Addendum #2
SCUSD RFQ #19-20-007
Districtwide Ongoing Architectural and Engineering Services
03/15/2020

CHANGES AND/OR CLARIFICATIONS OF THE SPECIFICATIONS AS FOLLOWS:

ITEM NO. 2.1  Bid Date Information Change

1. Revise:
   - Deadline for submittal of all questions and clarifications: **Tuesday, March 31, 2020 by 4:00 pm**.
   - District final response to questions and clarifications: **Thursday, April 2, 2020 by 4:00 pm**.
   - Deadline for submittal of Responses: **Tuesday, April 7, 2020 by 4:00 pm**.
   - Invitation to Interviews: **Tuesday, April 14, 2020**.
   - Interviews: **Tuesday and Thursday, April 21-22, 2020**.
   - Recommendation to Board of Trustees for Award of Agreement: **Tuesday, April 29, 2020**.
   - Board of Trustees to Award Agreement: **Thursday, May 14, 2020**.
   - Notice of Award: **Friday, May 15, 2020**.

ITEM NO. 2.2  Overview and Submission Guidelines

1. **Update**: Overview and Submission Guidelines, Section III. Minimum Requirements, B. Insurance, 2. Automobile Liability Insurance- General Aggregate is not required.

ITEM NO. 2.3  Attachment A Respondent Qualifications

1. **Update**: Attachment A Respondent Qualifications Statement, question 2.4- professional liability coverage limits have been updated to $1,000,000. per claim and $2,000,000. in the aggregate.

ITEM NO. 2.4  Attachment B Master Agreement

1. **Update**: Attachment B Master Agreement, Article 5.7 Architect’s Insurance Minimum Coverage Limits- professional liability coverage limits have been updated to $1,000,000. per claim and $2,000,000. in the aggregate.

ITEM NO. 2.5  Attachment B Master Agreement

1. **Update**: Attachment B Master Agreement, Article 7 Section 7.5- the first sentence has been updated with correct Paragraph references.
ITEM NO. 2.6  
Attachment B Master Agreement

1.  
Update: Attachment B Master Agreement, Article 8 Section 8.11.1- text added to end of paragraph.

ITEM NO. 2.7  
PRE-BID RFI

1.  
Question: When does the District anticipate releasing an RFQ/P for commissioning services, and is it possible to get on your potential bidders list, if such a list exists?  
Answer: The District already has a pool of commissioning firms that was approved by the Board of Trustees on June 14, 2018. The District will issue an RFP to the approved commissioning pool as needed.

2.  
Question: How much funding do you have left on your current bond and/or are there plans to pursue a new bond in the near future? If a future bond is in the works, is there an amount that’s been set?  
Addendum #1 Answer: Since future projects will be by multiple District departments, funding sources will vary by project. There is currently no future bond in the works.  
Addendum #2 Follow-up Answer: The Measure H Projects are all being implemented. The remaining Measure BB Projects that have not been assigned total $254,000,000. They include the Patrick Henry Elementary School and related projects, New Valley High School at the Monticello Campus and re-configuration of the Bracher, Briarwood and Westwood Elementary School Campuses.

3.  
Question: We have a question regarding RFQ #19-20-007 for architectural services. I see that on Addendum 1, Item 8 there is a page limit of 60 pages. Also on Addendum 1, Item 9 there is a recommendation to include consultant resumes. We were planning previously to include a 1-page firm profile for each sub-consultant for each of the 13 disciplines the RFQ asks for (and in some cases 2 different firms as noted in the RFQ). This will give the District a good overview of the consultant firms we are suggesting – much better than a simple list. However, if we include the firm profile as well as resume for each, this may take up around 30 pages. Can the page limit be increased or can we insert the consultant resumes in an Appendix so as to not count against the page limit?  
Answer: The consultant resumes can be included as an Appendix.

4.  
Question: Our firm has been in existence for over 100 years and our insurance carrier records regarding litigation is retained for 20 years. Is the District willing to accept this records constraint for our answers regarding sections 2.24 and 2.25?  
Answer: Yes, 20 years is acceptable for answers in regards to 2.24 and 2.25.

5.  
Question: We have reviewed the District’s Master Agreement (Attachment B), including the Indemnity Provision in article 5.9.1. The provision as written is not compliant with civil code 2782.8 which governs design professionals indemnity obligations which became effective January 1, 2018. Is the District willing to revise the indemnity provision to be compliant with civil code?  
Answer: Pending, this will be answered in a future Addendum.
6. **Question:** RFQ III.B.1.a. Can the $2 million Commercial General Liability Insurance, each occurrence be met by Umbrella Liability Insurance?
   **Answer:** Yes, each occurrence can be met by Umbrella Liability Insurance.

7. **Question:** RFQ III.B.2.b. Can the $2 million automobile general aggregate be met by Umbrella Liability Insurance?
   **Answer:** See ITEM NO. 2.2 above.

8. **Question:** Attachment B – Agreement Article 7, Section 7.5 – This section currently begins, “Upon the District’s exercise of the right of termination under Paragraph 14.1 or Paragraph 14.3 of this Agreement, the Architect shall take action as directed by the District relative to ongoing preparation of the Master Planning, Planning, Design, Construction, and Post Construction Documents of the Project.” In the absence of an Article 14, may we assume that the paragraph numbers above are supposed to be 7.1 and 7.3 rather than 14.1 and 14.3, respectively?
   **Answer:** Assumption is correct. See ITEM NO. 2.5 above.

9. **Question:** Attachment B – Agreement Article 8, Section 8.11.1 – Is the District amenable to adding this language to the end of paragraph? “Notwithstanding any other provision contained herein, Architect shall retain the absolute right to use and re-use standard graphics, details, specifications, requirements, notes and other provisions included in the Work Product on other projects for other clients and at any time as part of its ongoing professional practice.”
   **Answer:** Text has been added, see ITEM NO. 2.6 above.

