” or “Owner”) and ____________________________ (“Architect / Engineer”) (“Contract” or “Project”).

I ____________________________________, ______________________________

[Name]    [Name of Architect / Engineer]

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

Furthermore, I ____________________________________, ______________________________

[Name]    [Name of Architect / Engineer]

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

I ___________________________________, ______________________________

[Name]    [Name of Architect / Engineer]

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

__________________________________________________________________

__________________________________________________________________

__________________________________________________________________

__________________________________________________________________

__________________________________________________________________

__________________________________________________________________
By my signature below, I certify that to the best of my knowledge, the contents of this disclosure are true, or are believed to be true. I further certify on behalf of the Firm that I am aware of section 3000 et seq. of the California Public Contract Code, and the sections referenced therein regarding the penalties for providing false information or failing to disclose a financial relationship in this disclosure. I further certify that I am authorized to make this certification on behalf of the Architect / Engineer.

Date: ____________________________________________

Name of Architect / Engineer: ____________________________________________

Signature: ____________________________________________

Print Name: ____________________________________________

Title: ____________________________________________