

**MASTER ARCHITECTURAL SERVICES AGREEMENT**

**By and Between**

**Perris Union High School District**

**And**

**PJHM Architects**

**November 15, 2017**

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This agreement (“AGREEMENT”) is dated November 15, 2017 and shall become effective on the date it is signed by a representative for each party and ratified by the District’s Board (“Effective Date”). This AGREEMENT is between PERRIS UNION HIGH SCHOOL DISTRICT (“DISTRICT”) and PJHM ARCHITECTS (“ARCHITECT”).

WHEREAS, the DISTRICT selected an architectural firm to provide architectural services pursuant to Government Code section 4525 et seq.;

WHEREAS, the DISTRICT intends to employ ARCHITECT to perform architectural work related to the DISTRICT’s upcoming construction projects (each a “PROJECT”) at the request of DISTRICT;

WHEREAS, this AGREEMENT shall serve as a master agreement to establish and govern the relationship between the parties. The DISTRICT shall award projects by addendum (“ADDENDUM”) to this AGREEMENT. The specific terms for each PROJECT shall be identified and outlined in each ADDENDUM.

WHEREAS, the ARCHITECT represents it is fully licensed to provide architectural services in conformity with the laws of the State of California; and

WHEREAS, the ARCHITECT has represented itself as competent to perform the architectural services described herein and desires to enter into this AGREEMENT with the DISTRICT for the completion of the work in accordance with all applicable laws and regulations, including all applicable DISTRICT policies, and the terms and conditions set forth in this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained in this Agreement, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE I  
ARCHITECT’S SERVICES AND  
RESPONSIBILITIES**

A. This AGREEMENT shall contain the general duties and responsibilities of the parties. ARCHITECT represents that it has the capabilities and skills to complete the architectural services work described herein.

B. The ARCHITECT’s basic services shall consist of those services performed by the ARCHITECT, ARCHITECT’s employees, and ARCHITECT’s consultants, as described in this AGREEMENT.

C. All work under this AGREEMENT shall be performed in a technically sound manner and in accordance with prevailing professional standards applicable to the architectural services proposed herein. In executing this AGREEMENT and providing services, ARCHITECT agrees it will exercise the ordinary care and skill expected in the industry, and that it shall assume overall responsibility for ensuring that the work is completed

in a satisfactory manner and in compliance with all requirements of this Agreement and all applicable federal, state and local laws and regulations, including DISTRICT policies.

D. The schedule may be adjusted as the PROJECT proceeds by mutual written agreement of the parties and shall include allowances for time required for DISTRICT's review and for approval by authorities having jurisdiction over the PROJECT. The time limits established by this schedule shall not, except for reasonable cause, be exceeded by ARCHITECT.

E. ARCHITECT shall prepare schematic design, design development, and construction documents. The construction documents shall be submitted to the Division of the State Architect ("DSA") for review and approval.

F. ARCHITECT and DISTRICT agree that the services required for each PROJECT will be completed for an amount based on fee rates in an ADDENDUM to the AGREEMENT.

## **ARTICLE II SCOPE OF ARCHITECT'S BASIC SERVICES**

A. Description of Basic Services: ARCHITECT's basic services include those described in this Article II, and Article III and include all structural, mechanical, electrical engineering (including low voltage), landscape architecture, on-site civil engineering services and such other services as necessary to produce a complete and accurate set of Construction Documents. The Construction Documents are part of the Contract Documents, which are defined as including, but not limited to, the following: The agreement between DISTRICT and contractor awarded the PROJECT; general and special conditions of the agreement between DISTRICT and contractor; the Construction Documents, and any additional drawings, specifications, addenda, modifications and other documents listed in the agreement between DISTRICT and contractor.

B. Construction Manager: DISTRICT may use a construction manager for a PROJECT. If so, construction manager and the ARCHITECT will work together in a cooperative and professional manner for the orderly and timely completion of the PROJECT, and shall coordinate their activities. If a construction manager is not used, then DISTRICT reserves the right to replace the role of the construction manager throughout this AGREEMENT with another representative.

C. Required Approvals: ARCHITECT shall assist the DISTRICT in obtaining required approvals from governmental agencies responsible for electrical, gas, water, sanitary or storm sewer, telephone, as well as the Office of Public School Construction ("OPSC") and DSA.

D. Utility Review: ARCHITECT shall be responsible for determining the capacity of existing utilities, or for any design or documentation required to make points of connection to existing utility services required for the PROJECT.

E. Planning Surveys: The ARCHITECT shall provide planning surveys, site

evaluations and comparative studies of prospective sites, buildings or locations.

F. Coordination Meetings: ARCHITECT shall attend regular PROJECT coordination meetings between the ARCHITECT, its consultants, the DISTRICT's representative(s), and other consultants of the DISTRICT during PROJECT development.

G. Drawing Revisions: ARCHITECT shall make revisions in Drawings, Specifications, the PROJECT Manual or other documents when such revisions are inconsistent with approvals or instructions previously given by DISTRICT, including revisions made necessary by adjustments in the DISTRICT's program or PROJECT Budget.

H. Programmatic Changes: ARCHITECT shall provide services required due to programmatic changes in the PROJECT, including but not limited to size, quality, complexity, method of project delivery, or negotiating the agreement for construction.

I. Budget and Operating Costs: ARCHITECT shall provide an initial budget for the PROJECT and shall provide periodic updates, as detailed further in this AGREEMENT. ARCHITECT shall provide analyses of DISTRICT ownership and operating costs for the PROJECT.

J. Interior Design: ARCHITECT shall provide interior design and other services required for or in connection with graphics and signage.

K. Material Quality: ARCHITECT shall investigate suppliers, fabricators, and manufacturers' such as for carpet, stone, wood veneers, standard or custom furniture, to review the quality or status of items being produced for the PROJECT.

L. Material Consistency: Cooperate and consult with DISTRICT in the use and selection of manufactured items on the PROJECT, including but not limited to paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials, and floor coverings. All such manufactured items shall be standardized to DISTRICT's criteria to the extent such criteria do not interfere with PROJECT design and are in compliance with the requirements of Public Contract Code section 3400.

M. No Asbestos: ARCHITECT shall certify to the best of its information pursuant to 40 Code of Federal Regulations section 763.99(a)(7), that no asbestos-containing material was specified as a building material in any construction document for the PROJECT and will ensure that contractors provide DISTRICT with certification that all materials used in the construction of any school building are free from any asbestos-containing building materials. ARCHITECT shall include statements in specifications that materials containing asbestos are not to be included. This certification shall be part of the final PROJECT submittal.