10. **Question:** Does the district closure change the due date or hard copy requirements for RFQ?
    **Answer:** See ITEM NO. 2.1 above.
REQUEST FOR QUALIFICATIONS
Districtwide Ongoing Architectural and Engineering Services
RFQ #19-20-007

OVERVIEW AND SUBMISSION GUIDELINES

The Santa Clara Unified School District (“District”) is seeking Statements of Qualifications (“SOQ”) from qualified persons, Firms, contractors, partnerships, corporations, associations, or professional organizations (“Firm”) in response to this Request for Qualifications (“RFQ”) for Districtwide Ongoing Architectural and Engineering Services (“Architectural Services”) for District projects or services as required by the District.

This RFQ is not a formal request for bids or an offer by the District to contract with any Firm responding to this RFQ. The District intends to choose multiple Firms that respond to this RFQ to include in its pool of qualified Firms. Inclusion in this pool and any award of a contract will be subject to approval by the District’s Board of Trustees.

Respondents to this RFQ should submit responses electronically in PDF format via email. Respondent is responsible for verifying that the email and attachments have been received. Email to:

MELISSA KERSH
mkersh@scusd.net
PROJECT MANAGER, FACILITY DEVELOPMENT AND PLANNING
SANTA CLARA UNIFIED SCHOOL DISTRICT

ALL RESPONSES ARE DUE BY 4:00 P.M., ON APRIL 7, 2020.}

LATE SUBMITTALS WILL NOT BE ACCEPTED OR CONSIDERED.

Any questions regarding this RFQ must be put in writing and sent by email to Melissa Kersh at mkersh@scusd.net on or before March 31, 2020 at 4:00 p.m.

All responses will be communicated in writing to all recipients of this RFQ. Email mkersh@scusd.net to verify that you have received the RFQ and would like any addendums emailed to you. The addendums will also be posted on the District website.

Questions received after the date and time stated above will not be accepted, and will not be responded to. Respondents shall not, directly or indirectly, communicate with any employee, officer, Board of Trustees member, agent or representative of the District regarding the RFQ or Architectural Services required by the RFQ except for the District Contact person noted above. The RFQ Response of a Respondent who has engaged in any action or activity inconsistent with or in violation of the foregoing is subject to rejection for non-responsiveness.
I. INTRODUCTION

The Santa Clara Unified School District (“District”) is a public school district covering a 56 square mile area within Northern California and containing neighborhoods in the cities of Santa Clara, Sunnyvale, San Jose, and Cupertino. The District has over 1.5 million square feet of building area and includes 17 elementary schools, 1 K-8 school, 3 middle schools, 2 high schools, 3 alternative high schools, 4 leased sites, and 1 District Office site. Construction has commenced for a new elementary, middle, and high school in North San Jose.

The District Community passed 2 General Obligation Bonds recently: Measure H, 2014 - $419 million and Measure BB, 2018 - $720 million. This RFQ will cover projects within various District Departments including, Bond Projects, Facility Development and Planning, Maintenance, Grounds, and Technology.

The District is seeking Statements of Qualifications ("SOQ") from qualified Firms, partnerships, corporations, associations, persons, or professional organizations ("Respondent(s)") in response to this Request for Qualifications ("RFQ") for Districtwide Ongoing Architectural and Engineering Services ("Architectural Services") for District projects or services as required by the District. Respondents must have extensive experience with the Uniform Building Code (UBC), Title 24 of the California Code of Regulations, California Department of Education (CDE), Department of Toxic Substances Control (DTSC), California Geologic Survey, the Division of State Architect (DSA) and the Office of Public School Construction (OPSC). Respondents must have extensive experience (minimum of 5 years) in the design of public school facilities, working with construction managers, contractors, District personnel and other school facility related consultants, and establishing project scope and project budgets.

This RFQ is for selection of a Firm, or Firms, to provide architectural and engineering related services for master planning, design, bidding, modernization of buildings, and/or design of new facilities as assigned from time-to-time by the District. The Firm selected to provide the Architectural Services, its personnel assigned to any Project along with the Sub-Consultants, and their Project personnel must possess experience, skills, and resources to meet the District’s Project schedule, budget, programming requirements, and design objectives. The District in accordance with the criteria established in this RFQ will evaluate timely submitted RFQ Responses.

This RFQ is not a formal request for bids or an offer by the District to contract with any Firm responding to this RFQ. The District intends to choose multiple Firms that respond to this RFQ to include in its pool of qualified Firms. Inclusion in this pool and any award of a contract will be subject to the District’s Board of Trustees approval.

A. LIMITATIONS AND DISTRICT RIGHT TO REJECT

The District reserves the right to contract with any entity responding to this RFQ. This RFQ is neither a formal request for bids, nor an offer by the District to contract with any party responding to this RFQ. This RFQ does not commit the District to select any Firm and the District makes no representation that participation in the RFQ process will lead to an award...
of contract or any consideration whatsoever. It is at the sole discretion of the District to award a contract for the Services or no contract at all.

The District shall not be liable for any costs incurred in preparing and submitting responses to this RFQ. In no event will the District reimburse any respondent for any costs or expenses incurred in preparing and submitting responses to this RFQ.

The District, in its sole discretion, reserves the right to:

1. Accept or reject any and all submittals, or any portion or combination thereof;
2. Contract with any entity responding to this RFQ in whatever manner the District decides; and/or
3. Waive any informality or non-substantive irregularity, not affected by law, as the interests of the District may require.

