

VISION:

Every student will achieve their highest educational goals.

MOTTO:

Students First!

Pierce Joint Unified School District
540A 6th Street
P.O. Box 239
Arbuckle CA 95912
(530) 476-2892 * (530) 476-2289 Fax

MISSION:

The Pierce Joint Unified School District is committed to provide a highly qualified staff in a safe and healthy learning environment. Parents and community members are partners in our education community.

**BOARD OF TRUSTEES SPECIAL MEETING
PIERCE JOINT UNIFIED SCHOOL DISTRICT
PIERCE TECHNOLOGY BUILDING
940A WILDWOOD RD, ARBUCKLE CA 95912**

Thursday November 8, 2018 2:00 p.m.

AGENDA

Governing Board

John Friel, President

Nadine High, Vice President

George Green, Board Clerk

Amy Charter, Member

Abel Gomez, Member

Documents provided to a majority of the Governing Board regarding an open session item on this agenda will be made available for public inspection in the District Office located at 540A 6th Street, Arbuckle CA 95912, during normal business hours.

- 1. CALL TO ORDER
 - A. *Pledge of Allegiance*
- 2. APPROVAL OF AGENDA ACTION
- 3. HEARING OF THE PUBLIC ACTION
(Speakers will be given three (3) minutes to speak with a twenty (20) minute limit per topic)
- 4. Facility Planning – Pierce High School Locker Room DISCUSSION
- 5. Consider and approve **Bid Proposal and Award of Mechanical HVAC Unit Replacement for Arbuckle Elementary School Building 300 and Lloyd G. Johnson Junior High School Buildings 300 and 500 to Cooper Oates Air Conditioning** ACTION
- 6. Consider and approve **Agreement between Pierce Joint Unified School District and Terracon for Special Testing and Inspections for Arbuckle Elementary School Classroom Replacement Project** ACTION

2018/19 Board Goals:

- 1. Pierce Joint Unified School District students will graduate high school college and career ready.
- 2. Pierce Joint Unified School District students will feel a sense of connectedness academically, socially, and physically in their schools.
- 3. Pierce Joint Unified School District will engage families and members of the greater school community as educational partners.



- 7. Consider and approve **Agreement between Pierce Joint Unified School District and ATI-AC Martin Inc, Dba ATI Architects & Engineers for Kitchen Renovation Project at Arbuckle Elementary School** ACTION
- 8. Adjourn

In compliance with the American with Disabilities Act, if you need special assistance to access the Board meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact our office at (530) 476-2892 x13000. Notification at least 48 hours prior to the meeting will enable the office to make reasonable arrangements to ensure accessibility to the Board meeting. (Government Code § 54954.2)

BID FORM AND PROPOSAL

To: Board of Education of the Pierce Joint Unified School District ("District")

From: Cooper Oates Air Conditioning

(Insert Proper Name of Bidder)

The undersigned declares that the Contract Documents including, without limitation, the Notice to Contractors Calling for Bids and the Information for Bidders have been read and agrees and proposes to furnish all necessary labor, materials, and equipment to perform and furnish all work in accordance with the terms and conditions of the Contract Documents, including, without limitation, the Drawings and Specifications of the **Mechanical HVAC Replacement Project at (2) District Sites, BID #18-01** ("Project" or "Contract") and will accept in full payment for that Work the following total lump sum amount, all taxes included:

- 1. **ARBUCKLE ELEMENTARY SCHOOL (BLDG. 300) – TOTAL BASE BID CASH PURCHASE PRICE IN WORDS & NUMBERS:**

One hundred forty five thousand eight hundred and thirty four US DOLLARS

(\$ 145,834)

- 2. **JOHNSON MIDDLE SCHOOL (BLDG. 301 & 501) OFCI Equipment – TOTAL BASE BID CASH PURCHASE PRICE IN WORDS & NUMBERS:**

Twenty five thousand three hundred and three US DOLLARS

(\$ 25,303)

- 3. **PROJECT ALLOWANCE – (UNFORSEEN CONDITIONS & OWNER CONTINGENCY)**

(\$10,000)

TOTAL BID PRICE (Including Project Allowance)

One hundred eighty one thousand one hundred and thirty seven US DOLLARS

(\$ 181,137)

Alternates: N/A

Descriptions of alternates are primarily scope definitions and do not necessarily detail the full range of materials and processes needed to complete the construction.

- 1. **Unit Prices.** The Bidder's Base Bid includes the following unit prices, which the Bidder must provide and the District may, at its discretion, utilize in valuing additive and/or deductive change orders:

[NOT APPLICABLE]

2. The undersigned has reviewed the Work outlined in the Contract Documents and fully understands the Scope of Work required in this Proposal, understands the construction and project management function(s) described in the Contract Documents, and that each Bidder who is awarded a Contract shall be in fact a prime contractor, not a subcontractor, to the District, and agrees that its Proposal, if accepted by the District, will be the basis for the Bidder to enter into a Contract with the District in accordance with the intent of the Contract Documents.
3. The undersigned has notified the District in writing of any discrepancies or omissions or of any doubt, questions, or ambiguities about the meaning of any of the Contract Documents, and has contacted the District before the bid opening date to verify the issuance of any clarifying Addenda.
4. The undersigned agrees to commence work under this Contract on the date established in the Contract Documents and to complete all work within the time specified in the Contract Documents.
5. The liquidated damages clause of the General Conditions and Special Conditions is hereby acknowledged.
6. It is understood that the District reserves the right to reject this bid and that the bid shall remain open to acceptance and is irrevocable for a period of sixty (60) days.
7. The following documents are attached hereto:

Bid Bond on the District's form or other security
Designated Subcontractors List
Non-Collusion Affidavit
Project Warranty
Change Order Acknowledgement Form

8. Receipt and acceptance of the following Addenda is hereby acknowledged:

| | | |
|----------------|--------------|------------------------------|
| Addendum No. 1 | <u> X </u> | Dated: <u> 9/25/2018 </u> |
| Addendum No. 2 | <u> X </u> | Dated: <u> 10/9/2018 </u> |
| Addendum No. 3 | <u> X </u> | Dated: <u> 10/12/2018 </u> |

9. The Bidder represents that it is competent, knowledgeable, and has special skills with respect to the nature, extent, and inherent conditions of the Work to be performed.
10. Bidder expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms "claim" and "knowingly" are defined in the California False Claims Act, Gov. Code § 12650 et seq.), the District will be entitled to civil remedies set forth in the California False Claim Act. It may also be considered fraud and the Contractor may be subject to criminal prosecution.
11. The undersigned Bidder certifies that it is, at the time of bidding, and shall be throughout the period of the contract, licensed by the State of California to do the type of work required under the terms of the Contract Documents. Bidder further certifies that it is regularly engaged in the general class and type of work called for in the Contract Documents.

Furthermore, Bidder hereby certifies to the District that all representations, certifications, and statements made by Bidder, as set forth in this bid form, are true and correct and are made under penalty of perjury.

Dated this 17th day of October, 2018

Name of Bidder Cooper Oates Air Conditioning

Type of Organization Corporation

Signature *Ruzwa F Cooper*

Signed by Ruzwa Cooper

Title of Signer President

Address of Bidder 6250 Sky Creek Dr Sacramento, CA 95828

Bidder's Taxpayer Identification No. 68-0235806

Telephone Number 916-381-4611

Fax Number 916-381-3307

E-mail gjuarez@coacair.com Website www.coacair.com

Contractor's License No(s): No.: 611351 Class: C-20 Expiration Date: 1/31/2019

No.: _____ Class: _____ Expiration Date: _____

No.: _____ Class: _____ Expiration Date: _____

DIR Registration No. 1000000176 Expires 6/30/2019

If Bidder is a corporation, affix corporate seal.

Name of Corporation: Cooper Oates Air Conditioning

President: Ruzwa Cooper

Secretary: Phil Cooper

Treasurer: Katy Cooper

Manager: Ruzwa Cooper

BID BOND

WHEREAS, Cooper Oates Air Conditioning, Inc., as Principal, and Western Surety Company, as Surety, a corporation organized and existing under and by virtue of the laws of the State of South Dakota and authorized to do business as a surety in the State of California, are held and firmly bound unto the Pierce Joint Unified School District ("District"), as Obligee, in the sum of Not to exceed ten percent of the bid amount***** DOLLARS (\$ Not to exceed 10% of the bid amt.), being not less than ten percent (10%) of the Total Bid Price; for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Principal has submitted a bid to the District to perform all Work required for the Mechanical HVAC Replacement Project at (2) District Sites, BID #18-01 as set forth in the Notice to Contractors Calling for Bids and accompanying Contract Documents.

NOW, THEREFORE, if said Principal is awarded a Contract for the Work by the District and, within the time and in the manner required by the above-referenced Contract Documents, enters into the written form of Contract bound with said Contract Documents, furnishes the required bonds (one to guarantee faithful performance and the other to guarantee payment for labor and materials), furnishes the required insurance certificates and endorsements, and furnishes any other certifications as may be required by the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or the notice inviting bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract of the notice inviting bids, or to the work, or to the specifications.

The bid security will be held by the District for ten (10) days after the period for which bids must be held open or until posting by the successful bidder(s) of the bonds, certificates of insurance required and return of executed copies of the Agreement, whichever first occurs, at which time the bid security will be returned.

In the event suit is brought upon this bond by the District and judgment is recovered, said Surety shall pay all costs incurred by the District in such suit, including reasonable attorneys' fees to be fixed by the court.

SIGNED AND SEALED, this 9th day of October, 2018.

Cooper Oates Air Conditioning, Inc.
Principal
By: [Signature]
Signature

Western Surety Company
Surety
By: [Signature]
Signature Sandra R. Black, Attorney-in-Fact

(SEAL)

(SEAL)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

County of Sacramento }

On 10/9/18 before me, E. Johnson, Notary Public,
Date Insert Name of Notary exactly as it appears on the official seal

personally appeared Sandra R Black

Name(s) of Signer(s)

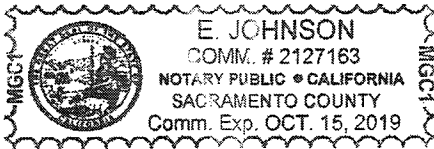
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of the form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Sandra R Black

- Individual
- Corporate Officer — Title(s): _____
- Partner Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing:

Western Surety Company

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing:

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Sharon J Rusconi, Sandra R Black, Sokha Evans, Individually

of Sacramento, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 7th day of February, 2018.



WESTERN SURETY COMPANY

Paul T. Bruflat

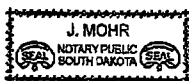
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 7th day of February, 2018, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2021



J. Mohr

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 9th day of October, 2018.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

CHANGE ORDER ACKNOWLEDGEMENT FORM

The District expects and requires that Bidders take due care in submitting their bids, and will not provide additional compensation or time via change order to bidders for items that should have been included in their bids.

By submitting this bid, I certify that I understand that section 7 of the Information For Bidders for this contract requires that each bidder perform a *thorough* review of this bid packet and the accompanying plans and specifications.

I understand that pursuant to section 7.1, I am representing that I have read and understand the contract, including the plans and specifications, and that no consideration will be given to any claim that I misunderstood the documents.

I understand that it is my responsibility to *immediately* bring to the attention of the District any perceived discrepancies in, and/or omissions from the plans, specifications or other contract documents or questions as to their meaning, *before* I submit my bid.

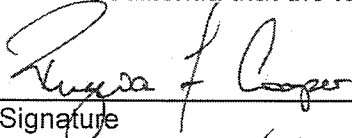
I understand that the District makes no representations or warranties about the condition of the site upon which the work will be performed, and that it is *my responsibility* to examine the site conditions before I submit a bid, to ensure the bid accurately reflects the price of the work to be performed.

I understand that pursuant to section 7 of the Information to bidders, I have had the opportunity to submit requests for information and clarification regarding any questions I might have about the plans and specifications before submitting my bid.

In other words, I understand that it is my responsibility to fully and completely understand the plans and specifications for the project, and submit any questions I might have about them *before* I submit my bid.

I certify, under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 10/17/2018


Signature _____

DESIGNATED SUBCONTRACTORS LIST

In compliance with the "Subletting and Subcontracting Fair Practices Act," Sections 4100 through 4114 of the California Public Contract Code, and any amendments thereto, each Bidder shall provide the information requested below for each subcontractor who will perform work, labor or render service to Bidder in or about the construction of the Work in an amount in excess of one-half of one percent (greater than 0.5 %) of the Bidder's Total Bid Price and shall further set forth the portion of the Work which will be done by each subcontractor. Bidder shall list only one subcontractor for any one portion of the Work.

If the Bidder fails to specify a subcontractor for any portion of the Work to be performed under the Contract, it shall be deemed to have agreed to perform such portion itself, and shall not be permitted to subcontract that portion of the Work except under the conditions hereinafter set forth below.