N. Maintenance Costs: ARCHITECT shall consider operating or maintenance costs when selecting systems for DISTRICT.

O. Public Presentations and Legal Proceedings: As requested, ARCHITECT shall prepare for and make formal presentations to the governing board of DISTRICT, and attend public hearings, and other public meetings as requested by the DISTRICT. In addition,

ARCHITECT shall attend and assist in legal proceedings that arise from errors or omissions of ARCHITECT.

P. Written Modifications: The duties, responsibilities and limitations of authority of the ARCHITECT shall not be restricted, modified or extended without written agreement between the DISTRICT and ARCHITECT.

Q. Legal Compliance: ARCHITECT shall comply with all federal, state and local laws, rules, regulations and ordinances that are applicable to the PROJECT.

R. Access to Work: ARCHITECT shall have access to the PROJECT at all times.

S. Scope of Services: ARCHITECT's basic services include all services needed for the scope of work, including structural, mechanical and electrical engineering (including low voltage), landscape architecture, civil site engineering services, interior design, lighting and waterproofing. ARCHITECT shall use extra care and expertise in developing solutions related to waterproofing.

T. Master Plan Review: As part of its Basic Services, and as part of its work required to develop a PROJECT budget and development of plans to meet the DISTRICT's needs, the ARCHITECT shall review the DISTRICT's most recently developed master plan and provide input and guidance on the fiscal and temporal feasibility of that plan as well as propose any modifications to that plan to ensure the PROJECT can be completed on time and on budget

U. Pre-Construction: DISTRICT may request that ARCHITECT provide pre-construction architectural services, including but not limited to meeting and conferring with contractors to discuss and clarify plans and specifications.

### **ARTICLE III DESIGN AND ADMINISTRATIVE PHASES**

#### A. Planning and Schematic Design Phase

##### 1. Review of PROJECT Requirements

ARCHITECT shall review the program, schedule, and construction budget furnished by DISTRICT to ascertain the requirements of the PROJECT and shall arrive at a mutual understanding of such requirements with DISTRICT, and at the request of DISTRICT, shall meet with education stakeholders as necessary to discuss and determine programmatic requirements. To commence these tasks ARCHITECT shall, within the first month following execution of ADDENDUM, meet with the District and its representatives to prepare a detailed scope of work list and work plan for documentation in a computer-generated PROJECT schedule.

##### 2. Methods of PROJECT Delivery

The ARCHITECT shall review with DISTRICT proposed site use and improvements;

selection of materials. Methods of PROJECT delivery will be as specified in the ADDENDUM.

3. Specific Considerations

ARCHITECT shall review with the DISTRICT the following specific considerations to be taken into account in the design of the PROJECT:

a. Information Technology Systems: ARCHITECT shall discuss with DISTRICT representatives the manner in which PROJECT may be designed to include information technology systems adequate to meet the needs of both the PROJECT building systems and additional building systems that DISTRICT may add to the PROJECT at a later date.

b. Sustainability/LEED Analysis: ARCHITECT shall be Leadership in Energy and Environmental Design (“LEED”) accredited. ARCHITECT shall discuss with DISTRICT representatives regarding options for PROJECT design that is sustainable or environmentally responsible and resource-efficient, particularly with regards to energy and water. ARCHITECT shall also discuss with the DISTRICT design options which may result in LEED certification for the PROJECT, including options for different levels of LEED certification.

c. Building Maintenance: ARCHITECT shall discuss with DISTRICT representatives the ways in which the PROJECT may be designed so that it is compatible with DISTRICT maintenance resources. As discussed in Section C.9 below, ARCHITECT shall utilize grants and outside funding services and work with DISTRICT to utilize and consider funding from grants and alternative funding services.

d. MS4 System: Where appropriate ARCHITECT shall design a Municipal Separate Storm Sewer System (“MS4”). An MS4 is a system of conveyance used to collect and/or convey storm water, including, without limitation, catch basins, curbs, gutters, ditches, and man-made channels and storm drains.

e. SWPPP: Where appropriate the duties of ARCHITECT shall include the development of a Storm Water Pollution Prevention Plan (“SWPPP”).

f. Existing Conditions: Review and, where possible, visually verify information provided by the DISTRICT, including without limitation surveys, as-built drawings, as-built conditions, subsoil data, chemical, mechanical, and other data logs of borings furnished to ARCHITECT. ARCHITECT shall provide notification of any existing conditions which are observed to differ from documentation provided by the DISTRICT. As to conditions that cannot be visually verified, unless the invasive investigation of such conditions is specifically included within the ARCHITECT’s detailed Scope of Services, the ARCHITECT may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The ARCHITECT shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the DISTRICT and/or the DISTRICT’s other consultants and contractors. If verification of existing conditions is not

possible, then ARCHITECT will notify DISTRICT in writing before proceeding further.

g. Subsurface and Topographical Conditions: Review and, where possible, visually verify the capacity of all existing PROJECT utilities and document the location of existing utility lines, telephone, water, sewage, storm drains and other lines, within the limits of the District on site property. This work may require ARCHITECT to advise DISTRICT to provide a topographical survey for current information. DISTRICT shall, upon request, provide to the ARCHITECT all information available to DISTRICT. As to conditions that cannot be visually verified, unless the invasive investigation of such conditions is specifically included within the ARCHITECT's detailed Scope of Services, the ARCHITECT may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The ARCHITECT shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the DISTRICT and/or the DISTRICT's other consultants and contractors. If verification of conditions is not possible, then ARCHITECT will notify DISTRICT in writing before proceeding further.

#### 4. Alternative Design and Construction

ARCHITECT shall review with DISTRICT alternative approaches to design and construction of the PROJECT.

#### 5. Updating Schematic Documents

At intervals appropriate to the progress of the Schematic Design Phase and mutually agreeable to DISTRICT and ARCHITECT, ARCHITECT shall provide schematic design studies for DISTRICT's review and information.

#### 6. Provide Drawings

Upon completion of the Schematic Design Phase, ARCHITECT shall provide Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of PROJECT components for DISTRICT's approval. These documents shall comply with all applicable laws, statutes, ordinances, codes, rules, and regulations which are applicable to those documents.

#### 7. Budget Requirements

ARCHITECT shall perform schematic design services to keep PROJECT within all budget and scope constraints set by DISTRICT, unless otherwise modified by written authorization by DISTRICT.