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

The District reserves the right to add additional Firms for consideration after receipt of SOQs in response to this RFQ if it is found to be in the best interest of the District. All decisions concerning Firm selection will be made in the best interests of the District.

B. FULL OPPORTUNITY

The District hereby affirmatively ensures that Disadvantaged Business Enterprises (“DBE”), Small Local Business Enterprises (“SLBE”), Small Emerging Local Business Enterprises (“SELBE”), Disabled Veterans Business Enterprises (“DVBE”), and minority and women business enterprises shall be afforded full opportunity to submit SOQs and Proposals in response to this RFQ and will not be discriminated against on the basis of race, color, gender, sexual orientation, political affiliation, age, ancestry, religion, marital status, national original, medical condition or disability in any consideration leading to the award of the contract. No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination in any consideration leading to the award of contract.

C. RESTRICTIONS ON LOBBYING AND CONTACTS

From the period beginning on the date of the issuance of this RFQ and ending on the date of the award of the contract, no person, or entity responding to this RFQ, nor any officer, employee, representative, agent, or contractor representing such a person or entity shall
contact through any means or engage in any discussion regarding this RFQ, the evaluation or selection process or the award of the contract(s) with any member of the District’s governing board (“Board”), Committee members, or with any employee of the District except for clarifications and questions as described herein. Any such contact shall be grounds for the disqualification of the Firm submitting a SOQ and Proposal.

II. **SCOPE OF REQUIRED SERVICES**

Although the full scope of services shall be stated in the separate contract agreement (i.e., the Master Agreement for Districtwide Ongoing Architectural and Engineering Services, the "Agreement"), the Respondent will be expected to be capable of fulfilling, at a minimum the following requirements:

**A. BASIC SERVICES**

The Firm(s) selected through this RFQ will be assigned Architectural Services from time-to-time during the time of the Agreement. The scope of Architectural Services will vary from project-to-project and may include, but is not limited to, the following: Master Planning, Programming Phase, Schematic Design Phase, Design Development Phase, Construction Documents Phase, Technical Specifications, Value Engineering, Permitting/Agency Approvals Phase, Bidding Phase, Construction Administration Phase, and the Post Construction Phase.

Architect’s Basic Services shall consist of all architectural, structural, mechanical, electrical, low voltage, plumbing, civil engineering, interior finishes, landscape design, and statements of probable construction cost required, or which can be reasonably inferred to be required and generally accepted architectural and engineering practice, for the completion of the project.

**B. PERSONNEL**

Architect will appoint a Project Architect. The Project Architect shall 1) be available to District on or off site as required for the proper performance of all matters relating to the project; 2) provide overall direction of the planning and design of the project; 3) maintain oversite of the project at all times; 4) have full authority to represent and act on behalf of Architect for all purposes under the Agreement; 5) supervise, coordinate, and direct the architectural services using their professional skill and attention.

The Architect shall be responsible to the District for the work of the Architect’s professional consultants. Architect shall be responsible for the work of its consultants, shall coordinate the work of its consultants, and shall review, approve and back-check all documents produced by its consultants for the District.

**C. DISTRICT GOALS**

1. **Alignment with District Educational Program.** The projects must enable and foster multiple modalities of learning. The facilities must provide opportunities for collaboration between teachers, staff, and students. Design should take advantage of research on the influence of space and the environment on the brain and learning. The projects must be sufficiently flexible to respond to rapidly changing teaching and learning methods and
technologies as well as community expectations in the Silicon Valley economy and culture. The projects must also foster equity and opportunity for all District students.

2. **Sustainability.** The District intends to participate in a CHPS Verified program with the Collaborative for High Performance Schools. Sustainability and energy efficiency are high priorities for the District in areas such as:
   a. Reduced energy consumption
   b. Alternative energy generation
   c. Water management including domestic, reclaimed and storm resources
   d. Operational efficiency
   e. Traffic management/mitigation
   f. Carbon footprint

3. **Safety and Security.** The District seeks a comprehensive and balanced approach to:
   a. Traffic, parking and multiple modes of transport
   b. Protected student pathways
   c. Access control
   d. Supervision and surveillance

4. **Integration into Neighborhoods and Environment.** The projects must respect and integrate well into the surrounding streets and neighborhoods.

**III. MINIMUM REQUIREMENTS**

Selected Firm(s) must be able to execute the District’s Agreement. A copy of the District’s form Agreement for Districtwide Ongoing Architectural and Engineering Services is attached to this RFQ as Attachment B.

**A. INDEMNITY**

Firms responding to this RFQ must acknowledge that they have reviewed these provisions of the Agreement and must agree to the indemnity provisions and insurance provisions contained in the Agreement attached as Attachment B to this RFQ and confirm in writing that, if given the opportunity to contract with the District, the Firm has no substantive objections to the use of the District’s Agreement.

**B. INSURANCE**

The District requires at least the following insurance coverage:

   a. $2,000,000 Each Occurrence
   b. $4,000,000 General Aggregate
2. Automobile Liability Insurance
   a. $1,000,000 Each Occurrence
   b. General Aggregate not required

3. Workers Compensation
   a. In accordance with applicable laws

4. Professional Liability
   a. $2,000,000

The successful respondent shall provide to the District certificate(s) of insurance and endorsements satisfactory to the District. Insurance policy(ies) shall not be amended or modified and coverage amounts shall not be reduced without thirty (30) days’ written notice to District prior to modification and/or cancellation. Consultant shall not allow any employee or agent to commence work on any contract or any subcontract until the insurance required of the Contractor, employee, or agent has been obtained.

IV. CONFLICT OF INTEREST

Respondent shall certify that no official or employee of the District, nor any business entity in which an official of the District has an interest, has been employed or retained to solicit or assist in the procuring of the resulting contract, nor that any such person will be employed in the performance of any contract without immediate divulgence of this fact to the District.