Subletting or subcontracting of any portion of the Work in excess of one half of one percent (greater than 0.5%) of the Total Bid Price for which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after District approval.

| | |
|---|--|
| <u>Name and Location of Subcontractor</u> | <u>Description of Work to be Subcontracted</u> |
| Name: <u>ESI</u> | <u>Controls</u> |
| Address: <u>4219 S Market Ct Ste H</u> | DIR Registration No. <u>100001175</u> |
| City/State: <u>Sacramento, CA 95834</u> | License No. <u>422478</u> Exp. <u>6/30/19</u> |
| Ph: <u>916-747-0263</u> | Fax: <u>916-344-3168</u> |

| | |
|---|--|
| <u>Name and Location of Subcontractor</u> | <u>Description of Work to be Subcontracted</u> |
| Name: <u>AAA Crane</u> | <u>Cranes Services</u> |
| Address: <u>2020 Railroad Dr</u> | DIR Registration No. <u>1000021682</u> |
| City/State: <u>Sacramento, CA 95815</u> | License No. <u>113467</u> Exp. <u>6/30/19</u> |
| Ph: <u>916-568-3456</u> | Fax: <u>NA</u> |

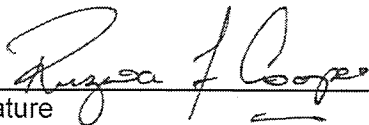
| | |
|---|--|
| <u>Name and Location of Subcontractor</u> | <u>Description of Work to be Subcontracted</u> |
| Name: _____ | _____ |
| Address: _____ | DIR Registration No. _____ |
| City/State: _____ | License No. _____ Exp. _____ |
| Ph: _____ | Fax: _____ |

NON-COLLUSION AFFIDAVIT

In accordance with Public Contract Code Section 7106, the undersigned declares that he or she holds the position listed below with the bidder, the party making the foregoing bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Signature
Ruzwa Cooper

Typed or Printed Name
President

Title
Cooper Oates Air Conditioning

Bidder

Subscribed and sworn before me
This 17 day of October, 2018

[Seal]

See Attached Certificate with
Required Notarial Wording

Notary Public in and for
the State of California

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Sacramento)

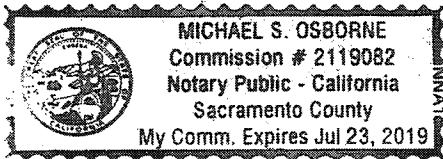
On 10/17/18 before me, Michael S. Osborne, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Ruzwa Cooper
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Michael S. Osborne
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Non-Collusion Affidavit Document Date: 10/17/18
Number of Pages: 1 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Ruzwa Cooper
 Corporate Officer — Title(s): President
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

PROJECT WARRANTY

We, the undersigned, do hereby warrant and guarantee all products and services described within which we have provided for: **Mechanical HVAC Replacement Project at (2) District Sites**

BID #18-01

are in accordance with the Contract Documents and that all such Work as installed will fulfill or exceed all minimum warranty requirements. We agree to repair or replace Work installed by us, together with any adjacent Work which is displaced or damaged by so doing, which proves to be defective in workmanship, material, or function at no expense to the Owner, Pierce Joint Unified School District, for a period of two (2) years.

In the event of our failure to comply with the above-mentioned conditions within ten (10) business days, after notification in writing, we, the undersigned, all collectively and separately, hereby authorize the Owner to have said defective Work, repaired or replaced to be made good, and agree to pay to the Owner upon demand all moneys that the Owner may expend in making good said defective Work, including all collection costs and reasonable attorneys' fees.

Company Name: Cooper Oates Air Conditioning

Signed: 
(Contractor's signature)

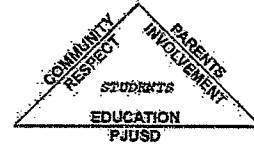
Name: Ruzwa Cooper
(printed)

Date: 10/17/2018

**Pierce Joint
Unified School District**

P.O. Box 239 • Arbuckle CA 95912 • (530) 476-2892 • Fax (530) 476-2289

Carol Geyer, Superintendent



17-18:

**ADDENDUM #2
Mechanical HVAC Replacement Project
at
Johnson Middle School/Arbuckle Elementary School**

BID #18- 01

October 9, 2018

TO ALL BIDDERS:

The following changes, omissions, and/or additions to the Proposal shall apply to proposals made for and to the execution of the various parts of the work affected thereby, and all other conditions shall remain the same.

All parties of interest shall take careful note of the addendum so that the proper allowances may be made in strict accordance with the Addendum.

Bidder shall acknowledge receipt of this addendum by signing and attaching this form to the Consultant Proposal. Failure to do so may subject Bidder to disqualification.

In case of conflict between bid documents and this addendum, this addendum shall govern.

PLAN & SPECIFICATION ADDS/CHANGES – NONE

General Notes: - No Adds

Clarification Questions:

Q1 - Are we going with the highest efficiency equipment on the Carriers and the Bards? The equipment schedule provided is not for prop 39 compliance. Do we need to have economizers on the new Bards?

A – Short answer is yes. All new HVAC mechanical equipment must meet current Title 24 and CA Green Energy Code (Prop. 39). Bard Units shall be equipped with economizers.

Q2 – What is the Estimated Project Budget?

A – Estimated Project budget \$65K-\$75K

**THIS CLOSES THE RFI Q & A PERIOD FOR THIS PROJECT
NO FURTHER RESPONSES WILL BE PROVIDED**

Board of Trustees: Abel Gomez • John Friel • Nadine High • George Green • Amy Charter
President Vice-President Clerk Member Member

ADDENDA No. 2
Mechanical HVAC Replacement Project – (2) District Sites
PN 18-01

Please Note: Bidders who “no bid” items understand this is an “All or Nothing Bid.” This bid will be awarded to the lowest responsive responsible bidder.

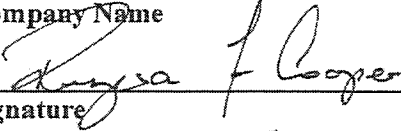
Please confirm receipt of this addendum by date, signature this form and on bid proposal form. Contact the undersigned for any additional questions at e-mail address gparker@pierce.k12.ca.us or by fax to (530)476-2289



George Parker
Capital Projects Manager, Pierce Jt. USD

COOPER DATES AIR CONDITIONING

Company Name



Signature

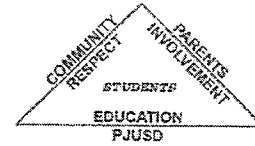
10/17/18
Date

Board of Trustees: Debbie Charter • Amy Charter • Abel Gomez • John Friel • Nadine High
President Vice-President Clerk Member Member

Pierce Joint Unified School District

P.O. Box 239 • Arbutle CA 95912 • (530) 476-2892 • Fax (530) 476-2289

Carol Geyer, Superintendent



17-18:

ADDENDUM #3 Mechanical HVAC Replacement Project at Johnson Middle School/Arbutle Elementary School

BID #18- 01

October 12, 2018

TO ALL BIDDERS:

The following changes, omissions, and/or additions to the Proposal shall apply to proposals made for and to the execution of the various parts of the work affected thereby, and all other conditions shall remain the same.

All parties of interest shall take careful note of the addendum so that the proper allowances may be made in strict accordance with the Addendum.

Bidder shall acknowledge receipt of this addendum by signing and attaching this form to the Consultant Proposal. Failure to do so may subject Bidder to disqualification.

In case of conflict between bid documents and this addendum, this addendum shall govern.

PLAN & SPECIFICATION ADDS/CHANGES – NONE

General Notes: - No Adds

Clarification Questions: SEE CORRECTONS TO RESPONSES PROVIDED IN ADDENDA NO. 2

Q1 - Are we going with the highest efficiency equipment on the Carriers and the Bards? The equipment schedule provided is not for prop 39 compliance. Do we need to have economizers on the new Bards?

A – Short answer is yes. NO All new HVAC mechanical equipment must meet current Title 24 and CA Green Energy Code Only [not Proposition 39 Highest efficiency] (Prop. 39). Bard Units shall be equipped with economizers.

Q2 – What is the Estimated Project Budget?

A – Estimated Project budget ~~\$65K-\$75K~~ \$150K-\$170K

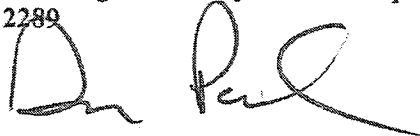
**THIS CLOSSES THE RFI Q & A PERIOD FOR THIS PROJECT
NO FURTHER RESPONSES WILL BE PROVIDED**

Board of Trustees: Abel Gomez • John Friel • Nadine High • George Green • Amy Charter
President Vice-President Clerk Member Member

ADDENDA No. 3
Mechanical HVAC Replacement Project – (2) District Sites
PN 18-01

Please Note: Bidders who “no bid” items understand this is an “All or Nothing Bid.” This bid will be awarded to the lowest responsive responsible bidder.

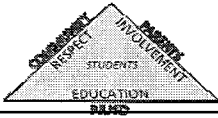
Please confirm receipt of this addendum by date, signature this form and on bid proposal form. Contact the undersigned for any additional questions at e-mail address gparker@pierce.k12.ca.us or by fax to (530)476-2289



George Parker
Capital Projects Manager, Pierce Jt. USD

COOPER DATES AIR CONDITIONING
Company Name
Angela Flooper
Signature 10/17/18
Date

Board of Trustees: Debbie Charter • Amy Charter • Abel Gomez • John Friel • Nadine High
President Vice-President Clerk Member Member



PROJECT BID SUMMARY SHEET

| | | | | | | | | | | | | | |
|--------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|
| BID DATE: | 18-Oct-18 | | | | | | | | | | | | |
| BID TIME: | 2:00:00 PM | | | | | | | | | | | | |
| Project: | Mechanical HVAC Replacement Project (2) Sites | | | | | | | | | | | | |
| School: | Johnson MS & Arbuckle ES | | | | | | | | | | | | |
| Project No: | CUPCAA 18-01 | | | | | | | | | | | | |

BID SUMMARY

| Contractor | Bid Item No. 1 Arbuckle ES Bldg. 300 | Bid Item No. 2 Johnson MS Bldgs. 300, 500 | Owner's Allowance Contingency | Total Base Bid + Allowance | Pre-Bid Walk Attendance (Y/N) | Addenda Noted (3) | Designation of Subcontractors Form | Non- Collusion Affidavit | Change Order Acknowledge Form | Bid Bond | Bid Form | Project Warranty Form | Contractor DIR Registration No. |
|------------------------|---|--|----------------------------------|-------------------------------|-------------------------------------|----------------------|--|--------------------------------|-------------------------------------|-------------|-------------|-----------------------------|------------------------------------|
| Cooper Oates Air Cond. | \$ 145,834.00 | \$ 25,303.00 | \$ 10,000.00 | \$ 181,137.00 | N/A | Y | Y | Y | Y | Y | Y | N/A | Y |
| RB Spencer | NR | NR | | NR | N/A | | | | | | | | |
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BID ANALYSIS NOTES:

Non Mandatory Bid Walk Conducted on 10/5/18 at 11:00 AM (Four Bidders Attended Non-Mandatory)

RB Spencer sent their bid proposal electronically. Their proposal was deleted as it was not sent to the required address and in a sealed envelope (non-responsive)

Estimated Budget for this Project was \$150K-\$170K (DM Budget is set at \$312K)

Bid Opened By _____

Bid Recorded By _____

Evaluators _____

Approved By _____



October 15, 2018

Pierce Joint Unified School District
540-A 6th Street
Arbuckle, CA 95912

Attn: Mr. George Parker, Capital Projects Manager
P: 530-476-2892, x13003
E: gparker@pierce.k12.ca.us

Re: **Proposal for Construction Materials Testing & Special Inspection Services
Arbuckle Elementary School – New Classroom Building
701 Hall Street
Arbuckle, California 95912
Terracon Proposal No. PNB181186**

Dear Mr. Parker:

Terracon Consultants, Inc. (Terracon) appreciates the opportunity to submit this proposal and cost estimate to provide Testing services for the subject project listed above. This proposal outlines our understanding of the scope of services to be performed by Terracon on this project and provides a Cost Estimate for our services.

A. PROJECT INFORMATION

It is our understanding that the Arbuckle Elementary School, increment 2, New Classroom Building will consist of a 11,970 square foot Classroom Building. The building includes ADA compliant restrooms and miscellaneous support spaces. The construction type will be V-B and the occupancy will be educational. Structural systems will be wood framed shear walls with continuous and spread footings. There will be limited site work included in this project as needed to extend the accessible path or travel to the new building and minor site paving. Our preparation of this proposal is based on the following items:

- Review of the DSA AES New Classroom Building Increment 2 Drawings, DSA Application No. 02-116802, File No. 06-18, prepared by CA+SA Studio, Project No. 2018-018.00, dated 10-04-2018.
- Review of the DSA Form 103, DSA Application No. 02-116802, File No. 06-18, Increment 2 dated 10/04/2018 for Increment 1 prepared by Trent Sommers.

Terracon Consultants, Inc.

P (916) 928-4690

50 Goldenland Court, Suite 100

F (916) 928-4697

Sacramento, CA 95834

terracon.com

Environmental



Facilities



Geotechnical



Materials

B. SCOPE OF SERVICES

Terracon will provide construction materials and testing services as needed throughout the project, on an as-requested basis. Our understanding of the required construction materials services for this project is based on information provided. The general services estimated to be provided by Terracon on this project include the following:

- Field Density Testing;
- Sampling, Testing and Tagging of Reinforcing Bars (DSA IR 17-10);
- Periodic Concrete Batch Plant Inspection;
- Concrete placement observation and testing;
- Continuous DSA Structural Masonry Inspections;
- Sampling and Testing of High Strength Bolts, Nuts and Washers (DSA IR 17-8);
- Torque Testing and Inspection of Post-Installed Anchors;
- Structural Welding for both Field and Shop;
- Inspection of Structural Glued-Laminated Timber fabrication (DSA 23-10);
- Laboratory testing of soil, aggregates, reinforcing bars and concrete;
- Project administration, engineering review, and reporting.

Our services will be provided on an as-scheduled basis. Services must be scheduled a minimum 24 hours in advance. These services are provided to give the owner a greater degree of confidence in the work being constructed; however, these services in no way relieve the various contractors from their responsibility for properly constructing work.