### B. Design Development Phase

#### 1. Design Development Documents



Based on the approved Schematic Design Documents and any adjustments authorized by DISTRICT in the program, schedule or construction budget, ARCHITECT shall prepare Design Development Documents for DISTRICT's approval. Such documents shall consist of site and floor plans, elevations, cross-sections, outline specifications, and other documents necessary to depict the design of PROJECT, and shall outline specifications to fix and illustrate the size, character, and quality of the entire PROJECT as to requirements, landscapes, civil, structural, mechanical and electrical systems, materials, and such other essential items as may be appropriate.

2. Updating Drawings

At intervals mutually agreeable to DISTRICT and ARCHITECT, ARCHITECT shall provide drawings and other documents which depict the current status of design development for DISTRICT's review.

3. DISTRICT Approval

Upon completion of the Design Development Phase, ARCHITECT shall provide drawings, outline specifications, and other documents for DISTRICT's approval. ARCHITECT shall review with DISTRICT the selection of building systems and equipment.

4. Cost and Budget

a. ARCHITECT shall revise the initial PROJECT construction budget, as needed, to reflect changes to the PROJECT and to reflect more revised as the drawings are developed.

b. ARCHITECT shall perform design development services to keep PROJECT within all budget and scope constraints set by DISTRICT, unless otherwise modified by written authorization by the DISTRICT.

C. Construction Documents Phase

1. Drawings

ARCHITECT shall prepare and provide to DISTRICT, from the Design Development Documents approved by DISTRICT, Construction Documents consisting of drawings and specifications setting forth, in detail, the requirements for the construction of the entire PROJECT in conformity with all applicable governmental and code requirements and requirements of all governmental agencies having jurisdiction over the PROJECT including OPSC and DSA. This requirement shall be excused when the particular PROJECT includes modernization or re-use of existing designs, when portions of the documents may not be computer generated. The Construction Documents shall show all the work to be done, the materials, workmanship, and finishes required for PROJECT.

2. Design Elements to Prevent Water Intrusion

The parties to the AGREEMENT recognize that the failure of trade contractors to properly seal the buildings against water intrusion is a significant and growing problem in public construction. ARCHITECT shall include specific details in the Construction Documents regarding designs for window, door, roof and any other elements of construction to protect the PROJECT from water intrusion, and shall further fully illustrate and describe all aspects of such construction to include all design components that prevent water intrusion into the completed structure.

3. Fees

DISTRICT shall pay all fees required by such governmental authority as mentioned in Article II, Section C above, and Article III, Section D.2 below. ARCHITECT shall, whenever feasible, establish beforehand the exact costs due to governmental agencies and submit this cost information to DISTRICT so payments may be prepared. ARCHITECT shall not charge a mark-up on costs associated with governmental agency fees when the ARCHITECT pays such fees for the DISTRICT.

4. Drawings to DISTRICT

Upon completion of the Construction Documents Phase, the ARCHITECT shall provide Construction Documents for DISTRICT's approval. After approval by DISTRICT, the ARCHITECT shall reproduce five (5) sets of Construction Documents, which shall be treated as a reimbursable expense. Progress prints for DISTRICT's and its consultant's use shall be at ARCHITECT's expense.

5. Ownership of Documents

a. The plans, specifications, and estimates for the PROJECT shall be and remain the property of DISTRICT, pursuant to Education Code section 17316.

b. In the event DISTRICT completes, modifies, or uses the plans, specifications, studies, drawings, estimates, other documents, or any other works of authorship prepared by ARCHITECT following conclusion of PROJECT or at such other time or circumstance where ARCHITECT is not directly supervising the completion, modification, utilization, and/or application of the aforementioned documents or work, DISTRICT acknowledges that such use shall be at DISTRICT's sole risk and without liability to the ARCHITECT, its employees, and its consultants. DISTRICT agrees to indemnify, defend, and hold harmless ARCHITECT, its employees and consultants, from and against any and all damage, liability or cost, included but not limited to attorney's fees, litigation costs, claims, suits, or any other costs associated with such use.

6. Re-use of Documents

a. In the event DISTRICT ever desires, and it is mutually considered feasible, to erect all or part of another project which would be essentially identical to the PROJECT which is the subject of the AGREEMENT, ARCHITECT agrees to:

(i) Re-use as a separate project its design and the corresponding Construction Documents;

(ii) Prepare with appropriate compensation such modifications as may be dictated by current codes, topography, soils conditions, utility services, existing construction, and similar conditions;

(iii) Perform with appropriate compensation as far as applicable all of the services provided by the AGREEMENT and;

(iv) In the event the DISTRICT re-uses drawings, the ARCHITECT's fees will take into account that no royalty will be paid for the re-used documents, unless ARCHITECT is not retained to provide services for the re-use (in which case, the DISTRICT and ARCHITECT shall negotiate proper compensation for the re-use).

b. ARCHITECT will retain the right to use the design, plans, drawings, and specifications prepared or provided by ARCHITECT, its consultants, or sub-consultants for re-use on other projects for other districts or owners. Such re-use shall not entitle DISTRICT to any notification, payment of any royalty, license fee, or other consideration.

## 7. PROJECT Cost Estimates

ARCHITECT shall establish an estimated PROJECT Construction Cost.

a. "PROJECT Construction Cost" shall mean the estimate of construction costs to DISTRICT as designed or specified by ARCHITECT and accepted by DISTRICT until such time as responses have been received, whereupon it shall be based on:

- (i) The total award from the initial construction contract(s),
- (ii) All costs associated with purchase orders initiated by the Owner, which are specified or designed in the construction documents,
- (iii) Amendments to the contract amount that increase the total construction cost, amount based on the additive item total for each Amendment Item,
- (iv) Change Orders to the contract amount that increase the total construction cost, amount based on the additive item total for each Change Order,
- (v) If additive bid alternates are not selected for construction the Architect will be paid based on the accepted contractors price for the alternate and will be invoiced through bidding services.

- (vi) All general condition costs,
- (vii) The Construction Manager's compensation for services.

b. Any portions of the PROJECT that are deleted or otherwise not constructed, compensation for those portions of the PROJECT shall be payable to the extent services are performed on those portions in accordance with Section IX based on either (1) the lowest bona fide bid or negotiated proposal, or if no such bid or proposal is received, (2) the most recent estimate of construction for such portions of the PROJECT. ARCHITECT shall perform design development services to keep the PROJECT within all budget and scope

constraints set by DISTRICT, unless otherwise modified by written authorization by DISTRICT.

c. When labor or material is furnished by DISTRICT below its market cost, the construction cost shall be based upon current market cost of labor and new material for the purpose of ARCHITECT's fee calculation.

8. Survey Work

All survey and geo-technical studies will be provided by DISTRICT. Architect shall review the completed survey prior to the preparation of construction. Foundation, drainage and compacting requirements shall reflect the analysis provided in the geo-technical reports.