V. ASSIGNMENT

Any contract resulting from this RFQ and any amendments or supplements thereto shall not be assignable by the successful Firm either voluntarily or by operation of law without the written approval of the District.

VI. STATEMENT OF QUALIFICATIONS

A. MINIMUM QUALIFICATIONS

See Attachment A, Respondent Qualifications Statement, Part 2 Questionnaire, items 2.1 through 2.5 for minimum qualifications for projects.

B. REQUIREMENTS AND INSTRUCTIONS

1. District Modifications to RFQ. The District expressly reserves the right to modify any portion of this RFQ prior to the latest date/time for submission of RFQ Responses, including without limitation, the cancellation of this RFQ. Modifications, if any, made by the District to the RFQ will be in writing; potential Respondents who have obtained this RFQ from the District prior to any such modifications will be issued modifications to the RFQ by written addenda.
2. **No Oral Clarifications/Modifications.** The District will not provide oral clarifications or modifications to the RFQ or the requirements hereof; no employee, officer, agent or representative of the District is authorized to provide oral clarifications or modifications to the RFQ. No Respondent shall rely on oral clarification or modification to the RFQ.

3. **Public Records.** Except for materials deemed Trade Secrets (as defined in California Civil Code §3426.1), materials specifically marked “Confidential” or “Proprietary” and Respondents’ Financial Statements if required, all materials submitted in response to this RFQ are deemed property of the District and public records upon submission to the District. The foregoing notwithstanding, the District may reject for non-responsiveness the RFQ Response of a Respondent who indiscriminately notes that its RFQ Response or portions thereof are “Trade Secret” “Confidential” or “Proprietary” and exempt from disclosure as a public record. The District is not liable or responsible for the disclosure of RFQ Responses, or portions thereof, deemed to be public records, including those exempt from disclosure if disclosure is required by operation of law, or by an order of a court of competent jurisdiction, or which occurs through inadvertence, mistake or negligence on the part of the District or its agents or representatives. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of a RFQ Response deemed exempt from disclosure hereunder, by submitting a response to this RFQ, each Respondent agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys’ fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense of the District in any action or proceeding seeking to compel disclosure of such materials; the District’s sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.

4. **Errors/Discrepancies/Clarifications to RFQ.** If a Respondent encounters errors or discrepancies in this RFQ or portions hereof, the Respondent shall immediately notify the District of such error or discrepancy. Any Respondent seeking clarification of any portion of this RFQ shall submit the requested clarification in writing to the District. Responses of the District to any requested clarification will be in writing; if in the sole judgment of the District, any clarification response affects the RFQ or other Respondents, the District will issue the clarification response by a written addendum distributed to all potential Respondents who have theretofore obtained this RFQ from the District. All requests for clarification of this RFQ must be submitted and actually received by the District no later than the date and time listed in the RFQ Response Schedule Summary. The District will not respond to clarification requests submitted thereafter. All communications to the District shall be in writing to the designated District RFQ Contact.

5. **RFQ Response Costs.** All costs and expenses incurred by a Respondent to prepare and submit a response to this RFQ shall be borne solely and exclusively by the Respondent.
6. **RFQ Documents.** In addition to this RFQ, the following form a part of the RFQ:

   a. **Attachment A** - Respondent’s Qualifications Statement  
   b. **Attachment B** - Agreement for Districtwide Ongoing Architectural and Engineering Services

C. **RFQ RESPONSE**

7. **Submission.**

   a. **Due Date and Time.** The latest date and time for submission of RFQ Responses is listed in the RFQ Response Schedule Summary under Section VII Evaluation and Selection Criteria. Responses, which are not actually received by the District in accordance with the foregoing at or prior to the latest date/time for submission of RFQ Responses, will be rejected by the District for nonresponsiveness. Respondents are solely responsible for the timely submission of RFQ Responses.

   b. **Electronic Submission.** RFQ Responses must be submitted electronically via e-mail to the District Contact listed under Section VII Evaluation and Selection Criteria. RFQ Response files may be submitted as e-mail attachments or via download link or shared folder. The Respondent is responsible for obtaining confirmation that its RFQ Response has been received by the District Contact person.

   c. **Electronic File Format.** Files must be in PDF format. All materials submitted in response to this RFQ shall be organized in sequential files or folders. Files shall be bookmarked in a table of contents order.

8. **Format and Organization.** Each RFQ Response must conform to the following described organizational format and must include the contents described below. Failure of a Respondent to submit its RFQ Response in a format and with contents conforming to the following requirements will be a basis for the District’s rejection of such RFQ Response for non-responsiveness.

   a. **Cover Sheet.** Identify the submittal as the Response to this RFQ and an identification of the Firm with address, telephone numbers and email addresses of the Firm’s principal contacts in connection with this RFQ and any personnel who should be receiving notices and other communications from the District regarding the RFQ.

   b. **Executive Summary.** Include a summary of the main points of the case being made for the Firm.

   c. **Table of Contents.** Include a Table of Contents reflecting the Respondent’s responses to each of the items set forth below.

   d. **Section 1 - Respondent Qualifications Statement.** Complete the Qualifications Statement attached as Attachment A to this RFQ for the Respondent.
e. Section 2 - Respondent’s Relevant Project Experience. Provide details of Projects for which the Respondent served as the Architect of Record which reflect the skills, experience and other qualifications of the Respondent to successfully complete Architectural Services for the Project. The Projects identified, described and discussed must conform to the following criteria: (i) Project subject to DSA jurisdiction and DSA construction oversight; and (ii) Project construction costs (excluding costs of property acquisition, design or project management fees and permitting and entitlement costs) both above and below $10,000,000.