Terracon can only provide the services discussed herein when properly scheduled. Our services will be provided only at the specific starting times scheduled by the contractor. Failure on the contractor's part to notify Terracon of the construction activities which require our involvement could jeopardize our ability to provide the necessary materials testing certification upon completion of the project. Testing and observations will only determine compliance with project plans and specifications at the test locations, at the time our services are performed.

Scheduling of Work – Field testing services will be provided on a “call-out” basis when scheduled by your representative. **The contractor has the responsibility to be familiar with the project requirements and to contact Terracon with a minimum 24-hour notice to schedule our services**, although we will attempt to meet requests in a short time frame. Terracon will only provide testing when called by your onsite representative.

Report Distribution – Final signed reports will be made available via Terracon’s Client Document Website (CDW) at <https://client.terracon.com>. If you would like access to the reports as soon as they become available, we will need your designated email address to create an account. If you would like to grant access of reports for this project to third parties of certain or all reports; please inform the project manager with the parties’ full contact information and receipt preferences (recommend CDW, but email or fax is available).

Our policy is to provide you with a copy of our inspection, laboratory and field test results via email as follows:

- Laboratory test result reports within 48 hours of the test completion,
- Inspection reports within 5 days of inspection completion. Generally, we have been able to distribute reports to our clients within a day of inspection service.
- Inspection reports with non-compliance items delivered within 24 hours of inspection completion.

Inspection and laboratory reports are prepared, reviewed, digitally signed and distributed using CMELMS (in house developed proprietary software). This program helps us track and enable us to distribute our inspection and laboratory reports in accordance with the above report distribution time line. The project manager is responsible for distributing the reports on a timely manner.

DSA Interim Verified Reports & Affidavit:

DSA Interim Verified Reports and Final Affidavit will be prepared at the conclusion of the project and submitted and uploaded to DSA Box. An electronic copy will be made available to you at the Client Document Website. A hard copy will also be mailed to you for your records.

C. COMPENSATION

The fee for our services, including all field work, laboratory testing, engineering analyses and report preparation will be based upon the unit costs prepared for this project as shown in the following table. The time required for construction materials testing on the project will be directly related to the schedule and performance of the various contractors on the site and how many trips are made to the site. As a result, total fees for the construction materials services will be based upon the applicable unit rates. Based on these rates, information provided, and noted assumptions, we recommend an allowance of **\$41,655** for the proposed services on this project.

| <u>Service</u> | <u>Hours/Units</u> | | <u>Rate</u> | | <u>Fee</u> |
|--------------------------------|--------------------|---------|-------------|---------|--------------------|
| AC/Soils | | | | | |
| AC/Soil Inspector w/ Nuc Gauge | 24 | hours | \$ 95.00 | /hour | \$ 2,280.00 |
| Footing Inspection | 16 | hours | \$ 95.00 | /hour | \$ 1,520.00 |
| Trip Charge | 10 | each | \$ 70.00 | /each | \$ 700.00 |
| PM/PE Review/Admin Support | 10 | reports | \$ 90.00 | /report | \$ 900.00 |
| Estimated Soils Total | | | | | \$ 5,400.00 |

| | | | | |
|-------------------------------------|-----|---------|------------------|---------------------|
| Glulam Fabrication | | | | |
| Per Diem | 3 | each | \$ 200.00 /each | \$ 600.00 |
| Glulam Fabrication Inspection | 24 | hours | \$ 95.00 /hour | \$ 2,280.00 |
| PM/PE Review/Admin Support | 3 | reports | \$ 90.00 /report | \$ 270.00 |
| Trip Charge (Unknown Shop) | 300 | miles | \$ 0.55 /mile | \$ 165.00 |
| Travel | | hours | \$ - /Cost | \$ - |
| Estimated Glulam Total | | | | \$ 3,315.00 |
| Masonry | | | | |
| Masonry Inspection | 16 | hours | \$ 125.00 /hour | \$ 2,000.00 |
| Trip Charge | 3 | each | \$ 70.00 /each | \$ 210.00 |
| PM/PE Review/Admin Support | 2 | reports | \$ 90.00 /report | \$ 180.00 |
| Cylinder Sample Pickup* | 4 | hours | \$ 95.00 /hour | \$ 380.00 |
| Estimated Masonry Total | | | | \$ 2,770.00 |
| Structural Steel | | | | |
| Certified Field Welding Inspector | 40 | hours | \$ 100.00 /hour | \$ 4,000.00 |
| Certified Shop Welding Inspector | 56 | hours | \$ 100.00 /hour | \$ 5,600.00 |
| Welding Overtime (Travel) | 10 | hours | \$ 150.00 /hour | \$ 1,500.00 |
| Trip Charge (Onsite) | 5 | each | \$ 70.00 /each | \$ 350.00 |
| Trip Charge (Fire Metal Shop) | 7 | each | \$ 225.00 /each | \$ 1,575.00 |
| Per Diem (if req'd) | 0 | each | \$ 200.00 /each | \$ - |
| PM/PE Review/Admin Support | 12 | reports | \$ 90.00 /report | \$ 1,080.00 |
| Estimated SS Total | | | | \$ 14,105.00 |
| Concrete & Reinforcing | | | | |
| Concrete Batch Plant Insp. | 6 | hours | \$ 95.00 /hour | \$ 570.00 |
| Concrete Inspection | 40 | hours | \$ 95.00 /hour | \$ 3,800.00 |
| Reinf. Sampling & Tag | 16 | hours | \$ 95.00 /hour | \$ 1,520.00 |
| Anchor/Epoxy Observation | 12 | hours | \$ 95.00 /hour | \$ 1,140.00 |
| Trip Charge | 19 | each | \$ 70.00 /each | \$ 1,330.00 |
| PM/PE Review/Admin Support | 15 | reports | \$ 90.00 /report | \$ 1,350.00 |
| Cylinder Sample Pickup* | 4 | hours | \$ 95.00 /hour | \$ 380.00 |
| Estimated Conc./Reinf. Total | | | | \$ 10,090.00 |
| Laboratory Services | | | | |
| Compression Test Concrete | 50 | each | \$ 25.00 /each | \$ 1,250.00 |
| Test Veneer Bond Strength | 1 | each | \$ 225.00 /each | \$ 225.00 |
| Proctor Mod Effort 4 in D1557 | 1 | each | \$ 190.00 /each | \$ 190.00 |
| Proctor Mod Effort 6 in D1557 | 2 | each | \$ 200.00 /each | \$ 400.00 |
| Reinf Steel Tens&bend < 6 | 8 | each | \$ 230.00 /each | \$ 1,840.00 |
| Concrete Mix Design | 1 | each | \$ 250.00 /each | \$ 250.00 |
| Estimated Lab Total | | | | \$ 4,155.00 |
| Project Management | | | | |
| Project Manager | 8 | hours | \$ 165.00 hour | \$ 1,320.00 |
| DSA Interim Verified Report | 1 | each | \$ 250.00 /each | \$ 250.00 |
| DSA Affidavit | 1 | each | \$ 250.00 /each | \$ 250.00 |
| Estimated Management Total | | | | \$ 1,820.00 |
| Estimated Increment 2 Total | | | | \$ 41,655.00 |

The scope of services is based upon our understanding of the project from a review of the project plans provided to us, and our experience with similar projects. The total fee could vary depending on the actual construction schedule and number of trips made to the project site. Once a construction schedule is available for our review, we would be happy to revisit the above cost estimate. We have assumed shop fabrication will take place at Fife Metal Fabrication, located in Redding, California.

Work performed in addition to the anticipated items will be billed in accordance with Terracon's standard fee schedule. Requirements relative to invoicing must be provided prior to the start of work so that payments to Terracon can be made in the appropriate time frames discussed below.

Time will be charged in 4 and 8-hour increments with a 4-hour minimum for field inspections and observation and shall be billed from portal to portal. Weekends and holidays will be charged in 4 and 8-hour increments. Overtime and double time, if any, will be applied per California Labor law.

Terracon can only provide the services discussed herein when properly scheduled. Our services will be provided only at the specific starting times scheduled by the contractor. Failure on the contractor's part to notify Terracon of the construction activities which require our involvement could jeopardize our ability to provide the necessary materials testing certification upon completion of the structure.

The following assumptions were used in preparing this proposal:

- Our fees for trips to the site will be charged portal to portal;
- The above rates include CA prevailing wage;
- We have assumed that contractors on the site will work a single shift 5-day per week schedule;
- This project is located approximately 45 miles from our office and laboratory. Average drive time is 45 minutes each way.
- A preliminary construction schedule was not reviewed in the preparation of this proposal. The durations estimated in this proposal are only based on our review of the drawings and provided and should be verified by the construction team;
- An out-of-scope charge of \$95/hour will be applied for all stand-by time and/or time spent on activities which were not cancelled with prior timely notice (within 8 working hours of requested field inspection);
- Staff time, laboratory testing and extra trips required for re-testing and/or re-inspection will be marked on the monthly invoices and be considered out-of-scope items;
- All work performed during weekends and holidays or in excess of 8 hours per day will be billed at 1.5 times the applicable hourly billing rates;
- **Inspection may be scheduled by calling our dispatch line at (209) 263-0593 or sending an email to noa-scheduling@terracon.com (please cc ryan.king@terracon.com as well). This goes to our scheduler who will confirm the inspection. Our scheduler will need the project info/location, type of inspection to**

be performed, start time, duration, and other job-specific information such as special PPE requirements. Inspection requests should be emailed/called in at least 24 hours prior to the inspection or by 12:00pm the day before the inspection is needed, whichever is earlier;

- Terracon's services specifically exclude job site safety responsibility;
- Our services do not relieve any contractor/subcontractor from complying with project plans and specifications; and,
- Invoices for the project will be submitted on a monthly basis.

D. AUTHORIZATION

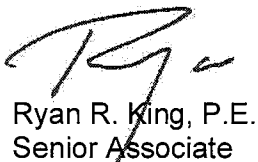
This proposal may be accepted by returning an executed copy of the attached Supplement to Agreement for Services along with this proposal to Terracon Consultants, Inc. You may expedite by emailing it to ryan.king@terracon.com. Please be aware that we will be unable to distribute field and laboratory reports until a signed contract is received. This proposal is valid only if authorized within sixty days from the listed proposal date.

Terracon provides environmental, geotechnical, construction materials testing, and facilities services on a wide variety of projects; locally, regionally and nationally. Increased involvement by Terracon will provide value added to your project; by saving you time and money on our other services, for more detailed information on our services visit our website at www.terracon.com. Please contact me if you would like a separate proposal for additional services.

We appreciate your consideration of Terracon for this work, and look forward to working as your materials engineering consultant on this and future projects.

Sincerely,

Terracon Consultants, Inc.



Ryan R. King, P.E.
Senior Associate



Robert E. Holmer, G.E.
Office Manager

Attached: Supplement to Agreement for Services

SUPPLEMENT TO AGREEMENT FOR SERVICES

CHANGE TO SCOPE OF SERVICES AND FEES

This **SUPPLEMENT to AGREEMENT FOR SERVICES** to the original Agreement for Services (original Agreement dated 05/09/2018, Agreement reference number NB181072) is between Pierce Joint Unified School District ("Client") and Terracon Consultants, Inc. ("Consultant") for additional or changed Services to be provided by Consultant for Client on the Project, as described in the Agreement for Services. This Supplement is incorporated into and part of the Agreement for Services.

- 1. Scope of Services.** The scope of the additional or changed Services are described in the Scope of Services section of the Consultant's Supplemental Proposal, unless Services are otherwise described below or in Exhibit B to this Supplement (which section or exhibit are incorporated into the Supplement).

See Terracon Proposal PNB181186 dated 10/15/2018

- 2. Compensation.** Client shall pay compensation for the additional or changed Services performed at the fees stated in the Supplemental Proposal unless fees are otherwise stated below or in Exhibit C to this Supplement (which section or exhibit are incorporated into the Supplement).

See Terracon Proposal PNB181186 dated 10/15/2018

All terms and conditions of the **Agreement for Services** shall continue in full force and effect. This Supplement is accepted and Consultant is authorized to proceed.

Consultant: Terracon Consultants, Inc.
By:  Date: 10/15/2018
Name/Title: Ryan R. King / Department Manager
Address: 50 Golden Land Ct, Ste 100
Sacramento, CA 95834-2425
Phone: (916) 928-4690 Fax: (916) 928-4697
Email: Ryan.King@terracon.com

Client: Pierce Joint Unified School District
By: _____ Date: _____
Name/Title: George Parker / Capital Projects Manager
Address: 540A 6th Street PO Box 239
Arbuckle, CA 95912
Phone: (530) 476-2892 Fax: _____
Email: gparker@pierce.k12.ca.us

AGREEMENT
FOR
ARCHITECTURAL SERVICES
BETWEEN
PIERCE JOINT UNIFIED SCHOOL DISTRICT
AND
ATI-AC Martin Inc. Dba ATI Architects & Engineers

October 18, 2018

PIERCE JOINT UNIFIED SCHOOL DISTRICT
540A Sixth Street
Arbuckle, California 95912

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**AGREEMENT
FOR
ARCHITECTURAL SERVICES**

This Agreement for Architectural Services (“Agreement”) is between the Pierce Joint Unified School District, a California public school district (the “District”), and **ATI – AC Martin, Inc.** license number CA – C36250, (the “Architect”), with respect to the following recitals:

- A. District proposes to undertake the construction of improvement projects which require the services of a duly qualified and licensed architect.
- B. Architect represents that Architect is licensed to provide architectural/engineering services in the State of California and is specially qualified to provide the services required by the District, specifically the design and construction oversight of public school(s).
- C. The Parties have negotiated the terms under which Architect will provide such services and reduce such terms to writing by this Agreement.