9. Maintenance Costs

ARCHITECT shall consider operating or maintenance costs when selecting systems for DISTRICT. ARCHITECT shall utilize grants and outside funding services and work with DISTRICT to utilize and consider funding from grants and alternative funding services.

10. Modification to Building Design Plans

Following DSA approval of PROJECT documents, ARCHITECT shall modify building designs to incorporate DSA-required revisions.

D. Procurement Phase

1. Assistance in Procurement

ARCHITECT shall have the primary role in the preparation of procurement documents, to the extent they are needed depending on the project delivery method. ARCHITECT shall assist the construction manager and DISTRICT, as needed, in the preparation of the necessary procurement information, forms, the conditions of the agreements, and the forms of agreement between DISTRICT and the contractors including plans, specifications, and a requirement that the contractor provide operation manuals and adequate training to DISTRICT in the operation of mechanical, electrical, heating, air conditioning, and other systems installed by the contractor, all of which shall be part of the procurement documents prepared by ARCHITECT.

ARCHITECT shall have the primary role in the preparation of the PROJECT specifications. ARCHITECT shall assist the construction manager and DISTRICT, as needed, in issuing procurement documents to prospective contractors, conducting conferences with prospective contractors, and responding to questions. ARCHITECT shall assist the construction manager and DISTRICT in obtaining responses and awarding the agreement for the construction of the PROJECT. ARCHITECT shall respond to questions from prospective contractors and shall issue addenda where necessary.

2. Assistance in Filing Required Documents

ARCHITECT shall prepare and file all construction documents required for and obtain the approvals of all governmental agencies having jurisdiction over the PROJECT, including

OPSC, DSA, California Department of Education, the county health department, the local fire marshal, and others which have jurisdiction over PROJECT. DISTRICT shall pay all fees required by such governmental authority. ARCHITECT shall, whenever feasible, establish beforehand the exact costs due to governmental agencies and submit this cost information to DISTRICT so that payments may be prepaid.

3. Deposit of Documents

ARCHITECT shall deposit a reproducible set of Construction Documents and specifications at a reprographics company specified by DISTRICT for the procurement and for printing of additional sets of plans and specifications during PROJECT. In addition, ARCHITECT shall provide DISTRICT with a digital file of the Construction Documents.

4. List of Qualified Engineers

ARCHITECT shall submit the name of the proposed PROJECT engineer for DISTRICT approval. In case DISTRICT chooses to re-use construction documents prepared for another project, this re-use choice includes pre-approval of those consultants involved in preparation of those construction documents. ARCHITECT shall ensure that each engineer places his or her name, seal, and signature on all drawings and specifications prepared by said engineer.

5. Responses Exceeding Costs

If the estimate for the cost of construction is exceeded by the lowest bona fide response by more than seven percent (7%), DISTRICT may require ARCHITECT, without additional compensation, to modify the documents for which ARCHITECT is responsible under this AGREEMENT as necessary to bring new responses within seven percent (7%) of such estimate. Alternatively, DISTRICT may require ARCHITECT to perform one or more of the following tasks at no additional cost to DISTRICT: (1) Prepare, at no additional cost, deductive change packages which bring PROJECT within seven percent (7%) of the estimate; or (2) cooperate in revising the PROJECT scope and quality as required to reduce the construction costs to within seven percent (7%) of the estimate.

E. Construction Phase – Administration of Construction Agreement

1. Start of Services

ARCHITECT's responsibility to provide basic services for the Construction Phase under the AGREEMENT commences with the award of the agreement for construction and terminates at the earlier of the issuance to DISTRICT of the final PROJECT certificate for payment or sixty (60) days after the date of substantial completion of the work.

2. Quality Control Coordination

Prior to commencement of work on the PROJECT, representatives from ARCHITECT, the Inspector of Record, the construction manager, and DISTRICT shall meet to discuss and agree to a written plan for monitoring quality control of construction on PROJECT. The plan shall discuss the quality control and monitoring duties of each member of PROJECT team and

the methods to be used by each member to achieve quality control of the construction on PROJECT. The same PROJECT team member representatives shall meet periodically, no less than once a month, throughout the duration of PROJECT to specifically discuss quality control issues and monitoring activities. Written documentation of the meetings shall be provided to DISTRICT.

3. Administration of Agreement

ARCHITECT shall provide administration of the construction agreement as set forth below and in conformance with general conditions of the construction agreement. ARCHITECT shall reproduce three (3) sets of agreement documents and all progress prints for DISTRICT's and consultant's use of ARCHITECT's expense; the remaining sets are to be provided as reimbursable expenses.

4. Modification of Duties

Duties, responsibilities, and limitations of authority of ARCHITECT shall not be restricted, modified, or extended without written agreement of DISTRICT and ARCHITECT with consent of the contractors, which consent shall not be unreasonably withheld.

5. Technical Assistance to PROJECT Inspector

ARCHITECT shall provide technical direction to a full-time PROJECT Inspector employed by and responsible to DISTRICT as required by applicable law. ARCHITECT shall review and advise in the preparation of a marked set of prints to be prepared by the contractor, indicating dimensioned location of buried utility lines (record drawings) which shall be forwarded to DISTRICT upon completion of PROJECT.

6. Site Visits

ARCHITECT shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by DISTRICT and ARCHITECT in writing to become generally familiar with the progress and quality of the work completed and to determine in general if the work is being performed in a manner indicating that the work when completed will be in accordance with the Construction Documents. In no event shall the site visits be less than once a week unless agreed to by DISTRICT. However, ARCHITECT shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work.

7. Work Quality

On the basis of on-site observations as an architect, the ARCHITECT shall keep DISTRICT informed in writing of the general progress and quality of the work and shall endeavor to guard DISTRICT against defects and deficiencies in the work, including work on the punchlist. ARCHITECT will issue deficient work notices where appropriate. (More extensive site representation may be agreed to as an additional service, as described in Article IV.)

8. Not Responsible for Means of Construction

a. ARCHITECT shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since these are the contractors' responsibility under the construction agreements. ARCHITECT shall not be responsible for the contractors' schedules or failure to carry out the work in accordance with the Construction Documents. ARCHITECT shall not have control over or charge of acts or omissions of the contractors, subcontractors, or their agents or employees, or of any other persons performing services or portions of the work.

b. ARCHITECT, as part of his basic services, shall advise DISTRICT in writing of any observed or known deficiencies in construction prior to acceptance of the work and prior to the expiration of the guarantee period of PROJECT.

9. Access to Work

ARCHITECT shall at all times have access to the work wherever it is in preparation or progress.