f. Section 3 - Personnel Resources. Describe the Firm’s organizational structure and resources including Principals-in-Charge, Project Managers, Job Captains, Administrators, Technicians, etc. List individuals with specific expertise who would be available to work with the District.

g. Section 4 - Project Design Approach. Describe how the Firm, solicits, articulates, documents, and controls various categories of project requirements from all stakeholders. How are those requirements managed, interpreted, translated and communicated to project team members? How are those requirements incorporated into not only the Construction Documents but also the completed Project? How are the requirements validated, verified, audited, and communicated during the Project lifecycle? Present the Firms differentiating capabilities in K-12 educational facilities design.

h. Section 5 - Cost and Schedule Control. Describe how the Firm manages the constraints of available project budgets and interim and final schedule milestone dates.

i. Section 6 - Technical Capability. Describe the Firm’s capabilities in the following areas:
   - Project Management
   - Collaboration
   - Building Information Modeling
   - Virtual Design and Construction
   - Environmental Modeling and Sustainable Design
   - Lean Design Processes
   - Construction Documents Development
   - Regulatory Approvals- DSA, CDE, OPSC, Health Department
   - Construction Administration and Closeout
   - CA Office of Public School Construction Project Estimates

j. Section 7 - Sub-Consultants. The District desires to have input into the selection of design sub-consultants. List one or more sub-consultant Firms for the following disciplines who may be recommended for a Project. If any of these services are in house, state how communication works between the different departments in the Firm.

   Structural, Communications, Mechanical, Acoustical, Plumbing, Civil, Electrical, Doors and Hardware, Construction Estimates, Sports Fields,

k. Section 8 - Acknowledgment of Addenda. If the District issued Addenda to the RFQ, include the following statement:

“The Respondent submitting this RFQ Response acknowledges receipt of Addenda Numbers____________. The Respondent confirms that requirements noted in the foregoing Addenda are incorporated into the RFQ Response.”

VII. EVALUATION AND SELECTION CRITERIA

A. GENERAL

Each timely submitted RFQ Response will be independently reviewed by the selection committee. A RFQ Response, which does not comply with the requirements of this RFQ, will be subject to rejection for non-responsive. Each SOQ must be complete. Incomplete SOQs will be subject to rejection for non-responsive. The District retains the sole discretion to determine issues of compliance and to determine whether a Firm is responsive, responsible, and qualified. Based upon the information presented in the submissions, the District’s Committee will choose the most highly qualified Firms for further review, which will identify the Firm(s) that can provide the greatest overall benefit to the District for the applicable Services.

B. EVALUATION CRITERIA

The following set forth is the criteria by which each RFQ Response will be evaluated. The District reserves the right to exercise discretion in the weight and priority of the evaluation criteria.

1. Respondent’s Relevant Experience and Ability. The Respondent will be evaluated based on experience in successfully completing Architectural Services for recent projects subject to DSA jurisdiction of various size, scope, complexity and dollar value.

2. Relevant Experience and Ability of Respondent’s Personnel Resources. Personnel will be evaluated for prior experience for: (i) distinguishing skill and expertise in relevant areas; and (ii) experience of providing Architectural Services for recent projects subject to DSA jurisdiction of various size, scope, complexity and dollar value.

3. Project Design Approach. The Respondent’s demonstrated capability and maturity level of successfully translating project requirements into high performing educational facilities that meet the client’s goals and constraints.

4. Technical Capability. The Respondent’s demonstrated capability to use management expertise, technological resources, and innovation to leverage the District’s available resources.

5. Responsiveness to RFQ. The District will evaluate responsiveness to the requirements of this RFQ.
C. REJECTION OF RFQ RESPONSES; WAIVER OF IRREGULARITIES

The District reserves the right to reject all RFQ Responses or to waive any immaterial irregularities or informalities in any RFQ Response. A RFQ Response which does not conform to requirements set forth herein is subject to rejection by the District for non-responsiveness.

D. SELECTION BY PROJECT

The District may, at its discretion, select one Firm for all projects or multiple Firms for any combination of projects. Agreements for Architectural and Engineering Services resulting from this RFQ, if awarded, will be by action of the District’s Board of Trustees. Projects may include small maintenance projects, including code analysis, site analysis, fencing, masterplans, site and/or building modernization, and site and/or building new construction.

E. PHASED SELECTION PROCESS

The selection process will be conducted in two phases.

1. Phase 1.

   a. Step 1. Responses of all responding Firms will be evaluated to establish a short list of Firms ("Short List Firms") with the qualifications, experience, and capability to successfully complete architectural services for the District. Minimum qualifications described in the RFQ must be met for consideration. Skills, experience, and qualifications of the Firm and its personnel proposed will be screened according to evaluation criteria described in this RFQ. The five or six Firms who submitted the highest scored RFQ Responses are the Short List Firms invited for interviews. The District will have the sole and exclusive discretion as to the number of Firms invited to interview.

   b. Step 2. The Short List Firms invited to participate in the interviews will be evaluated to select three or four highest scored Firms who can implement a design and construction process that will result in products, improvements and facilities that reflect the District’s vision, strategic plan, and educational facilities needs for the near and long terms. The District shall have the sole and exclusive discretion as to the number of Firms recommended in Phase 2 of the RFQ process.

2. Phase 2. The District intends to recommend the highest ranked Firms for ongoing architectural and engineering services and the pool of Firms will be submitted to the Board of Trustees for approval.

   The District will issue RFP’s to one or more Board Approved Architectural Firm(s) for particular projects. The District shall have the discretion to award the Architectural Services Contract to a Firm that did not submit the lowest priced proposal provided that the District establishes the basis for such exercise of discretion.