The Parties therefore agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 **Additional Services.** “Additional Services” shall mean those services in addition to the Basic Services that are provided by Architect and authorized in writing by the District, and as further defined in Article 6 below.

1.2 **Agreement.** “Agreement” shall mean this Agreement for Architectural Services.

1.3 **Architect.** “Architect” shall mean **ATI – AC Martin, Inc.**, and its officers, shareholders, owners, partners, employees, agents and authorized representatives.

1.4 **Basic Services.** Architect’s Basic Services consist of the design services, including landscaping architectural services and landscape irrigation design, civil, structural, mechanical, and electrical engineering services, normally required to complete the Project, as further defined in Article 5.

1.5 **Contract Documents.** “Contract Documents” shall mean those documents which are required for the actual construction of the Project, including but not limited to the Agreement between Owner and Contractor, complete working drawings and specifications setting forth in detail sufficient for construction the work to be done and the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system and utility-service-connected equipment and site work.

1.6 **Contractor.** “Contractor” shall mean one or more contractors ultimately selected to perform

work on the Project or any replacement.

1.7 **District.** "District" shall mean Pierce Joint Unified School District, and its governing board members, employees, agents and authorized representatives.

1.8 **Project.** "Project" shall mean the work of improvement described in Article 3 and the construction thereof, including the Architect's services thereon, as described in this Agreement.

1.9 **Project Construction Cost.** "Project Construction Cost" shall mean the estimate of total construction costs to the District as initially submitted by the Architect under this Agreement and accepted by the District, as subsequently revised by changes to the Project Construction Cost under Article 5 of this Agreement, and as subsequently revised at the time the District enters a construction contract to equal the construction contract amount.

1.10 **Wrongful Acts or Omissions.** "Wrongful Acts or Omissions" shall mean Architect's acts or omissions in breach of this Agreement, the applicable standard of care, or law.

ARTICLE 2 RETENTION OF ARCHITECT; STANDARD OF CARE

2.1 District retains Architect to perform, and Architect agrees to provide to District, for the consideration and upon the terms and conditions set forth below, the architectural and engineering services specified in this Agreement and related incidental services. The Architect agrees to perform such services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. All services performed by the Architect under and required by this Agreement shall be performed (a) in compliance with this Agreement, and (b) in a manner consistent with the level of care and skill ordinarily exercised by architects in the same discipline, on similar projects in California with similar complexity and with similar agreements, who are specially qualified to provide the services required by the District; and all such services shall be conducted in conformance to, and compliance with, all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the Americans with Disabilities Act ("ADA"). Architect shall be responsible for the completeness and accuracy of the plans and specifications.

ARTICLE 3 DESCRIPTION OF PROJECT

3.1 The Project concerning which such architectural services shall be provided is described as:

Renovation of Existing School Kitchen and other Ancillary Structures for Arbuckle Elementary School – 701 Hall Street, Arbuckle CA 95912

- A. Program Studies and Design Analysis for determining overall Project Scope per attached proposal letter No. 18-286 describing limited scope of services dated October 11, 2018.
(Exhibit A)

ARTICLE 4 COMPENSATION

4.1 **Basic Services.** For the Basic Services satisfactorily performed under this Agreement, Architect shall be compensated according to its hourly rate schedule (Section 4.8, below). Architect's total compensation for its Basic Services shall not exceed \$15,000 which is Architect's estimate of the maximum total cost of its Basic Services on the Project, based on its October 11, 2018, fee estimate. However, Architect will not be compensated for any Basic Services required as a result of Wrongful Acts or Omissions. Architect acknowledges that the not-to-exceed amount for Basic Services, above, includes contingency compensation in the event that more time and costs than originally anticipated may be necessary to complete the Basic Services.

4.2 **Additional Services.** Architect may invoice separately for Additional Services if provided by Architect under Article 6. However, Architect will not be compensated for any Additional Services required as a result of Wrongful Acts or Omissions.

4.3 **Reimbursable Expenses**

4.3.1 Reimbursable Expenses are those actual out-of-pocket expenses directly incurred as a result of Architect's performance of Basic or Additional Services under this Agreement. Architect may not charge a mark-up on Reimbursable Expenses. Reimbursable Expenses are limited to these expenses related to the Project: Fax, reproduction expense (excluding such expense for reproductions for office use by Architect and its consultants), postage, messenger, transportation, living expenses in connection with out-of-town travel, long distance communications, expense of renderings, models and mock-ups requested by District, expense of publishing under Section 5.6.5, expense of data processing and photographic production techniques when used in connection with Additional Services, and, if authorized in advance by the District, expense of overtime work requiring higher than regular rates. Reimbursable Expenses do not include indirect costs, such as general overhead (for example, home office overhead [including technology hardware and software] or insurance premiums), for which Architect must pay out of its compensation for services under Section 4.1, above; nor do they include expenses incurred in connection with Basic or Additional Services that result from Wrongful Acts or Omissions.

4.3.2 Architect shall be reimbursed by District for its Reimbursable Expenses on the Project. Architect's total reimbursement for Reimbursable Expenses shall not exceed \$1,000, which is Architect's estimate of the maximum total cost of Reimbursable Expenses on the Project.

4.4 For services satisfactorily performed, payment for Basic Services, Additional Services and Reimbursable Expenses shall be made on a monthly basis after receipt and approval by the District of the Architect's properly documented and submitted invoices. To be "properly documented and submitted," an invoice shall be timely, be accompanied by all necessary documentation, list all activities performed, and for each activity performed list the person performing it and the person's rate of compensation. Architect's invoice shall be submitted within ten (10) days of the end of the monthly billing period. Invoices, receipts and other documentation to establish the validity of all Reimbursable Expenses shall be a prerequisite to District payment of such expenses. If District

disputes a portion of a properly submitted invoice, it shall notify Architect of the dispute and, upon Architect's request, arrange for a meeting to confer about, and potentially resolve, the dispute. Prior to this meeting, Architect shall provide all documentation requested to support disputed portions of a properly submitted invoice. Regardless of any such dispute about an invoice or payment, Architect shall continue to provide all services required by this Agreement and law until the end of the Project, even if District and Architect cannot resolve all such disputes. Payments of undisputed portions of a properly submitted invoice shall be made within 60 days of receipt of the invoice; Architect otherwise waives all rights and remedies under law related to receipt of payment of undisputed amounts.

~~4.5 The Architect's compensation shall be paid notwithstanding a Contractor caused delay in completion of the project or reduction of final construction cost by reason of penalties, liquidated damages, or other amounts withheld from the Contractor. However, District may withhold from payments to Architect to the extent that (i) Basic and Additional Services remain to be performed, including but not limited to those required for project closeout and payments to Contractor, and (ii) Wrongful Acts or Omissions caused District to incur damages, losses, liabilities or costs, including but not limited to withholding any amounts for which Architect is responsible under Section 5.7.20. \$_____ will be withheld from any Construction Phase payments until District receives certification of Field Act approval. If the total amount invoiced by Architect reaches the not to exceed Basic Services amount before Architect's Basic Services under this Agreement are complete, Architect must complete the Basic Services without submitting additional invoices, or receiving additional payment, for Basic Services. N/A~~

4.6 Should District cancel the Project under section 12.1 of this Agreement at any time during the performance of this Agreement, Architect shall, upon notice of such cancellation, immediately cease all work under this Agreement. In such event, Architect's total fee for all services performed shall be computed as set forth in Section 12.1.

4.7 District has the right to audit Architect's records and files regarding, or relating to, any of the work performed by Architect for District on this Project during or after the Project. Architect shall keep complete records showing all hours worked and all costs and charges applicable to its work under this Agreement. Architect will be responsible for Architect's consultants keeping similar records. District shall be given reasonable access to Architect's Project related records and files for audit purposes within ten (10) days of receipt of District's request. Architect shall keep and maintain those records and files for ten (10) years.

4.8 Architect's hourly rate schedule for its services attached as *Exhibit B (as per SOQ tab 10 dated August 30, 2018)*.

4.9 Architect shall not accept compensation or other benefits from other persons related to the Project, including payments from manufacturers of construction materials that are specified in the design.

ARTICLE 5
BASIC SERVICES TO BE RENDERED BY ARCHITECT

5.1 General

5.1.1 Architect's Basic Services consist of the design services, including landscaping architectural services and landscape irrigation design, civil, structural, mechanical, and electrical engineering services, normally required to complete the Project. The Basic Services also include the services described in this Article 5, below, including but not limited to bid package preparation, bid handling, preparation and processing of change orders, requests for information, and other contract administration duties. The District shall have the right to add or delete from the Architect's scope of services as it may determine is necessary for the best interests of the Project and/or the District. Architect shall expeditiously and diligently perform all of its work and obligations under this Agreement. Architect may not cease, delay or reduce, or threaten to cease, delay or reduce, its performance based on a payment dispute with District under Section 4.4, above. The Architect acknowledges that its priority is to complete the Project and the Architect's services, and that any payment disputes with the District under Section 4.4, if not resolved during the Project, must wait for resolution after the Project.

5.1.2 The Architect shall review the estimate described more fully below at each phase of Architect's services, also as defined below. If such estimates are in excess of the Project budget, the Architect shall revise the type or quality of construction to come within the budgeted limit.

5.1.3 Whenever the Architect's services include the presentation to the District of Project Construction Cost, the Architect shall include a reasonable amount for contingency costs arising from, among other things, higher bids than anticipated, future increase in construction costs, and change orders based on unforeseen site conditions.

5.1.4 The Architect shall notify the District if there are any indicated adjustments in previously provided Project Construction Cost arising from market fluctuations or approved changes in scope or requirements based upon a mutually agreed upon index.

5.1.5 At the District's request, the Architect and Architect's consultants shall cooperate with District and the District's consultants in verifying that Architect's plans, specifications, studies, drawings, estimates or other documents relating to the Project are constructible and otherwise comply with the Contract Documents. If there are project meetings during the design and construction phases, Architect shall attend those meetings.

5.1.6 The Architect shall investigate existing conditions of facilities and thoroughly account for, and list in the construction documents, any pertinent conditions of such facilities, all in a manner that satisfies the standard of care and level of performance required by this Agreement. Architect's investigation required by this provision shall be limited to non-destructive evaluation.

5.1.7 Architect shall provide a minimum of two (2) full-time employees before construction commences, and one (1) full-time employees after construction commences, to perform its duties and responsibilities under this Agreement. All personnel provided by Architect

shall be qualified to perform the services for which they are provided. Architect shall obtain District's written approval of each employee of Architect who provides services under this Agreement, and written approval of each change of employees who are providing such services. District may, upon five (5) days' written notice, cause Architect to remove a person from the Project if he/she has failed to perform to District's satisfaction. Should additional employees be required to timely perform all of the services required under this Agreement and/or to avoid delay, Architect shall provide them immediately.

5.1.8 Architect is an agent of District and shall reasonably represent the District at all times in relation to the Project.

5.1.9 Architect shall be fully licensed as required by law at all times when providing services under this Agreement.

5.2 Consultants

5.2.1 Architect's Consultants. The Architect shall employ or retain at Architect's own expense, engineers and other consultants necessary to Architect's performance of this Agreement and licensed to practice in their respective professions in the State of California. Engineers and consultants retained or employed by Architect for this Project shall be approved by District prior to their commencement of work. The Architect's consultants shall be employed or retained to provide assistance during all aspects of the Project and will include, in addition to design services: review of schedules, shop drawings, samples, submittals, and requests for information. The Architect's Consultants shall also conduct periodic inspections of the site to determine conformance with the Project design and specifications and shall participate in the final inspections and development of any "punch list" items. Architect must disclose to District all such consultants employed or retained, and the compensation paid to those retained.

5.2.2 District's Consultants. Architect shall confer and cooperate with consultants retained by District as may be requested by District or as reasonably necessary. District may retain a construction manager to assist District in performance of District's duties for the Project.

~~5.2.3 The Architect shall procure a certified survey of the site if required, including grades and lines of streets, alleys, pavements, adjoining properties and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the building site, locations, dimensions and floor elevations of existing buildings, other improvements and trees; and full information as to available utility services and lines, both public and private above and below grade, including inverts and depths. All the information on the survey customarily referenced to a project benchmark shall be referenced to a Project benchmark. The cost of any such survey shall be borne by the District, and the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Architect any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the survey. N/A~~

~~5.2.4 Architect shall procure chemical, mechanical or other tests required for proper design, tests for hazardous materials and borings or test pits necessary for determining subsoil~~

~~conditions. The cost of any such tests shall be borne by the District, and the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Architect any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the testing. N/A~~

~~5.2.5 Architect shall assist the District and its consultants to apply for funding for the Project from the State Allocation Board. Architect shall be responsible for all submittals required of the Architect by the Division of the State Architect ("DSA"), OPSC and California Department of Education in connection therewith. N/A~~

5.3 Schematic Design Phase

5.3.1 The Architect shall review all information concerning the Project delivered or communicated by the District to the Architect to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the District.

5.3.2 The Architect shall provide a preliminary evaluation of the District's Project, schedule and construction budget requirements, each in terms of the other.

5.3.3 The Architect shall review with the District alternative approaches to the design and construction of the Project, and shall include alternatives that may reduce the cost of the Project.