10. Coordination Meetings

ARCHITECT shall attend regular PROJECT coordination meetings between ARCHITECT, its consultants, the construction manager, any DISTRICT representative(s), and other consultants of DISTRICT. The weekly construction meetings may serve as coordination meetings.

11. Review and Certification of Applications for Payment

a. Based on ARCHITECT's observations and evaluations of each contractor application for payment, ARCHITECT shall review and certify the amounts due the respective contractors. ARCHITECT's certification for payment shall constitute a representation to DISTRICT, based on ARCHITECT's observations at the site, and on the data comprising the contractors' applications for payment, that, to the best of ARCHITECT's knowledge, information and belief, the work has progressed to the point indicated and the quality of the work is in accordance with the Construction Documents.

b. The foregoing representations are subject to an evaluation of the work for conformance with the Construction Documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the Construction Documents correctable prior to completion and to specific qualifications expressed by ARCHITECT. The issuance of a certificate for payment shall further constitute a representation that the contractor is entitled to payment in the amount certified. However, the issuance of a certificate for payment shall not be a representation that ARCHITECT has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from sub-contractors and materials suppliers and other data requested by the owner to substantiate the contractor's right to payment, or (4) ascertained how or for what purpose the contractor has used money previously paid on account of the agreement sum.

12. Rejection of Work

ARCHITECT shall have authority to reject work which does not conform to the Construction Documents. Whenever ARCHITECT considers it necessary or advisable for implementation of the intent of the Construction Documents, ARCHITECT will have authority, upon written authorization from DISTRICT, to require additional inspection or testing of the work in accordance with the provisions of the Construction Documents, whether or not such work is fabricated, installed, or completed. However, neither this authority of the ARCHITECT nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the ARCHITECT to the contractors, subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the work.

13. Submittals

ARCHITECT shall review and approve or take other appropriate action upon contractor's submittals, such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Construction Documents. ARCHITECT's action shall be taken with such reasonable promptness as to cause no delay in the contractor's work or in construction by DISTRICT's own forces, while allowing sufficient time in ARCHITECT's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of on-site safety or for construction means, methods, techniques, sequences, or procedures nor will ARCHITECT check for proper numbers or dimensions of the submittal. When professional certification of performance characteristics of materials or equipment is required by the Construction Documents, ARCHITECT shall be entitled to rely upon such certification to establish that the materials, systems, or equipment is required by the Construction Documents. Further, review of such submittals is not conducted for substantiating instructions for installation or performance of equipment or systems designed by the contractor. ARCHITECT shall be entitled to rely upon such certification to establish that the materials, systems, or equipment will meet the performance criteria required by the Construction Documents.

14. Change Order Review

a. The construction manager shall provide an initial review of all proposed change orders and provide its recommendation to ARCHITECT, as needed. The construction manager shall also maintain the Change Order log. ARCHITECT shall prepare and sign or take other appropriate action on Change Orders, Change Order Request, and Construction Change Directives prepared for DISTRICT's approval and execution in accordance with the Construction Documents. When the parties have agreed to the Change Order, ARCHITECT may be required to sign off on a Change Order. Both the ARCHITECT and construction manager shall work to provide an expedited resolution of all Change Order Requests.

b. PROJECT Drawings: ARCHITECT shall maintain a Change Order log which shall identify the Change Order by number, the date the request was received,



and the date the response was given. ARCHITECT shall cause the Contractor to prepare a set of reproducible record drawings showing significant changes in the work made during construction based on marked-up prints, drawings, and other data. The cost of revising the drawings or specifications, or for the act of preparing change orders resulting from errors or omissions in the drawings shall not be charged to DISTRICT.

15. Review of Record Documents

ARCHITECT shall, at ARCHITECT's expense, review the record drawings showing significant changes in the work made during construction.

16. Request for Information Processing

ARCHITECT shall review and respond to all Requests for Information ("RFI") in a timely manner, including the preparation of drawings or revisions to drawings as necessary to respond to said requests. ARCHITECT shall work to provide an expedited review of RFIs, with the goal of providing responses within five (5) days of submission. ARCHITECT shall maintain an RFI log, which shall identify the RFI by number, the date the request was received, and the date the response was given.

17. Claim Review

ARCHITECT shall evaluate and render written recommendations, within a reasonable time on all claims, disputes, or other matters at issue between DISTRICT and contractor relating to the execution or progress of the work as provided in the construction agreement. Under no circumstances should this evaluation take longer than twenty (20) calendar days from the date the claim is received by ARCHITECT.

18. Punchlist

ARCHITECT shall prepare the punchlist and, consistent with Article III, Section E.6 above, concerning site visits, determine that the punchlist work performed is in accordance with the construction agreement requirements. ARCHITECT will further review the punchlist for completion.

19. Review of Substitutions

ARCHITECT shall evaluate substitutions proposed by the contractor, with the goal of providing responses to substitution requests within seven (7) days of their submission.

20. Substantial Completion and Final Certificate of Payment

ARCHITECT shall observe PROJECT site to determine the date or dates of substantial completion and the date of final completion. ARCHITECT shall receive and forward to DISTRICT warranties and similar submittals provided by the contractor required by the Construction Documents. ARCHITECT shall review the contractor's final PROJECT certificate for payment upon the contractor's compliance with the requirements of the Construction Documents.

21. Testing of Equipment

ARCHITECT shall require the contractor to provide assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.

22. Interpreting the AGREEMENT

ARCHITECT shall interpret and provide input regarding matters concerning performance of DISTRICT and contractor under the requirements of the Construction Documents on written request of either DISTRICT or contractor. ARCHITECT's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

23. Requirements for Interpretation and Decisions

Interpretations and decisions of ARCHITECT shall be consistent with the intent of and reasonably inferable from the Construction Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, ARCHITECT shall endeavor to secure faithful performance by both DISTRICT and contractors, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.

24. Decisions in Writing

ARCHITECT shall render written decisions within a reasonable time on all claims, disputes, or other matters in question between DISTRICT and contractors relating to the execution or progress of the work as provided in the Construction Documents.