F. DISTRICT RFQ CONTACT

Melissa Kersh, Project Manager with the Facility Development and Planning Department, mkersh@scusd.net.
G. RFQ RESPONSE SCHEDULE SUMMARY

The District anticipates that the following activities relating to the RFQ will be completed at the times noted below. The foregoing notwithstanding, the District reserves the right to modify RFQ activities and/or the time for completion of a RFQ activity.

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

<table>
<thead>
<tr>
<th>DATE</th>
<th>EVENT</th>
<th>TIME DEADLINE</th>
</tr>
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<tbody>
<tr>
<td>February 5, 2020</td>
<td>1&lt;sup&gt;st&lt;/sup&gt; Advertisement</td>
<td></td>
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<tr>
<td>February 12, 2020</td>
<td>2&lt;sup&gt;nd&lt;/sup&gt; Advertisement</td>
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<tr>
<td>March 31, 2020</td>
<td><strong>Deadline for submittal of all questions and clarifications</strong></td>
<td><strong>4:00 p.m.</strong></td>
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<tr>
<td>April 2, 2020</td>
<td>District to issue final response to questions and clarifications</td>
<td><strong>4:00 p.m.</strong></td>
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<tr>
<td>April 7, 2020</td>
<td><strong>Deadline for submittal of Responses</strong></td>
<td><strong>4:00 p.m.</strong></td>
</tr>
<tr>
<td>April 14, 2020</td>
<td>Invitation to Interviews</td>
<td></td>
</tr>
<tr>
<td>April 21-22, 2020</td>
<td>Interviews</td>
<td></td>
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<tr>
<td>April 29, 2020</td>
<td>Recommendation for Award of Agreement</td>
<td></td>
</tr>
<tr>
<td>May 14, 2020</td>
<td>Board of Trustees to Award Agreement</td>
<td></td>
</tr>
</tbody>
</table>
ATTACHMENT A
RESPONDENT QUALIFICATIONS STATEMENT

1. RESPONDENT INFORMATION

1.1. Firm Name: ____________________________________________

1.2. Address
   Physical Office Location
   Street Address: __________________________________________
   City, State and Zip Code: __________________________________
   Mailing Address (if different from above)
   Street Address: __________________________________________
   City, State and Zip Code: __________________________________

1.3. Phone: (____) _______________________

1.4. Fax: (____) _______________________

1.5. Respondent’s Principal contact(s) (with California architect license)
   Name: ___________________________________________________
   Title: ____________________________________________________
   License No.: ______________________________________________
   Phone: (____) _______________________
   E-Mail: ________________________________________________

   Name: ___________________________________________________
   Title: ____________________________________________________
   License No.: ______________________________________________
   Phone: (____) _______________________
   E-Mail: ________________________________________________

1.6. Length of time in business providing Architectural Services: ____________ years
1.7. Respondent Federal Tax ID No.: __________________________________________

2. QUESTIONNAIRE

A Respondent will not be deemed qualified if the answer to any of Questions 2.1 through 2.5 in this section results in a “not qualified” response. A “not qualified” response will result in the District’s rejection of the RFQ Response for failure of the Respondent to meet minimum qualifications requirements. The District reserves the right to request the Respondent to furnish additional information or details relating to any of Respondent’s responses to the following Questions. The District may, in the District’s sole discretion, independently investigate the Respondent’s responses to any of the following Questions. If any of the responses to Questions 2.6 through 2.26 is a “yes”, the Respondent must set forth details in a separate attachment to this Qualifications Statement.

Unless otherwise indicated, the time period to which the following questions refer is ten years.

2.1. The Respondent Principal(s) has/have been licensed in the State of California for the past five years and currently possesses a valid California Architect’s License.

  _____ Yes  _____ No (not qualified)

2.2. The Respondent is able to maintain a commercial general liability insurance policy with coverage limits of at least $2,000,000 per occurrence and $4,000,000 in the aggregate.

  _____ Yes  _____ No (not qualified)

2.3. The Respondent maintains an automobile liability insurance policy with combined single coverage limits of at least $1,000,000.

  _____ Yes  _____ No (not qualified)

2.4. The Respondent maintains a professional liability insurance policy with coverage limits of at least $1,000,000 per claim and $2,000,000 in the aggregate.

  _____ Yes  _____ No (not qualified)

2.5. The Respondent maintains current workers’ compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code § 3700.

  _____ Yes  _____ No (not qualified)

2.6. Within the past seven years, the Respondent has served as the Architect of Record for a California K-12 or California Community College project subject to DSA jurisdiction where the project construction costs (as determined at the time of opening construction bids) exceed $10,000,000.

  _____ Yes  _____ No

  If yes, identify all such projects and describe in Section 2 of the Respondent’s RFQ Response.
2.7. Within the past seven years, the Respondent has served as the Architect of Record for a project subject to DSA jurisdiction where the project construction costs (as determined at the time of opening construction bids) exceed $25,000,000.

_____ Yes  _____ No

If yes, identify all such projects and describe in Section 2 of the Respondent’s RFQ Response.

2.8. Within the past seven years, the Respondent served as the Architect of Record for a project where construction was completed by multiple separate prime contractors each under direct contract to the Project owner to construct a portion of the Project.

_____ Yes  _____ No

If yes, identify all such projects and describe in Section 2 of the Respondent’s RFQ Response.

2.9. Has your organization ever refused to sign a contract for architectural services awarded to it?

_____ Yes  _____ No

2.10. Has your organization ever failed to complete a contract for architectural services?

_____ Yes  _____ No

2.11. Has your organization ever been declared in default under a contract for architectural services?

_____ Yes  _____ No

2.12. Has your organization been a party to a contract for architectural services which was terminated by the project owner for the convenience of the project owner?