5.3.4 Based on a mutual understanding of the District's budget and scope of work requirements, the Architect shall prepare for the District's governing board's written approval, schematic design documents, which include but are not limited to, schematic design studies, site utilization plans, a description of the Project showing, among other things, the scale and relationship of the components of the Project, preparation of a written estimated statement of Project Construction Cost and a written schedule for the performance of the work that itemizes constraints and critical path issues. The schematic design documents shall represent a 15% complete design. The Project Construction Cost shall be based on current area, volume and other unit costs, shall conform to District's total construction cost budget, and shall include reasonable contingencies for all construction and construction management work. The written schedule shall conform to District's milestone and completion deadline requirements. Nevertheless, Architect is encouraged to make recommendations to District regarding additional benefits that could be realized by increasing the District's total construction cost budget, or by altering the District's completion deadlines. If District incorporates any recommended changes, then Architect shall revise the schematic design documents, including but not limited to the written statement of Project Construction Cost and written schedule for the performance of work, as necessary until District's governing board approves them in writing. Architect shall attend, and present at, as many meetings of the District's governing board as may be necessary to obtain the board's approval of the schematic design documents.

5.3.5 The Architect shall submit to the District a preliminary Project Construction Cost based on current area, volume and other unit costs.

~~5.4—Design Development Phase N/A~~

~~5.4.1—Following District's governing board's written approval of the schematic design documents, including the estimate of Project Construction Cost and schedule, Architect shall provide all necessary architectural and engineering services to prepare design development documents for the District's governing board's written approval, which fix and describe the size and character of the project and which shall include, but are not limited to, site and floor plans, elevations and other approved drawings and shall outline the specifications of the entire Project as to kind and quality of materials, categories of proposed work such as architectural, structural, mechanical and electrical systems, types of structures and all such other work as may be required. During the design development phase, Architect will keep the Project within all budget and scope constraints set by the District. The design development documents shall represent a 50% complete design. The design development documents shall include a revised Project Construction Cost, and a revised construction schedule. The revised Project Construction Cost shall be based on current area, volume and other unit costs. The revised Project Construction Cost shall conform to District's total construction cost budget and shall include reasonable contingencies for all construction and construction management work. The revised construction schedule shall conform to District's milestone and completion deadline requirements. Nevertheless, Architect is encouraged to make recommendations to District regarding additional benefits that could be realized by altering the District's total construction cost budget or completion deadlines. If District incorporates any recommended changes or otherwise does not approve the submitted design development documents, then Architect shall revise the design development documents, including but not limited to the written statement of Project Construction Cost and written schedule for the performance of work, as necessary until District's governing board approves them in writing. Architect shall attend, and present at, as many meetings of the District's governing board as may be necessary to obtain the board's approval of the design development documents.~~

~~5.4.2—The Architect shall assist the District and its consultants in the preparation and/or modification of the Storm Water Pollution Prevention Plan if any such plan is required for this Project.~~

~~5.4.3—Architect shall prepare necessary documents for and oversee the processing of District's application for and obtaining of required approvals from the DSA, the OPSC (if applicable), the Department of Education, the State Fire Marshall and other agencies exercising jurisdiction over the Project. Architect shall also be responsible for the preparation and submission of any required applications, notices or certificates to public agencies as required by law. Architect shall provide a copy of all such documents to the District.~~

~~5.4.4—The Architect shall advise the District of any adjustments to the preliminary Project Construction Cost.~~

~~5.4.5—Architect shall identify areas of construction for which unit pricing shall be required as part of the Contractor's bid.~~

~~5.4.6—Architect shall provide at no expense to the District one complete set of preliminary plans for the review and written approval of the District and one set for each public agency having~~

approval authority over such plans for their review and approval at no expense to the District.

~~5.5 Contract Documents Phase N/A~~

~~5.5.1 Following the District's governing board's written approval of the design development documents, including the Project Construction Cost and construction schedule, the Architect shall prepare Contract Documents for the written approval of District's governing board consisting of 100% complete working drawings and specifications setting forth the work to be done in detail sufficient for construction, including but not limited to the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system and utility service-connected equipment and site work. Architect shall ensure that the drawings and specifications are, among other things, complete, accurate, and coordinated so as to eliminate errors, omissions and conflicts, especially between the work of a (sub)consultant and other (sub)consultants or the Architect; and Architect may not shift its responsibility for completeness, accuracy and coordination to the Contractor, except on a clearly designated design build project. Architect shall also update the construction schedule and the Project Construction Cost for written approval of District's governing board. The Contract Documents shall conform to, comply with, and satisfy all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the Americans with Disabilities Act ("ADA"). As part of the Contract Documents, Architect shall prepare an accurate set of drawings indicating dimensions and locations of existing buried utility lines, which shall be included in the bid packages. If the project is intended to be split into multiple prime contracts, then the Contract Documents shall be structured in order to maximize the ability to create multiple prime bid packages for the Project, and shall identify the bid packages to be created.~~

~~5.5.2 Architect shall consult with, and involve, the District in development of the bid documents and bid package, and shall forward them to the District for written approval prior to their use. If the District is using a multiple prime delivery method for the Project with multiple bid packages, then Architect shall consult with and involve the District in identification and development of the bid documents and bid packages, and shall forward them to the District for written approval prior to their use.~~

~~5.5.3 Prior to submission of the Contract Documents to DSA for plan check, the Architect shall submit the Contract Documents to the District for an opportunity to review them for various issues, including but not limited to constructability, scheduling, general completeness, clarity, consistency, coordination, cost effectiveness, value engineering, identification of possible add/delete bid alternatives, time of construction, and suitability for separation of the Project design, plans and specifications into bid packages for various categories and/or portions of the work. However, such review by District is not required and does not affect Architect's obligations under this Agreement.~~

~~5.5.4 After approval by the District's governing board and any constructability review, the Architect shall submit the Contract Documents to DSA for plan check, and make the necessary corrections to secure DSA approval. At Architect's expense, Architect shall arrange for the scanning of the DSA approved Contract Documents and for the return of the originals and an electronic copy to DSA.~~

~~5.5.5 The Architect shall give the District, at the time of DSA approval of the final form of the Contract Documents, Architect's final estimate of Project Construction Cost and construction schedule, which shall be given final written approval by District's governing board along with the Contract Documents. The revised Project Construction Cost shall be based on current area, volume and other unit costs, and on a mutually acceptable recognized building cost index, and shall include a reasonable contingency. In preparing the revised estimate of Project Construction cost and construction schedule for the Contract Documents, the Architect shall consult with, and involve, the District in the process to maximize accuracy and completeness. If the District is intending to enter multiple prime contracts, the Project Construction Cost shall include separate bid estimates for each bid package, plus a reasonable contingency; and the construction schedule shall reflect that multiple contractors will be performing separate bid packages, including a general conditions bid package. The revised Project Construction Cost estimate shall conform to District's total Project budget, and the revised construction schedule shall conform to District's milestone and completion deadline requirements. Architect shall attend, and present at, as many meetings of the District's governing board as may be necessary to obtain the board's written approval of the Contract Documents.~~

~~5.6 Bidding and Negotiations Phase N/A~~

~~5.6.1 Following DSA's and District's governing board's written approval of Contract Documents, and District's governing board's written acceptance of Architect's final estimate of Project Construction Cost and construction schedule, Architect shall continue to work with the District in finalizing the bid documents and bid package, as described in Section 5.5.2, above. Architect shall reproduce the bid documents and bid package in the number requested by the District and distribute them among interested contractors. Architect shall also assist the District in obtaining bids, and shall assist the District in evaluating contract proposals or bids and substitutions proposed by contractors, and in awarding the bids. All sets of Contract Documents, which does not include those for the use of the Architect or its consultants, requested by the District in excess of [REDACTED] shall be reproduced at District's expense.~~

~~5.6.2 Architect's estimate of Project Construction Cost at the time of DSA approval of the Contract Documents shall be current as of that date. Should bids be received more than ninety (90) days after the date of that Project Construction Cost, the Architect's total construction cost shall be escalated by the cost of construction in the then current mutually agreed upon recognized building cost index.~~

~~5.6.3 Should the lowest responsible and responsive bid received on a bid package exceed Architect's most recent approved estimate of Project Construction Cost for that bid package (or amount adjusted according to the then current mutually agreed upon recognized building cost index) as accepted by District by more than ten percent (10%), Architect shall, on request by District and as part of Architect's Basic Services, make such changes in the plans and specifications as shall be necessary to bring new bids within ten percent (10%) of such Project Construction Cost. In making such changes, Architect will exercise Architect's best judgment in determining the balance between the size of the Project, the type of construction, and the quality of the construction to achieve a satisfactory project within ten percent (10%) of Architect's Project Construction Cost.~~

~~To avoid the potential for bids to exceed the estimate by more than 10% at bid opening, the Architect may, as an alternative, include in the Contract Documents one or more deductive alternatives so that Architect and District may evaluate different means to achieve a satisfactory project within ten percent (10%) of the Architect's Project Construction Cost.~~

~~**{For financial hardship projects, use the following paragraph for 5.6.3 in lieu of the preceding paragraph:}**~~

~~This project is a financial hardship project, and should the lowest responsible and responsive bid received on a bid package exceed Architect's most recent approved estimate of Project Construction Cost for that bid package (or amount adjusted according to the then current mutually agreed upon recognized building cost index) as accepted by District, Architect shall, on request by District and as part of Architect's Basic Services, make such changes in the plans and specifications as shall be necessary to bring new bids that are less than such Project Construction Cost. In making such changes, Architect will exercise Architect's best judgment in determining the balance between the size of the Project, the type of construction, and the quality of the construction to achieve a satisfactory project at less than the Architect's Project Construction Cost. To avoid the potential for bids to exceed the estimate at bid opening, the Architect may, as an alternative, include in the Contract Documents for a bid package one or more deductive alternatives so that Architect and District may evaluate different means to achieve a satisfactory project at less than the Architect's Project Construction Cost.~~

~~5.6.4 — Either on its own or in cooperation with the District, the Architect shall review the qualifications of all bidders for the construction of the Project, and shall make recommendations to the District as to whether, in the Architect's professional opinion, a bidder meets the minimum requirements.~~

~~5.6.5 — If, in the District's discretion, the District will seek total or partial State funding for this Project, the Architect shall, in addition to the above, publish the invitation to bid in the appropriate regional trade papers and publications devoted to Disabled Veteran Business Enterprises. The Architect shall also prepare and submit the appropriate documentation to the OPSC.~~

~~5.7 — Construction Phase N/A~~

~~5.7.1 — The construction phase shall begin on the date stated in the official Notice to Proceed.~~

~~5.7.2 — All instructions to the Contractor shall be forwarded through the Architect unless otherwise directed by the District. The Architect shall advise and consult with the District in the general administration of the Project. The Architect will have authority to act on behalf of the~~

~~District only to the extent provided in the Contract Documents, unless District grants additional authority in writing.~~

~~5.7.3 — The Architect shall timely provide District with copies of all of its correspondence with the Contractor.~~

~~5.7.4 The Architect shall provide prompt and timely direction to the District, Project inspectors and/or Contractor as to the interpretation of Contract Documents. Architect shall respond to all requests for information ("RFI's") from a Contractor within fourteen (14) calendar days of receipt, unless the subject of the RFI is impacting, or may impact, the critical path of the Project and is causing, or may cause, delay, in which case the Architect shall respond as soon as reasonably possible, if not immediately. If the Architect is not able to take action within the time required due to reasons beyond Architect's control, the Architect may take action within a reasonable period of time under the circumstances; however, the Architect shall make such determination within seven (7) calendar days of receipt of the RFI, and shall notify the District and Contractor immediately after such determination with an explanation as to why the Architect cannot take action within the time required, what the Architect is doing to expedite its response, when the Architect expects to be able to issue a response, and what action, if any, should be taken by District or Contractor in the meantime to mitigate delays and/or costs.~~

~~5.7.5 Based on information provided by the Contractor and Architect's own knowledge of the Project (including documents in Architect's possession or reasonably available to it), Architect shall prepare an accurate set of as-built record drawings indicating dimensions and locations of all work, including but not limited to buried utility lines and mechanical, electrical and plumbing layouts, which shall be forwarded to the District upon completion of the Project. While Architect cannot guarantee precise accuracy of such drawings, Architect shall exercise reasonable care in reviewing such drawings to determine their general compliance with the Contract Documents. Architect shall have no responsibility for their conformity to field conditions, except that in the event that the Architect, consistent with standards of due care, becomes aware of non-conformity with field conditions, Architect shall have a duty immediately to notify the District in writing. Architect shall also assemble and deliver to District all written guarantees, instruction books, operation and maintenance manuals, diagrams, charts and other documents required of Contractor.~~

~~5.7.6 The Architect shall be responsible for the preparation and submission of any notifications regarding excavation in areas which are known or suspected to contain subsurface installations under Government Code section 4216, *et seq.* The Architect may delegate this responsibility to a Contractor if such power to delegate was included in the Contract Documents and bid package, but Architect shall remain responsible for supervising such Contractor to ensure performance of this task. Architect shall provide a copy of all such notifications to the District.~~

~~5.7.7 The Architect shall, at all times, have access to the Project wherever it is in preparation and progress. To the extent reasonably possible given Contractor's work in progress, the District shall provide such access so that the Architect may perform its functions under the Agreement and Contract Documents.~~

~~5.7.8 In the discharge of its duties of observation and interpretation, the Architect shall require Contractors to comply with the Contract Documents, and shall guard the District against defects and deficiencies in the work of the Contractor. The Architect shall advise and consult with the District and inspectors concerning the Contractor's compliance with the Contract Documents and shall assist the District and inspectors in securing the Contractor's compliance.~~