25. PROJECT Closeout

ARCHITECT shall be responsible for gathering information and assisting DISTRICT in processing forms required by applicable governing authorities, such as OPSC and DSA, in a timely manner and to ensure proper PROJECT closeout. These duties shall include:

a. In connection with determining the date of Substantial Completion, the ARCHITECT shall conduct inspections as required to determine when the contractor has substantially completed the PROJECT and shall prepare punch lists of items that remain in need of correction or completion.

b. ARCHITECT shall collect from the contractor, review, and forward to DISTRICT all written warranties, operation manuals, spare parts, and subcontractor waivers.

c. ARCHITECT shall prepare or collect, as applicable and provide to DSA, all reports required by DSA on PROJECT, including the final verified report.

d. ARCHITECT shall obtain all required DSA approval on all change orders and addenda to the contractor's contract. Final closeout and certification of PROJECT shall be a condition precedent to ARCHITECT receiving final payment on PROJECT.

e. ARCHITECT shall review and confirm a set of as-built drawings for the PROJECT.

26. Delivery of Final Documents

Upon completion of PROJECT, ARCHITECT shall deliver to DISTRICT one (1) set of reproducible drawings showing PROJECT record upon issuance of ARCHITECT'S certificate of completion, with the location of underground sewer water and all utility connections and services specially noted.

**ARTICLE IV  
ARCHITECT'S ADDITIONAL SERVICES**

ARCHITECT shall notify DISTRICT in writing of any need for additional services required. ARCHITECT shall obtain written authorization from DISTRICT before rendering such services if ARCHITECT intends to request additional compensation. Compensation for such services shall be subject to advance approval in writing by DISTRICT and will be at the rates in the ADDENDUM. Such services may include:

a. Making material revisions in drawings, specifications, or other documents when such revisions are required by the enactment or revision of laws, rules, or regulations subsequent to the preparation and completion of such documents.

b. Providing consultation concerning replacement of work damaged by fire and furnishing services required in connection with the replacement of such work.

c. Providing services made necessary by the default of the contractor, by major defect or deficiencies in the work of the contractor, or by significant failure of performance by the contractor, when the need for the services does not arise directly from negligent, errors, or omissions of ARCHITECT.

d. Providing administration services after the construction agreement time has been materially exceeded through no fault of ARCHITECT. ARCHITECT's compensation is expressly conditioned on the lack of fault of ARCHITECT.

e. In the event DISTRICT elects to re-use designs, plans, specifications, estimates, or other documents prepared for another district, the services in connection with making significant revisions or changes to aforementioned materials to suit DISTRICT.

f. Preparing drawings and specifications associates with PROJECT alternates, where the alternates are of an unusual number of amount, given the size of PROJECT.

g. Providing services relative to future facilities, systems and equipment.

h. Providing services required for or in connection with the selection, procurement, or installation of furniture, furnishings, and related equipment not included in the construction agreement.

## **ARTICLE V DISTRICT'S RESPONSIBILITIES**

A. DISTRICT shall provide to ARCHITECT information regarding requirements for PROJECT, including information regarding DISTRICT's site, program, objectives, constraints, criteria, educational program, realistic budgets and schedules.

B. DISTRICT shall interact with ARCHITECT and name a representative authorized to act on its behalf. DISTRICT shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of PROJECT.

C. DISTRICT shall furnish all inspection services.

D. DISTRICT shall furnish all legal advice and services required for PROJECT, except for those services representing ARCHITECT.

E. DISTRICT shall give prompt written notice to ARCHITECT if DISTRICT becomes aware of any fault or defect in PROJECT or non-conformance with the Construction Documents. However, DISTRICT's failure or omission to do so shall not relieve ARCHITECT of ARCHITECT's responsibilities under this AGREEMENT, Title 21 and Title 24 of California Code of Regulations, or the Field Act. DISTRICT shall have no duty to observe, inspect, or investigate PROJECT.

DISTRICT shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of PROJECT, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements, and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade.

F. DISTRICT shall furnish the services of geotechnical engineers when such services are reasonably requested by ARCHITECT. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional

recommendations.

G. DISTRICT shall furnish structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections, and reports required by law of the Construction Documents.

H. Any auditing services the owner may require to verify the contractor's application for payment or to ascertain how or for what purposes the contractor has used the money paid by or on behalf of DISTRICT.

I. The services, information, surveys, and reports required by the AGREEMENT shall be furnished at DISTRICT's expense, and ARCHITECT shall be entitled to rely upon the accuracy and completeness thereof.

J. ARCHITECT shall prepare and DISTRICT shall approve a current, overall budget for PROJECT, including the construction costs for PROJECT.

## **ARTICLE VI TERMINATION**

### A. Written Notice of Termination

AGREEMENT may be terminated by either party upon fourteen (14) days written notice to the other party in the event of a material failure of performance by such other party, including insolvency of ARCHITECT, or if DISTRICT should decide to abandon or indefinitely postpone a PROJECT.

### B. Abandonment of Work by DISTRICT

In the event of a termination based upon abandonment or postponement by DISTRICT, DISTRICT shall pay to ARCHITECT for all services performed and all expenses incurred under the AGREEMENT supported by documentary evidence, including payroll records, and expense reports up until the date of the abandonment or postponement plus any sums due ARCHITECT for governing board approved extra services. In ascertaining the services actually rendered hereunder up to the date of termination of the AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents whether delivered to DISTRICT or in the possession of ARCHITECT. In the event termination is for a substantial failure of performance, all damages and costs associated with the termination, including increased consultant and replacement architect costs may be sought from ARCHITECT.

### C. Terminate Without Cause During Work on PROJECT

The AGREEMENT may be terminated, either for a particular PROJECT or in whole, without cause by DISTRICT during work on a PROJECT upon fourteen (14) days written notice to ARCHITECT. In the event of a termination without cause, DISTRICT shall pay to ARCHITECT for all services satisfactorily performed and all expenses incurred under the AGREEMENT reasonably supported by documentary evidence, including payroll records, and

expense reports up until the date of notice of termination plus any sums due ARCHITECT for governing board approved extra services. In ascertaining the services actually rendered hereunder up to the date of termination of the AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents whether delivered to DISTRICT or in the possession of ARCHITECT.

**D. Work During Dispute**

In the event of a dispute between the parties as to performance of the work or the interpretation of the AGREEMENT, or payment or non-payment for work performed or not performed, the parties shall attempt to resolve the dispute and as to payment, shall make every reasonable effort to resolve the dispute expeditiously. Payment disputes shall be subject to mediation, and the mediation shall be held no later than sixty (60) days after the funds are withheld by DISTRICT, unless both parties agree otherwise. Pending resolution of this dispute, ARCHITECT agrees to continue the work diligently to completion so long as the DISTRICT continues to pay the ARCHITECT for all undisputed amounts. If the dispute is not resolved, ARCHITECT agrees it will neither rescind the AGREEMENT nor stop the progress of the work, but ARCHITECT's sole remedy shall be to submit such controversy to determination by a court having competent jurisdiction of the dispute, after the PROJECT has been completed, and not before.