_____ Yes  _____ No

2.13. Has your organization been a party to a contract for architectural services which was terminated by the project owner for your organization’s default or breach of obligations thereunder?

_____ Yes  _____ No

2.14. Has a lawsuit ever been filed by a public or private project owner against your organization for damages, losses or other liabilities arising out of project architectural services provided by your organization?

_____ Yes  _____ No

2.15. Has a lawsuit ever been filed by a contractor or subcontractor against your organization for damages, losses or other liabilities arising out of architectural services provided by your organization?
2.16. Have arbitration proceedings ever been filed by a public or private project owner against your organization for damages, losses or other liabilities arising out of architectural services provided by your organization?  ______ Yes ______ No

2.17. Have arbitration proceedings ever been filed by a contractor or subcontractor against your organization for damages, losses or other liabilities arising out of architectural services provided by your organization?
   ______ Yes ______ No

2.18. Have mediation proceedings ever been filed by a public or private project owner against your organization for damages, losses or other liabilities arising out of architectural services provided by your organization?
   ______ Yes ______ No

2.19. Have mediation proceedings ever been initiated by a contractor or subcontractor against your organization for damages, losses or other liabilities arising out of architectural services provided by your organization?
   ______ Yes ______ No

2.20. Has your organization or any principal/equity owner of your organization been subject to any legal judgments or arbitration awards, whether or not such legal judgments or arbitration awards arise out of architectural services?
   ______ Yes ______ No

2.21. Are there currently any pending, unsatisfied judgments or arbitration awards against your organization or any of the equity owners of your organization?
   ______ Yes ______ No

2.22. Has any insurer, for any policy of insurance, refused to issue or to renew an insurance policy for your organization?
   ______ Yes ______ No
   ______ If yes, on how many occasions?

2.23. Has any project owner requested removal of any personnel assigned by your organization to complete architectural services?
   ______ Yes ______ No

2.24. Respondent Reported Claims. Has the Respondent or Respondent’s predecessor(s) reported to the California Architects Board (“Board”) any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the Respondent or Respondent’s predecessor in any action alleging fraud, deceit, negligence, incompetence, or recklessness in the
practice of architecture where the judgment, settlement, or arbitration award was five thousand dollars ($5,000) or greater, as required by California Business & Professions Code §5588(a)?

_____ Yes  _____ No

If “Yes” on a separate attachment, provide details of: (i) the title of the matter; (ii) the court or agency name; (iii) docket number; (iv) the claim or file number; (v) date on which the reportable event occurred; (vi) judgment, settlement or arbitration award.

2.25. Professional Liability Insurer Reported Claims. Has any professional liability insurer for the Respondent reported to the California Architects Board (“Board”) payment by the professional liability insurer of any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the Respondent or Respondent’s predecessor in any action alleging fraud, deceit, negligence, incompetence, or recklessness in the practice of architecture where the judgment, settlement, or arbitration award was five thousand dollars ($5,000) or greater, as required by California Business & Professions Code §5588.1?

_____ Yes  _____ No

If “Yes” on a separate attachment, provide details of: (i) amount of judgment, settlement or arbitration award; and (ii) amount paid by professional liability insurer.

2.26. Pending Professional Liability Claims and Disputes. The Respondent is presently engaged in a claim, dispute or disagreement which asserts the professional negligence or professional liability of Respondent or any Design Consultant to Respondent in connection with architectural or design professional services provided by or through Respondent for any public or private work of improvement.

_____ Yes  _____ No

If “Yes” provide details, including without limitation: (i) the title of the matter; (ii) the court or agency name; (iii) docket number; (iv) the claim or file number; (v) amount in controversy; (vi) contact information (name, address, phone and email address) for each party pursing a pending claim against the Respondent.

2.27. Pending Payment Claims and Disputes. The Respondent is presently engaged in a claim, dispute or other disagreement relating to or arising out of a private or public contract for architectural services in which the Respondent is seeking additional compensation.

_____ Yes  _____ No

If “Yes” on a separate attachment, provide details of each such pending claim, dispute or other disagreement.
3. REFERENCES

3.1. Owner References.

<table>
<thead>
<tr>
<th>Owner Name</th>
<th>Address</th>
<th>Contact Name</th>
<th>Phone Number</th>
</tr>
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<tbody>
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</table>

California public K-12 School Districts and/or California Community College Districts

3.2. Construction Manager References.

<table>
<thead>
<tr>
<th>Construction Manager</th>
<th>Address</th>
<th>Contact Name</th>
<th>Phone Number</th>
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<td></td>
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</table>

Construction Management firms where the Respondent served as the Architect of Record for a project subject to DSA jurisdiction.
4. AGREEMENT

Attachment B, Agreement for Districtwide Ongoing Architectural and Engineering Services, is the Master Agreement that selected Respondent(s) will sign with the District. Exhibit A, Project Assignment Amendment, will be signed for each project for which Respondent is selected. State below any concerns about either agreement that may cause Respondent to not sign Agreements.

______________________________________________________________________
______________________________________________________________________
______________________________________________________________________
______________________________________________________________________
______________________________________________________________________

ACCURACY AND AUTHORITY

The undersigned is duly authorized to execute this Qualifications Statement under penalty of perjury on behalf of the above-identified Respondent. The undersigned warrants and represents that they have personal knowledge of each of the responses to this Qualifications Statement and/or that they have conducted all necessary and appropriate inquiries to determine the truth, completeness and accuracy of responses to this Qualifications Statement.