~~[Use the following sentence if the District assigns primary responsibility to the Architect for compliance with DSA's Construction Oversight Process]~~

~~Architect has the primary responsibility for the Project to supervise, coordinate and manage the compliance of all parties, including the District's Inspector of Record/Project Inspector ("IOR"), Contractor, any Construction Manager, laboratories, District and Architect itself, with the DSA Construction Oversight Process.~~

~~The Architect must comply with the applicable requirements of the DSA Construction Oversight Process, including but not limited to (a) submitting the inspection card request form (DSA 102-IC), (b) providing a verified report (DSA 6-AE) at the completion of each block and section of each inspection card, and (c) directing and monitoring the IOR and laboratories of record, and (d) coordinating with the Owner, Contractor, any Construction Manager, laboratories, and the IOR to meet the DSA Construction Oversight Process requirements without delay or added costs to the Project.~~

~~The Architect shall be responsible for any additional DSA fees and delay damages related to review of proposed changes to the DSA-approved construction documents, to the extent Architect's negligence, recklessness or willful misconduct caused the additional DSA fees, and for delay damages to the extent required under Section 5.7.20.2 below.~~

~~5.7.9 The Architect shall visit the site, both as the Architect deems necessary and as requested by the District, but under no circumstances less than _____, to maintain familiarity with the quality and progress of the Project, to determine that the Contractor's work substantially complies with all documents, drawings, plans and specifications and that the Project is progressing in substantial accordance with the Contract Documents. Such observations are to be distinguished from the continuous inspection provided by the Project Inspector unless Architect has agreed in writing to serve as the District's Project Inspector.~~

~~5.7.10 The Architect shall notify the District promptly of any significant defect in materials, equipment or workmanship, and of any default by any Contractor in the orderly and timely prosecution of the Project. Architect will exercise reasonable care in the discharge of Architect's obligation to discover significant defects and faults.~~

~~5.7.11 The Architect shall review and approve, take exception to, or take other appropriate action upon all schedules, shop drawings, samples and other submissions of the Contractor to determine general conformance with the Project design and specifications as set forth in the Contract Documents. All such action shall be taken within fourteen (14) days of receipt of the submittals, unless the critical path of the Project is impacted in which case Architect shall take such action as soon as possible. If Architect is not able to take such action within the required time due to reasons beyond Architect's control, the Architect may take action within a reasonable period of time under the circumstances; however, the Architect shall make such determination within four (4) calendar days of receipt of the submission, and shall notify the District and Contractor immediately after such determination with an explanation as to why the Architect cannot take action within the time required, what the Architect is doing to expedite its response, when the Architect expects to be able to issue a response, and what action, if any, should be taken by District~~

~~or Contractor in the meantime to mitigate delays and/or costs. The Architect will have the authority to reject work and materials which do not conform to the Contract Documents. The Architect's approval of a specific item shall not be an approval of an assembly of which the item is a component. Whenever, in the Architect's reasonable judgment, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the work or materials in accordance with the Contract Documents whether or not such work or materials be then fabricated, installed or completed. The Architect will also recommend substitution of materials or equipment when, in the Architect's reasonable judgment, such action is necessary to the accomplishment of the intent and purpose of the Contract Documents. Such actions as are described in this paragraph shall be taken with reasonable promptness.~~

~~5.7.12 Architect shall assist the District in requiring Contractor to provide assistance in the utilization of any equipment or system such as initial start up or testing, adjusting and balancing, preparation of operation and maintenance manuals and training personnel for operation and maintenance.~~

~~5.7.13 The Architect shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions or programs in connection with the work. The Architect shall not be responsible for acts or omissions of the Contractor, subcontractors, or their agents or employees or of any other persons performing portions of the Project not employed or retained by Architect, unless due to Wrongful Acts or Omissions.~~

~~5.7.14 The Architect shall make such regular reports as shall be required by agencies having jurisdiction over the Project and keep the District informed in writing of the progress of the Project.~~

~~5.7.15 The Architect will, consistent with standards of due care, make reasonable professional efforts to exclude hazardous materials from new construction. In the event the District or Architect is or becomes aware of the presence of, or exposure of persons to, asbestos, polychlorinated biphenyl (PCB) or any other toxic or hazardous contaminants, materials, air pollutants or water pollutants at the Project site ("Hazardous Substances"), or the substantial risk thereof, each shall have a duty immediately to notify the other in writing. The parties recognize, however, that neither Architect nor the District is trained or licensed in the recognition or remediation of Hazardous Substances.~~

~~[OPTIONAL PROVISION]~~

~~With respect to asbestos and asbestos-containing materials, the parties acknowledge that the Architect has recommended and the District has agreed to retain a qualified consultant to evaluate the presence of such materials at certain District facilities which are included in the scope of this Agreement. In the event that said consultant recommends a procedure to deal with such materials, said consultant shall have the responsibility to draft specification language for the removal or other remediation of such materials, and subsequently may be required to certify that they have been properly removed or otherwise remediated. Architect shall include consultant's recommendations and specifications in the appropriate design documents for modernization and shall, as part of its Basic Services, provide designs and~~

~~other bid documents consistent therewith.~~

~~When construction is properly completed, Architect shall provide such certification as to Hazardous Substances as is required of architects for such projects by the OPSC.~~

~~5.7.16 Based on the Architect's observations, and an evaluation of each Project Application for Payment, the Architect will estimate the amount of work completed by Contractor, and assist the District in (a) determining the amount owing to the Contractor, and (b) issuing Project Certificates for Payment incorporating such amount, all in accordance with the Contract Documents. The Architect's estimation of the amount of work completed by Contractor shall constitute representations by the Architect to the District that the quality of the completed work is in accordance with the Contract Documents based upon Architect's observations of the completed work, and that the Contractor is entitled to payment for the completed work.~~

~~5.7.17 Notwithstanding anything else in this Agreement, as a part of its Basic Services the Architect shall assist the District in evaluating and responding to claims, disputes and other matters in question between the Contractor and the District, including but not limited to claims made against the District as a result of alleged or claimed Wrongful Acts or Omissions, and shall in all instances provide such truthful testimonial assistance as may be required by the District at no cost to the District. Architect agrees to toll all statutory periods of limitations for District's claims, lawsuits or other proceedings against Architect which arise out of, or are related to, any claims by Contractors against District until Contractors' claims are fully and finally resolved. This tolling period commences upon a Contractor's initial submission of a notice of claim, change order request or claim. At any time, District may terminate the tolling period effective ten (10) days after written notice to Architect, and after such termination, District may pursue claims, lawsuits or other proceedings against Architect.~~

~~5.7.18 The Architect will provide construction advice to the District on apparent deficiencies in construction, both during construction and after acceptance of the Project.~~

~~5.7.19 The Architect shall recommend, prepare and process the necessary change orders. Payment of fees to the Architect as a result of change orders shall be handled as follows:~~

~~5.7.19.1 District initiated change orders. If a change order is initiated by the District, the Architect's fee for services related to such change order shall be paid as an Additional Service under Articles 4 and 6. If a change order is solicited by the District but not subsequently authorized by the District, the Architect shall be paid for time spent on the proposed change order.~~

~~5.7.19.2 Change orders due to Architect. When a change order is necessitated as a result of Wrongful Acts or Omissions, the Architect's services in connection with that change order are not compensable and Architect shall not include those services on any invoice.~~

~~5.7.19.3 Change orders beyond District or Architect control. If a change order is necessitated as a result of changes in law, in field changes required by governing agencies after document approval, unknown, unforeseeable or hidden conditions, or actual conditions inconsistent with available drawings of existing conditions, such change orders shall be handled~~

in the same manner as District initiated change orders.

~~5.7.20 Notwithstanding any other provision of this Agreement, in the event a change order is caused by, or necessitated as a result of, Wrongful Acts or Omissions, or the District otherwise incurs costs or damages as a result of Wrongful Acts or Omissions, the Architect shall be responsible for the following:~~

~~5.7.20.1 In the event of such a change order, Architect shall be responsible for the difference between (a) what the contractor would have added to its original bid for the Project if the Wrongful Act or Omission had not occurred (i.e., the "added value" portion of the change order), and (b) what the contractor charges the District in the change order. The amount of added value of any change order work shall be based on the circumstances of the Architect's Wrongful Act or Omission and the change order work necessitated by the Wrongful Act or Omission. It is the parties' intent that the District should pay no more than what the District would have paid if the Wrongful Act or Omission had not occurred.~~

~~5.7.20.2 In addition, Architect shall be responsible for any other costs or damages which the District incurs as a result of Wrongful Acts or Omissions, including but not limited to any delay damages the District pays to, or cannot collect from, Contractor or any third party.~~

~~The District may backcharge, and withhold payment from, the Architect for these costs and damages, and may seek reimbursement for any amount which exceeds any retention of the contract amount at the time of collection. When District so backcharges and withholds, upon Architect's request District and Architect shall meet and confer in good faith in an effort to reach agreement on (a) whether a Wrongful Act or Omission occurred, (b) whether it caused the change order expense, (c) what damages have been incurred by District, and (d) what portion of the damages are attributable to Architect as described above. If District and Architect do not reach agreement on all four of these items when meeting and conferring, then District and Architect shall use mediation in good faith to resolve the dispute. If mediation fails, then either District or Architect can initiate a court action to resolve the dispute.~~

~~5.7.21 The Architect shall provide a color schedule of all finish materials in the Project for the District's review and approval.~~

~~5.7.22 The Architect shall assist District in determining the date of final completion and make a final detailed on-site review of the job with representatives of the District and the Contractor. Architect shall also perform a warranty review with District 30-60 days before expiration of the specified warranty on the Project.~~

~~5.7.23 The Architect shall assist the District in issuing the final certificate for payment and any other documents required to be recorded by law or generally accepted architectural or construction contract practice upon compliance with the requirements of the Contract Documents, provided that such certification shall not constitute an admission that the Project has been completed in accordance with Contract Documents or in conformance with this Agreement.~~

~~5.7.24 Architect shall make reasonable professional efforts so that the finished project~~

~~complies with all standards imposed by the Americans with Disabilities Act, section 504 of the Rehabilitation Act of 1973, disability access requirements of the State Building Code and any other laws applicable to disability access. If a court, administrative agency or other trier of fact later determines that Architect has violated any of the above referenced laws, or District, because of Wrongful Acts or Omissions, has violated any of the above referenced laws, Architect shall remedy the violation at its own cost. Architect shall indemnify, defend and hold the District harmless under Article 18.1 of this Agreement for any breach of this paragraph arising from, pertaining to, or related to Architect's negligence, recklessness or willful misconduct. The Architect shall not be responsible for acts or omissions of the Contractor or of any other persons performing portions of the Project not employed or retained by Architect, nor shall Architect be responsible for any subsequent changes in the law or any regulation applicable to disabled access or any subsequent differing interpretation of the laws or regulations applicable at the time Architect's design is reviewed by DSA. In the event that the Architect is or becomes aware of possible non-compliance with the foregoing standards, Architect shall have a duty immediately to notify the District in writing of the possible non-compliance.~~

~~5.8 Use of Previously Prepared Materials. In the event that there exist previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Architect, whether supplied by District or by Architect, which are relied upon, altered or otherwise utilized by Architect, Architect shall be responsible for giving appropriate recognition to such other design professionals in any materials prepared by Architect under this Agreement. N/A~~

ARTICLE 6 ADDITIONAL SERVICES TO BE RENDERED BY ARCHITECT

6.1 "Additional Services" shall be provided by Architect if authorized in writing by District. No additional compensation shall be paid to Architect for performing these Additional Services unless the District and the Architect agree in writing as to the amount of compensation for such services prior to such services being rendered. Such compensation shall be paid based on the hourly rates in Section 4.8 and as otherwise set forth in this Agreement. Any work performed by Architect without written authorization OR without written agreement on compensation shall be presumed to be Basic Services.

6.2 The following is a list of services that are not included in the Basic Services to be provided under this Agreement, and will be performed only in accordance with Article 6.1, above:

6.2.1 providing financial feasibility or other special studies;

6.2.2 providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase;

6.2.3 providing coordination of Project performed by separate contractors or by the District's own forces;

6.2.4 providing analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment and labor;

6.2.5 making revisions in drawings, specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the District's approval of Contract Documents or are due to other causes not within the control of the Architect;

6.2.6 providing consultation concerning replacement of any work damaged by fire or other cause during construction of the Project, and furnishing services as may be required in connection with the replacement of such work;

6.2.7 providing services made necessary by the default of the Contractor;

6.2.8 preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding, other than when resulting from Architect's or its consultants' alleged Wrongful Acts or Omissions;

6.2.9 providing services of consultants for other than the normal architectural, civil, soils, structural, mechanical and electrical engineering services for the Project;

6.2.10 at the District's request, selecting moveable furniture, equipment or articles which are not included in the Contract Documents;

6.2.11 providing services related to change orders requested by the District, but which are not subsequently authorized (see second sentence of Section 5.7.19.1), above; and

6.2.12 providing any other services not otherwise included in the Agreement and not customarily furnished in accordance with generally accepted architectural practice.