**ARTICLE VII  
MEDIATION**

A. Prior to commencing any action against the other, DISTRICT and ARCHITECT shall endeavor to resolve claims, disputes, and other matters in question between them by mediation.

B. The parties shall share the mediator's fee and any filing fees equally.

**ARTICLE VIII  
ACCOUNTING RECORDS OF THE ARCHITECT**

Records of ARCHITECT's direct personnel and reimbursable expense pertaining to the extra services of PROJECT and records of accounts between DISTRICT and contractor shall be kept on a generally recognized accounting basis and shall be available to DISTRICT or his authorized representative at mutually convenient times.

**ARTICLE IX  
COMPENSATION TO THE ARCHITECT**

A. DISTRICT shall compensate ARCHITECT as follows for each PROJECT based on the estimated ARCHITECT fee set forth in the applicable ADDENDUM:

Schematic Design (100% Completion):                      15% of estimated ARCHITECT fee

<u>Design Development (100% Completion):</u>	15% of estimated ARCHITECT fee
<u>Construction Documents (90% Completion):</u>	40% of estimated ARCHITECT fee, to be paid monthly based on actual level of completion
<u>DSA Approval of Construction Drawings:</u>	5% of estimated ARCHITECT fee
<u>Procurement Phase:</u>	5% of estimated ARCHITECT fee, when procurement is completed
<u>Construction Administration:</u>	20% of estimated ARCHITECT fee, to be paid as follows:
	Construction 25% complete: 4%
	Construction 50% complete: 4%
	Construction 75% complete: 5%
	Construction 100% complete: 5%
	Submittal of final records: 2%

B. When ARCHITECT’s fee is based on a percentage of construction cost and any portions of the PROJECT are deleted or otherwise not constructed, compensation for those portions of the PROJECT shall be payable to the extent actual services are performed.

C. To the extent that the time initially established for the completion of ARCHITECT’s services is exceeded or extended through no fault of ARCHITECT, compensation for any services rendered during the additional period of time shall be computed as follows: negotiated and not to exceed state fee guidelines prior to approval by DISTRICT’s governing board.

D. Prior to the time the notice to proceed is issued to the contractor, ARCHITECT shall prepare an estimate for ARCHITECT’s anticipated expenses on PROJECT. The parties recognize that this figure may be subject to adjustment as work proceeds. In the event the ARCHITECT exceeds this budget, ARCHITECT shall notify DISTRICT and both parties will agree upon a reasonable adjustment.

**ARTICLE X  
REIMBURSABLE EXPENSES**

A. Reimbursable expenses are in addition to compensation for basic and additional services and shall be paid to the ARCHITECT at ARCHITECT’S actual cost, at rates provided in the applicable ADDENDUM, for:

1. Approved reproduction of drawings and specifications in excess of the copies provided by the AGREEMENT, which includes sets of construction documents and all progress prints.

2. Fees advanced for securing approval of authorities having jurisdiction over PROJECT.

3. Items authorized in advance by DISTRICT, such as the expense of models, renderings, photographs, etc.

B. Reimbursable expenses for each PROJECT will be estimated in the applicable ADDENDUM, and this amount shall not be exceeded without the prior written approval of DISTRICT.

C. Reimbursement for fees and other expenses, except for construction administration services associated with delay caused solely by the contractor, shall be made to ARCHITECT as incurred.

D. Reimbursable expenses shall not include:

- a. Check prints;
- b. Prints of plans or specifications made for ARCHITECT's consultants and two copies of progress prints supplied to DISTRICT;
- c. Preliminary plans and specifications, unless said submittal is required.
- d. Meetings with state planning officials, local or state fire departments, the DSA, State Allocation Board, or other public agencies having jurisdiction;
- e. Business class travel or luxury lodgings;
- f. ARCHITECT's consultants' reimbursables, unless incurred for required submittals; and
- g. Models or mark-ups.

## **ARTICLE XI EMPLOYEES AND CONSULTANTS**

A. ARCHITECT, as part of the basic professional services, shall furnish at its expense the services of landscape architects, structural, mechanical, electrical, and on-site civil engineers. While ARCHITECT is not generally responsible for designing off-site improvements, such as those relating to public streets, ARCHITECT must reasonably prepare and coordinate its designs to accommodate anticipated off-site improvements.

B. ARCHITECT shall submit, for written approval by DISTRICT, the names of the consultant firms proposed for PROJECT. Nothing in the AGREEMENT shall create any contractual relation between DISTRICT and any consultants employed by ARCHITECT under the AGREEMENT.

C. ARCHITECT's consultants shall be licensed to practice in California and have



relevant experience with California school design and construction during the last five (5) years. If any employee or consultant of ARCHITECT is not acceptable to DISTRICT, then that individual shall be replaced with an acceptable competent person at DISTRICT's request.

D. The representative assigned to the PROJECT by ARCHITECT shall be a licensed California architect and be able to make critical PROJECT decisions in a timely manner and shall be readily available and provide by phone, facsimile, and through correspondence, design direction and decisions when not at the site.

## **ARTICLE XII MISCELLANEOUS**

### **A. Indemnification**

To the fullest extent permitted by law, ARCHITECT agrees to indemnify, defend, and hold DISTRICT entirely harmless from all liability arising out of:

1. Any and all claims under workers' compensation acts and other employee benefit acts with respect to ARCHITECT's employees or ARCHITECT's subcontractor's employees arising out of ARCHITECT's work under the AGREEMENT.

2. With respect to claims not involving the ARCHITECT's professional services, liability for damages for (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law; or (4) any other loss, damage, or expense arising under either (1), (2), or (3) above, sustained by ARCHITECT or DISTRICT, or any person, firm or corporation employed by ARCHITECT or DISTRICT upon or in connection with PROJECT, except to the extent the damages arose from the negligence of DISTRICT.

3. With respect to claims involving the ARCHITECT's professional services, any loss, injury to or death to persons or damage to property caused by any negligence, recklessness, or willful misconduct of ARCHITECT or any person, firm or corporation employed by ARCHITECT, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation including DISTRICT, arising out of or in any way connected with PROJECT, including injury or damage either on or off DISTRICT property; but not for any loss, injury, death or damages caused by the active negligence of DISTRICT.

4. With respect to claims involving ARCHITECT's professional services, ARCHITECT shall not have an upfront duty to defend but shall reimburse reasonably incurred defense fees and costs to the extent determined to have been caused by the negligence, recklessness, or willful misconduct of ARCHITECT, its employees or subconsultants or as the parties otherwise agree in settlement. With respect to claims not involving ARCHITECT's professional services, with counsel acceptable to DISTRICT, ARCHITECT, at its own expense, cost, and risk, shall defend any claims, actions, suits, or other proceedings that may be brought or instituted against the DISTRICT, its officers, agents or employees, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its

officers, agents, or employees in any action, suit or other proceedings due to the negligence of the Architect.

B. State Allocation Board

If requested, ARCHITECT shall assist DISTRICT and its consultants to apply for funding or reimbursement for the PROJECT from the State Allocation Board; and ARCHITECT may be responsible for preparation, form, submittal, monitoring, or tracking of funding applications prepared by the DISTRICT. ARCHITECT shall be responsible for related submittals required of the ARCHITECT to the DSA, OPSC, and California Department of Education.

C. Maintaining Insurance

ARCHITECT shall purchase and maintain policies of insurance with an insurer or insurers, qualified to do business in the State of California and acceptable to DISTRICT which (acceptance will not be unreasonably withheld) will protect ARCHITECT and DISTRICT from claims which may arise out of or result from ARCHITECT's actions or inactions relating to the AGREEMENT, whether such actions or inactions be by themselves or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

1. ARCHITECT shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California. However, such amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).
2. General Liability (including operations, products and completed operations, as applicable): \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If commercial general liability insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to each PROJECT or the general aggregate limit shall be twice the required occurrence limit.
3. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage. Workers Compensation: As required by the State of California.
4. Professional liability insurance, including contractual liability, with limits of ONE MILLION DOLLARS (\$1,000,000) per claim and TWO MILLION DOLLARS (\$2,000,000) in the aggregate. Such insurance shall be maintained during the term of the AGREEMENT and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the rates current at the time of execution of this AGREEMENT adjusted for inflation. Failure to maintain professional liability insurance is a material breach of the AGREEMENT and grounds for immediate termination.

D. DISTRICT as Additional Insured

Each policy of insurance required in Section C above (except for Workers Compensation and Professional Liability Insurance), shall name DISTRICT and its officers, agents, and employees as additional insureds. Each policy of insurance shall state that, with respect to the

operations of ARCHITECT, such policy is primary and any insurance carried by DISTRICT is excess and non-contributory with such primary insurance. Each policy of insurance required above, shall state that not less than thirty (30) days' written notice shall be given to DISTRICT prior to cancellation (except only ten days written notice for cancellation due to nonpayment of premium); and, shall waive all rights of subrogation. ARCHITECT shall notify DISTRICT in the event of material change in, or failure to renew, each policy. Prior to commencing work, ARCHITECT shall deliver to DISTRICT certificates of insurance as evidence of compliance with the requirements herein. In the event ARCHITECT fails to secure or maintain any policy of insurance required hereby, DISTRICT may, at its sole discretion, secure such policy of insurance in the name of and for the account of ARCHITECT, and in such event ARCHITECT shall reimburse DISTRICT upon demand for the cost thereof.

E. Insurance for Subcontractors

In the event that ARCHITECT subcontracts any portion of ARCHITECT's duties, ARCHITECT shall require any such subcontractor to purchase and maintain insurance coverage for the types of insurance referenced in Section C, above, in amounts which are appropriate with respect to that subcontractor's part of work which shall in no event be less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) per claim or occurrence.

F. Lack of Insurance Is Material Breach

Failure to maintain professional liability insurance is a material breach of the AGREEMENT and grounds for immediate termination.

G. Valuable Document Insurance

ARCHITECT shall carry adequate insurance on all drawings and specifications as may be required to protect DISTRICT in the amount of its full equity in those drawings and specifications and shall file with DISTRICT a certificate of that insurance. The cost of that insurance shall be paid by ARCHITECT, and DISTRICT shall be named as an additional insured.

H. ARCHITECT Is Independent Contractor

ARCHITECT, in the performance of the AGREEMENT, shall be and act as an independent contractor. ARCHITECT understands and agrees that ARCHITECT and all of ARCHITECT's employees shall not be considered officers, employees, or agents of DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of DISTRICT or to which DISTRICT's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. ARCHITECT assumes the full responsibility for the acts and/or omissions of ARCHITECT's employees or agents as they relate to the services to be provided under this AGREEMENT. ARCHITECT shall assume full responsibility for payment of all federal, state, and local taxes or contributions, including unemployment insurance, social security, and income taxes for the respective ARCHITECT's employees.

I. Nothing contained in the AGREEMENT shall create a contractual relationship

with or a cause of action in favor of any third party against either DISTRICT or ARCHITECT.

J. DISTRICT and ARCHITECT, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other party to the AGREEMENT with respect to the terms of the AGREEMENT. ARCHITECT shall not assign the AGREEMENT.

K. The AGREEMENT shall be governed by the laws of the State of California.

L. ARCHITECT shall make a written record of all meetings, conferences, discussions, and decisions made between or among the DISTRICT, ARCHITECT, and contractor during all phases of the PROJECT and concerning any material condition in the requirements, scope, performance, and/or sequence of the work. ARCHITECT shall provide a copy of such record to DISTRICT.

M. The AGREEMENT represents the entire agreement between DISTRICT and ARCHITECT and supersedes all prior negotiations, representations or agreements, either written or oral. The AGREEMENT may be amended or modified only by an agreement or addendum in writing signed by both DISTRICT and ARCHITECT. The AGREEMENT may be executed in counterpart and with copies of signatures.

N. All notices under the AGREEMENT shall be in writing and shall be given by email or U.S. mail to the addresses listed below. Email shall be documented by the sending party with sent receipts and will be deemed received on the date of transmission. Transmissions by U.S. mail shall be deemed to have been received forty-eight (48) hours after deposit in the U.S. mail in registered or certified form with postage fully prepaid.

**If to the DISTRICT: Perris Union High School District  
Attn: Hector Gonzalez  
155 E. 4<sup>th</sup> Street  
Perris, CA 92570  
Phone: (951) 943-6369  
Email: hector.gonzalez@puhsd.org**

**If to the ARCHITECT: PJHM Architects  
Attn: Tom Kruse  
24462 Ridge Route Drive #100  
Laguna Niguel, CA 92054  
Phone: (949) 496-6191  
Email: Tomk@pjhm.com**

O. The AGREEMENT may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

P. The AGREEMENT is subject to ratification or approval by the DISTRICT's governing board.

IN WITNESS WHEREOF, the parties hereto have executed the AGREEMENT as of the Effective Date.

**ARCHITECT:**

PJHM ARCHITECTS

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**DISTRICT:**

PERRIS UNION HIGH SCHOOL DISTRICT

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_