ARTICLE 7 RESPONSIBILITIES OF DISTRICT

It shall be the duty of District to:

7.1 pay all fees required by any reviewing or licensing agency;

7.2 designate a representative authorized to act as a liaison between the Architect and the District in the administration of this Agreement and the Contract Documents;

7.3 furnish, at the District's expense, the services of a Project Inspector;

7.4 review all documents submitted by the Architect and advise the Architect of decisions thereon within a reasonable time after submission;

- 7.5 issue appropriate orders to Contractors through the Architect;
- 7.6 furnish existing soil investigation or geological hazard reports, which the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Architect;
- 7.7 furnish the services of a hydrologist or other consultants not routinely provided by the Architect when such services are reasonably required by the scope of the Project and are requested by the Architect;
- 7.8 provide asbestos review and abatement, identifying materials which may qualify for same;
- 7.9 furnish available as-built drawings for buildings and utilities systems related to the Project, which the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by the Architect. The District will also provide information regarding programmatic needs and specific equipment selection data;
- 7.10 furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents, which the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by the Architect; and
- 7.11 furnish prompt notice of any fault or defects in the Project or nonconformance with the Contract Documents of which the District becomes aware. However, the District's failure to do so shall not relieve the Architect of Architect's responsibilities under Title 21, Title 24, and the Field Act for this Project and under this Agreement.

ARTICLE 8
PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

- 8.1 Prior to the commencement of services under this Agreement, the Architect shall furnish to the District a certificate of insurance, Additional Insured Endorsement and Declarations Page for the period covered by this Agreement, for public liability and property damage with an insurance carrier satisfactory to the District, under forms satisfactory to the District, to protect the Architect and District against loss from liability imposed for damages (1) on account of bodily or personal injuries, including death, disease and sickness, accidentally suffered or alleged to have been suffered by any person or persons that may be caused directly or indirectly by the performance of this Agreement, and (2) on account of injury to or destruction of property, including the resultant loss of use of the Project or other District facilities or equipment, resulting from acts of commission or omission by the Architect, or otherwise resulting directly or indirectly from the Architect's operations in the performance of this Agreement. The District shall be named as an additional insured on all such policies.
- 8.2 The following insurance shall be maintained by the Architect in full force and effect during the entire period of performance of this Agreement, including any extensions, and shall be written, to the extent reasonably available, on an "occurrence" basis: Commercial general liability insurance shall be in amounts not less than Two Million Dollars (\$2,000,000) general aggregate,

One Million Dollars (\$1,000,000) personal and advertising injury aggregate, with a per occurrence limit of One Million Dollars (\$1,000,000); Automobile liability insurance covering motor vehicles shall be in an amount not less than One Million Dollars (\$1,000,000) combined single limit. If liability insurance is not reasonably available on an occurrence basis, Architect shall provide liability insurance on a claims-made basis.

8.3 Said insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the Declarations Page and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability. Said insurance shall also include a waiver of any subrogation rights as against the District.

8.4 Should any of the required insurance be provided under a claims-made form, Architect shall maintain such coverage continuously throughout the term of this Agreement, and without lapse, for a period of at least ten (10) years beyond the Agreement expiration or the filing of a Notice of Completion (whichever is later), to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies. Nothing herein shall in any way limit or diminish Architect's obligations to the District under any provision, including any duty to indemnify and defend the District.

8.5 The Architect's insurance policies shall contain a provision for thirty (30) days written notice to the District of cancellation or reduction of coverage. The Architect shall name, on any policy of insurance required, the District as an additional insured. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the insurer's liability shall not be reduced by the existence of such other insurance. Architect shall not commence work under this Agreement until all required insurance certificates, declarations pages and additional insured endorsements have been obtained and delivered in duplicate to the District for approval subject to the following requirements. Thereafter Architect shall produce a certified copy of any insurance policy required under this Article upon written request of the District.

8.6 At the time of making application for any extension of time, Architect shall submit evidence that all required insurance will be in effect during the requested additional period of time.

8.7 If the Architect fails to maintain such insurance, the District may, but shall not be required to, take out such insurance to cover any damages of the above-mentioned classes for which the District might be held liable on account of the Architect's failure to pay such damages, and deduct and retain the amount of the premiums from any sums due the Architect under this Agreement.

8.8 Nothing contained in this Agreement shall be construed as limiting, in any way, the extent to which the Architect may be held responsible for the payment of damages resulting from the Architect's operations.

8.9 Each of Architect's consultants shall comply with this Article, and Architect shall include such provisions in its contracts with them.

8.10 Insurance companies providing the above policies shall be legally authorized, licensed and admitted through the California Department of Insurance to engage in the business of furnishing insurance in the State of California. All such insurance companies shall have no lower than an "A-, VIII" in Best's Rating Guide and shall be satisfactory to the District.

8.11 Any failure to maintain any item of the required insurance may, at District's sole option, be sufficient cause for termination of this Agreement.

ARTICLE 9 WORKER'S COMPENSATION INSURANCE

9.1 Prior to the commencement of services under this Agreement, the Architect shall furnish to the District satisfactory proof that the Architect and all engineers, experts, consultants and subcontractors the Architect intends to employ have taken out, for the period covered by this Agreement, workers' compensation insurance with an insurance carrier satisfactory to the District for all persons whom they may employ in carrying out the work contemplated under this Agreement in accordance with the Workers' Compensation Laws of the State of California. All such insurance shall include a waiver of any subrogation rights as against the District. If the Architect employs any engineer, expert, consultant or subcontractor which it did not intend to employ prior to commencement of services, it must furnish such proof of workers' compensation insurance to the District immediately upon employment. Such insurance shall be maintained in full force and effect during the period covered by this Agreement including any extensions of time. If the Architect is self-insured, the Architect shall furnish a Certificate of Permission to Self-Insure and a Certificate of Self-Insurance satisfactory to the District.

9.2 Prior to the commencement of services under this Agreement, the Architect shall furnish to the District satisfactory proof that the Architect and all engineers, experts, consultants and subcontractors the Architect intends to employ have taken out employer's liability insurance with an insurance carrier satisfactory to the District. During the course of Architect's services, if Architect ever intends to employ additional or different engineers, experts, consultants or subcontractors, before so employing them Architect shall furnish such satisfactory proof of insurance to the District. Such insurance shall be maintained in full force and effect during the period covered by this Agreement including any extensions of time. If the Architect is self-insured, the Architect shall furnish a Certificate of Permission to Self-Insure and a Certificate of Self-Insurance satisfactory to the District.

ARTICLE 10 ERRORS AND OMISSIONS INSURANCE

10.1 Prior to the commencement of services under this Agreement, the Architect shall furnish to the District satisfactory proof that the Architect has, for the period covered by this Agreement, errors and omissions insurance on an occurrence basis, with limits of at least Two Million Dollars (\$2,000,000) and with a deductible in an amount not to exceed the sum of Ten Thousand Dollars

(\$10,000). If errors and omissions insurance is not reasonably available on an occurrence basis, Architect shall provide errors and omissions insurance on a claims-made basis.

10.2 Each of Architect's professional sub-consultants (including consultants of Architect's) shall comply with this Article 10, and Architect shall include such provisions in its contracts with them.

10.3 Said insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the Declarations Page and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability.

10.4 Should any of the required insurance be provided under a claims-made form, Architect shall maintain coverage continuously throughout the term of this Agreement, and without lapse, for a period of at least ten (10) years beyond the Agreement expiration or the filing of a Notice of Completion (whichever is later), to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policy. Nothing herein shall in any way limit or diminish Architect's obligations to the District under any provision, including any duty to indemnify and defend the District.

10.5 Architect shall not commence work under this Agreement until all required insurance certificates, declarations pages and additional insured endorsements have been obtained and delivered in duplicate to the District for approval. Thereafter Architect shall produce a certified copy of any insurance policy required under this Article upon written request of the District.

10.6 At the time of making application for any extension of time, Architect shall submit evidence that all required insurance policies will be in effect during the requested additional period of time.

10.7 If the Architect fails to maintain such insurance, the District may, but shall not be required to, take out such insurance, and may deduct and retain the amount of the premiums from any sums due the Architect under this Agreement.

10.8 Nothing contained in this Agreement shall be construed as limiting, in any way, the extent to which the Architect may be held responsible for the payment of damages resulting from the Architect's operations.

10.9 Each of Architect's consultants shall comply with this Article, and Architect shall include such provisions in its contracts with them.

10.10 Insurance companies providing the above policies shall be legally authorized, licensed and admitted through the California Department of Insurance to engage in the business of furnishing insurance in the State of California. All such insurance companies shall have no lower than an "A-, VIII" in Best's Rating Guide and shall be satisfactory to the District.

10.11 Any failure to maintain any item of the required insurance may, at District's sole option, be sufficient cause for termination of this Agreement.

**ARTICLE 11
COMPLIANCE WITH LAWS**

11.1 Architect shall be familiar with, and Architect and Architect's design shall comply with, all State and Federal laws and regulations applicable to the Project or lawfully imposed upon the Project by agencies having jurisdiction over the Project, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, prevailing wage law, and the Americans with Disabilities Act ("ADA").

**ARTICLE 12
TERMINATION OF AGREEMENT**

12.1 **Termination by District** – This Agreement may be terminated, or the Project may be canceled, by the District for the District's convenience and without cause at any time immediately upon written notice to the Architect. In such event, the Architect shall be compensated for (a) all Basic or Additional Services completed, and Reimbursable Expenses incurred, under this Agreement through the date of termination, (b) such Basic or Additional Services performed, and Reimbursable Expenses incurred, after termination which are authorized by the District in writing, and (c) any costs incurred by reason of such termination; but less any amounts the District is entitled to withhold under law or this Agreement. Upon the District's written request and authorization, Architect shall perform any and all Basic and Additional Services necessary to complete the work in progress as of the date of termination.

For any material breach of contract by the Architect, the District may also terminate the Agreement for cause by delivering written Notice of Intent to Terminate to the Architect. Such Notice shall include the following: (1) A description of such material breach, and (2) a date not less than fourteen days (14) after delivery of the notice by which the Architect must cure such breach. In response to such Notice, if the Architect fails to cure, and fails to reasonably commence to cure, the breach(es) by the deadline set by the Notice, then the District may terminate the Agreement through written notice delivered to the Architect, which shall be effective upon such delivery. In such event, the Architect shall be compensated for all services completed under this Agreement through the date of termination, together with compensation for such services performed after termination which are authorized by the District in writing, but less any amounts the District is entitled to withhold under law or this Agreement. Upon the District's written request and authorization, Architect shall perform any and all services necessary to complete the work in progress as of the date of the termination.

12.2 **Termination by Architect** – For any material breach of contract by the District other than one related to a payment or invoice dispute as described in Section 4.4 of this Agreement, the Architect may terminate the Agreement by delivering written Notice of Intent to Terminate to the District. Such Notice shall include the following: (1) A description of such material breach, (2) a date not less than fourteen (14) days after delivery of the notice by which the District must cure such breach or reasonably commence to cure such breach, (3) the status of work completed as of the date of the Notice of Intent to Terminate, and (4) a description and cost estimate of the effort necessary to complete the work in progress. In response to such Notice, if the District fails to cure,

and fails to reasonably commence to cure, the breach by the deadline set by the Notice, then Architect may terminate the Agreement by written notice delivered to the District within ten (10) days of the cure deadline, which shall be effective upon such delivery.

In the event of such termination by Architect, Architect shall be compensated for all Basic and Additional Services completed, and Reimbursable Expenses incurred, under this Agreement through the date of termination, together with compensation for such Basic and Additional Services performed, and Reimbursable Expenses incurred, after termination which are authorized by the District in writing. Upon the District's written request and authorization, Architect shall perform any and all Basic and Additional Services necessary to complete the work in progress as of the date of termination.

12.3 Miscellaneous Termination Provisions

12.3.1 Following the termination of this Agreement for any reason whatsoever, the District shall have the right to utilize any designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared under this Agreement by the Architect, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316. Architect shall promptly make any such documents or materials available to the District upon request without additional compensation.

12.3.2 In the event of the termination of this Agreement for any reason whatsoever, all designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect or any of its agents under this Agreement shall immediately upon request by the District be delivered to the District. Architect may not refuse to provide such writings or materials for any reason whatsoever, including but not limited to a possessory interest lien for any claim the Architect may have against the District or a claim by the Architect to an ownership interest in the intellectual property embodied in the documents or materials.

ARTICLE 13 ARCHITECT AN INDEPENDENT CONTRACTOR

13.1 It is specifically agreed that in the making and performance of this Agreement, the Architect is an independent contractor and is not and shall not be construed to be an officer or employee of the District.

ARTICLE 14
STANDARDIZED MANUFACTURED ITEMS

14.1 The Architect shall consult and cooperate with the District in the use and selection of manufactured items to be used in the Project. Manufactured items, including but not limited to paint, finish hardware, plumbing fixtures and fittings, mechanical equipment, electrical fixtures and equipment, roofing materials, and floor coverings, shall be standardized to the District's criteria so long as the same does not interfere seriously with the building design or cost.

ARTICLE 15
OWNERSHIP OF DOCUMENTS

15.1 All designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect under this Agreement shall be and shall remain the property of the District for all purposes, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to any other project, provided that any invalidity of such ownership in relation to any other project shall not affect the validity of such ownership in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316.

15.2 The Architect will provide the District with a complete set of reproducible designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect under this Agreement, and will retain, on the District's behalf, the original documents or reproducible copies of all such original documents, however stored, in the Architect's files for a period of no less than fifteen (15) years. Architect shall promptly make available to District any original documents it has retained under this Agreement upon request by the District.

ARTICLE 16
LICENSING OF INTELLECTUAL PROPERTY

16.1 This Agreement creates a non-exclusive and perpetual license for the District to copy, use, modify, reuse or sublicense any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates and other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect under this Agreement, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall

not affect the validity of such license in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316. The Architect shall require any and all subcontractors and consultants to agree in writing that the District is granted a similar non-exclusive and perpetual license for the work of such subcontractors or consultants performed under this Agreement.

16.2 The compensation for this Project includes compensation not only for any use in connection with this Project and use or re-use for repair, maintenance, renovation, modernization or other alterations or revisions to this Project, but also for any re-use by the District in relation to other projects. The only other term or condition of such re-use shall be that if the District reuses the plans prepared by the Architect and retains another certified architect or structural engineer for the preparation of those plans for the re-use, the District shall indemnify and hold harmless the Architect and its consultants, agents, and employees from and against any claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from, in whole or in part, the re-use to the extent required by Education Code section 17316, subdivision (c).

16.3 Architect represents and warrants that Architect has the legal right to license any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates or other documents that Architect or its consultants prepares or causes to be prepared under this Agreement. **Architect shall indemnify, defend and hold the District harmless under Article 18.1 of this Agreement for any breach of Article 16 arising from, pertaining to, or related to Architect's negligence, recklessness or willful misconduct.** The Architect makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Architect and provided to Architect by the District.

ARTICLE 17 ACCOUNTING AND OTHER RECORDS OF ARCHITECT

17.1 Architect's records of accounts regarding the Project shall be kept in accordance with generally accepted accounting principles. District has the right to audit Architect's records and files regarding any of the work Architect performed for District on the Project during or after the Project. District shall be given reasonable access to Architect's records and files for audit purposes within ten (10) days of receipt of District's request. Architect shall keep and maintain these records and files for ten (10) years.

ARTICLE 18 INDEMNITY

18.1 **Architect Indemnification.** To the fullest extent permitted by law, including California Civil Code section 2782.8, the Architect shall defend, indemnify, and hold harmless the District, the governing Board of the District, each member of the Board, and their officers,

agents and employees (“District Indemnitees”) against claims arising out of, pertaining to, or relating to negligence, recklessness or willful misconduct of the Architect, the Architect's officers, employees, or consultants in performing or failing to perform any work, services, or functions provided for, referred to, or in any way connected with any work, services, or functions to be performed under this Agreement. Architect’s obligation for the costs of defense of such claims shall be limited to the Architect’s proportionate share of liability, in accordance with California Civil Code section 2782.8. Notwithstanding the foregoing, in the event that one or more defendants named in such a claim is unable to pay its share of defense costs due to bankruptcy or dissolution of the defendant’s business, Architect shall meet and confer with other parties to the claim regarding unpaid defense costs. For purposes of this Article 18.1 only, “claims” means all claims, demands, actions and suits brought by third parties for any and all losses, liabilities, costs, expenses, damages and obligations, and the defense obligation shall include but not be limited to payment of the District’s attorneys’ fees, experts’ fees, and litigation costs incurred in defense of a claim. This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Architect.

18.2 District Indemnification for Use of Third Party Materials. The District shall defend, indemnify, and hold harmless the Architect and its employees against any and all copyright infringement claims by any design professional formerly retained by the District arising out of Architect's completion, use or re-use of that former design professional's designs or contract documents in performing this Agreement. Architect shall be entitled to such indemnification only if each of the following conditions are met: (a) Architect actually re-draws or completes such other designs or contract documents; (b) Architect complies with the provisions of Article 5.8 regarding use of materials prepared by other design professionals; (c) District has supplied Architect with the previously prepared documents or materials; and (d) District expressly requests that the Architect utilize the designs or contract documents in question. By providing this or any other indemnification in this Agreement, District does not waive any immunities.

ARTICLE 19 TIME SCHEDULE

19.1 **Time for Completion.** Time is of the essence of this Agreement. The Architect shall timely complete its Basic and Additional Services as expeditiously as possible and according to the schedule attached as *Exhibit C* to this Agreement.

19.2 **Delays.** The District recognizes that circumstances may occur beyond the control of either the District or the Architect and extensions for such delays may be made to the schedule if approved by the District. Any time during which the Architect is delayed in the Architect's work by acts of District or its employees or those in a direct contractual relationship with District or by acts of nature or other occurrences which were not or could not have been reasonably foreseen and provided for, and which are not due to any Wrongful Acts or Omissions, shall be added to the time for completion of any obligations of the Architect. District shall not be liable for damages to the Architect on account of any such delay.

ARTICLE 20
MISCELLANEOUS PROVISIONS

20.1 This Agreement shall be governed by and construed in accordance with the laws of the State of California excluding its choice of law rules. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County in which the District maintains its district office, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by the District.

20.2 The Architect shall not assign or transfer any or all of its rights, burdens, duties or obligations under this Agreement without the prior written consent of the District.

20.3 All notices, certificates, or other communications hereunder shall be deemed given when personally delivered or mailed by certified mail, postage prepaid, to the parties at the addresses set forth below:

District: Pierce Joint Unified School District
P.O. Box 239
Arbuckle, California 95912
Attention: Daena Meras, Chief Business Official

Architect: ATI Architects & Engineers
3009 Douglas Blvd., Suite 290
Roseville, CA 95661
Attention: G. Michael Goldsworthy, Managing Principal

20.4 This Agreement shall inure to the benefit of and shall be binding upon the Architect and the District and their respective successors and assigns.

20.5 If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

20.6 The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties. No action or failure to act by the District shall constitute a waiver of any right or duty afforded the District under this Agreement, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach under this Agreement, except as may be specifically agreed to in a written amendment to this Agreement.

20.7 Nothing contained in this Agreement shall create a contractual relationship with or cause of action in favor of a third party against either the District or the Architect.

20.8 This Agreement constitutes the entire agreement between the parties, and supersedes any prior agreement or understanding. There are no understandings, agreements, representations or

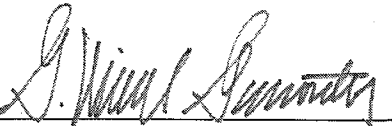
warranties, expressed or implied, not specified in this Agreement. The Architect, by the execution of this Agreement, acknowledges that the Architect has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

20.9 The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's professional materials. The Architect's materials shall not include the District's confidential or proprietary information if the District has previously advised the Architect in writing of the specific information considered by the District to be confidential or proprietary.

20.10 Prior to executing this Agreement, the Architect shall submit a certification if required by Public Contract Code section 3006(b) for roofing projects.

ARCHITECT:
ATI Architects & Engineers

DISTRICT:
PIERCE JOINT UNIFIED SCHOOL
DISTRICT

By: 
G. Michael Goldsworthy

By: 
Daena Meras - Chief Business Official

ATI Architects & Engineers

By: 
Deborah Lesnefska

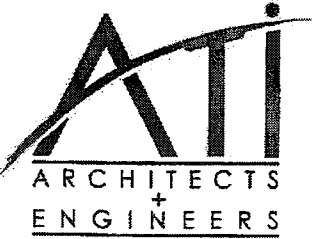


EXHIBIT A

October 11, 2018

Pierce Joint Unified School District
540A 6th Street
Arbuckle, CA 95912

Attention: George Parker
Capital Projects Manager

Subject Arbuckle Elementary School
Design/Programming Phase
Kitchen Renovation Project
ATI Project Proposal No.18-286

Dear George,

ATI is pleased for the opportunity to provide this proposal to provide programming and design studies for your Kitchen Renovation Project at the Arbuckle Elementary School in Arbuckle, CA.

1. Project Overview

The Pierce Joint Unified School District (PJUSD) intends to renovate their existing school kitchen and add a outdoor eating shade structure to the campus at Arbuckle Elementary School.

2. Project Scope of Work.

2.1 Provide programming and design studies to determine the scope of work needed for the Kitchen Renovation and the best location for a Lunch Shelter Structure for the Districts review and approval.

The studies to include but not be limited to the following:

- Re-design the current Kitchen area to better serve the students within the existing space.
- Re-design the current Kitchen with building a expansion toward the existing street to better serve the students.
- Incorporate a delivery area, freezer and refrigerator areas into the renovation studies.
- Review and incorporate toilet facilities for students and staff.
- Review and advise on Accessibility (ADA) issues within the Kitchen, multi-purpose area and site being studied that will need to be brought into code compliance.
- Provide design studies for a new Lunch Shelter Structure.
- Facilitate a pre-application meeting with DSA Sacramento on the approved design studies to get DSA's input on required code compliances for the renovations.

3009 Douglas Blvd. #290
Roseville, CA 95661
T: 916 - 772 - 1800

www.atiae.com

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3. Assumptions and Exclusions

The following assumptions have been made by ATI in developing this proposal. These assumptions are based on our understanding of the project. If any of these assumptions are required for the project, ATI may require additional fees to complete the work.

1. Client to provide As Built Drawings, if available, for verification of the existing site conditions.
2. Proposal does not include upgrades of existing building (s) not being modified.
3. This project will not trigger any additional access up-grades (ADA), Fire Alarm or upgrades and modifications to any other part of the site other than those for the Scope of Work noted.
4. A Topographical Survey is not included.
5. A Geotechnical Engineering Investigation is not included.
6. Hazardous Material Reports are not included.
7. IOR Costs and Special Inspections are not included.
8. Testing and Inspections are not included.
9. ATI assumes all utilities, including electrical power, sanitary sewer, domestic water and gas are existing on site and adequate for the new construction.
10. Once the design studies have been completed and approved by the District and ATI has completed a pre-application meeting with DSA, ATI will provide the fees to complete the Construction Documents, obtain DSA approvals, assist in the bid process and provide Construction Services and Closeout Phases.

4. Schedule

ATI will prepare a schedule of the work upon Authorization to Proceed.

5. Fees

This Scope of Work Fee will be on a fixed labor fee basis in accordance with the PJUSD's Agreement for Architectural Services between PJUSD and the Architect. The fees are as follows:

A fixed fee \$15,000.00

This fixed fee also includes design fees for the Food Services Consultant, AMD Foodservice Design.

Direct Project Costs (Reimbursable Expenses) are to be invoiced per the PJUSD Agreement for Architectural Services in addition to the fixed fee above. These expenses shall not exceed \$1,000.00

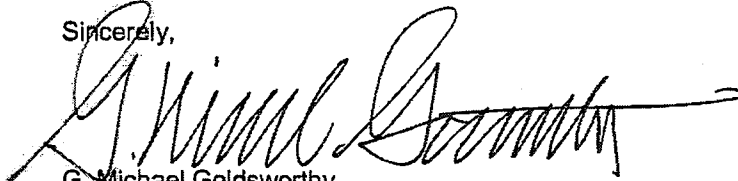
6. Acceptance

Upon receipt of the Notice to Proceed, ATI will start work on the outlined proposed Scope of Work.

Thank you again for the opportunity for ATI to provide this proposal for your Kitchen Renovation Design Project at the Arbuckle Elementary School in Arbuckle, CA.

If you require any additional information or have questions, please do not hesitate to call us.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Michael Goldsworthy". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

G. Michael Goldsworthy
Managing Principal

A History of Innovation

10. PRELIMINARY FEE SCHEDULE PROPOSAL

PROFESSIONAL SERVICES FEES - 2018

ATI's contracts with School Districts are on a negotiated basis. Typically, ATI is compensated for "Basic Services," for each individual project on a fixed labor fee basis for basic services consistent with a modified fee schedule published by the Office of Public School Construction. The modification is to account for the ever increasing demands placed on the design process dictated by DSA changes since this fee schedule was implemented in the early 1990s. Many of these new requirements are not covered by the cost of construction. This is a sliding scale that starts 12% for modernization projects and 9% for new construction projects as shown below.

MODERNIZATION

12% of the first \$500,000
 12% of the next \$500,000
 11% of the next \$1,000,000
 10.5% of the next \$4,000,000
 9.8% of the next \$4,000,000
 9% of the remaining cost

NEW CONSTRUCTION

9% of the first \$500,000
 9% of the next \$500,000
 8% of the next \$1,000,000
 7.5% of the next \$4,000,000
 7% of the next \$4,000,000
 6.5% of the remaining cost

Unless otherwise agreed, fees for professional services are based on the time charged to the project. The fees are based on the rates listed below:

| Classification | Hourly Rate | Classification | Hourly Rate |
|----------------------------|-------------|--|-------------|
| Project Administrator | \$ 75.00 | Engineer/Senior Designer | \$165.00 |
| Technician | \$ 95.00 | Architect/Job Captain | \$170.00 |
| CADD Operator | \$110.00 | Project Manager/Sr. Architect/Sr. Engineer | \$175.00 |
| CADD Supervisor | \$125.00 | Studio Director/Engineering Supervisor | \$185.00 |
| Construction Administrator | \$130.00 | Senior Project Manager/Project Principal | \$200.00 |
| Designer | \$140.00 | Managing Principal | \$225.00 |

Rate Adjustments: The above hourly rates apply to work performed during the 2018 calendar year. Work performed after the end of the 2018 year and for the following five years will be consistent with the rate of inflation.

Reimbursable Expenses: ATI will bill for all normal project related plotting, copies, photos, mileage, tolls, parking, and postage expenses at a rate of cost plus fifteen percent (15%), as well as out of scope items including, but not limited to:

1. Air travel, lodging, and subsistence expenses not included in original scope of work
2. Rental or purchase of materials and equipment obtained by ATI on behalf of the client
3. Subcontracts and Subcontractors
4. Blueprinting and reprographics services for non-standard printing
5. Permitting or other agency fees paid on behalf of the client
6. Other outside expenses incurred for the project on behalf of the client

Exhibit C
PROJECT SCHEDULE

**To be mutually determined by District and
Architect upon execution of agreement.**