The undersigned declares and certifies that the responses to this Qualifications Statement are complete and accurate; there are no omissions of material fact or information that render any response to be false or misleading and there are no misstatements of fact in any of the responses. The above-identified Respondent acknowledge and agree that if the District determines that any response herein is false or misleading or contains misstatements of fact, the Respondent’s RFQ Response may be rejected by the District.

Executed this____ day of __________________, 2020 at __________________________ (City and State)

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

____________________________________________  __________________________
(Signature)

____________________________________________  __________________________
(Name / Title)

____________________________________________  __________________________
(California Architect License No.)

[END OF DOCUMENT]
ATTACHMENT B
MASTER AGREEMENT

This Agreement for On-Going Architectural Services ("Agreement") is entered into by and between SANTA CLARA UNIFIED SCHOOL DISTRICT ("District") and ("Architect"); the District and the Architect are collectively referred to herein as “the Parties.” This Agreement is entered into with reference to the following Recitals, all of which are incorporated herein by this reference.

RECITALS

WHEREAS, the District desires to retain an Architect as an independent contractor to provide professional Architectural AND Engineering Services in connection with planning, designing, bidding and/or constructing the Assigned Projects; the specific terms and conditions for an Assigned Project will be as set forth in the Project Assignment Amendment ("PAA") in substantially the form attached hereto as Exhibit A.

WHEREAS, the District issued a Request for Qualifications ("RFQ") requesting that qualified firms submit proposals to provide Ongoing Architectural and Engineering Services ("Services").

WHEREAS, the Architect submitted a written response to the RFQ ("the RFQ Response"); by this reference, the RFQ and the RFQ Response are incorporated into this Agreement.

WHEREAS, personnel of the Firm providing Architectural Services are duly licensed as architects or registered as engineers under the laws of the State of California.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the District and Architect agree as follows:

AGREEMENT

ARTICLE 1      BASIC SERVICES

1.1  General.  Architect shall provide Basic Services and authorized Additional Services for the Project as enumerated in this Agreement.  All Basic Services and authorized Additional Services for the Project shall be performed and completed by employees of the Architect and/or the Architect’s Consultants.  The Architect shall complete Basic Services in accordance with the Basic Services Completion Schedule incorporated in this Agreement and with professional skill and care to avoid hindrance, interruption, or delay to the orderly progress and completion of the Project.

1.2  Relationship of Architect to Other Project Participants.  The Architect’s services shall be provided in conjunction with the services of other Project participants including District staff, District Consultants, and District Commissioning Agents.  The Architect’s services shall conform to processes, procedures, and standards established by the District for the Project.
1.3 **Architect Independent Contractor Status.** The Architect is an independent contractor to the District. The express terms of this Agreement set forth the limited extent to which Architect is authorized to act on behalf of the District in its independent contractor capacity. The Architect shall be liable for the consequences of Architect’s actions or conduct which exceeds the express limited scope of Architect’s authority to act on behalf of the District as set forth herein.

1.4 **Architect Standard of Care.** Architect and its Consultants shall provide the Basic Services and authorized Additional Services for the Project: (i) using their professional skill and judgment; (ii) acting with due care and in accordance with the applicable standards of care for those providing similar services for projects of the size, scope, and complexity of the Project; (iii) the terms of this Agreement; and (iv) in accordance with applicable standards of care regarding application and interpretation of applicable law, code, rule or regulation at the time services are rendered. Neither the Architect, its Consultants nor their respective employees shall engage in any conduct or activity, accept any employment or compensation which actually or reasonably appears to compromise the Architect’s obligations to the District under this Agreement.

1.5 **Meetings.** The Architect and its Consultants, as necessary, appropriate or requested by the District, shall attend and participate in meetings, forums and other conferences (“Meetings”) relating to the Project. Without limiting the generality of the foregoing, the Architect and Consultants shall attend and participate in Meetings with the District, District Consultants, end-user groups, District councils/committees, Board of Trustees and District-organized public forums relating to the Project. The Architect and its Consultants shall promptly respond to matters assigned to or designated for response, review or other action by the Architect or its Consultants. The Architect shall prepare and distribute agendas and minutes of Meetings relating to the Project unless otherwise directed by the District.

1.6 **Architect’s Consultants.** The Basic Services for Architect include the following Architecture in house or consultants as needed per project:

- Structural, Mechanical, Acoustical, Plumbing, Civil, Electrical, Doors and Hardware including access key systems, Communications (Phone, VoIP, Wireless), Security Cameras, Fire Suppression, Food Service, Construction/OPSC Estimates, Landscaping, Sports Fields, CDE Submittals, CHPS and/or LEED Certifications.

District has the right to review Architect’s recommended consultants for each project and disallow consultants based on previous performance. District has the right to choose to hire their own consultant to work with the Architect.

1.7 **Site Conditions.** The Architect shall review information provided by the District regarding the Project to ascertain the requirements and constraints of the Project. The Architect shall visit the Site to become familiar with physical conditions at the Site as they relate to planning for the Project.

1.7.1 **Site Observations.** The Architect and its Consultants shall visit the Site of the Project to observe and become familiar with physical conditions and existing improvements at the Site. The Site observations of the Architect and its Consultants do not include observations of concealed conditions or testing unless directed by the District. The foregoing notwithstanding, by conducting Site observations, the Architect is responsible for noting and incorporating patently observable existing Site conditions into the Project Master Planning, or other Project Documents.
1.7.2 **District Provided Site Data.** The Architect shall review and verify the accuracy of all materials, information and data provided to the Architect by or through the District relating to the as-built and existing condition of the improvements on or about the Site. The Architect shall promptly notify the District in writing of discrepancies encountered between the existing conditions observed by the Architect and the materials provided by or through the District.

**ARTICLE 2  ADDITIONAL SERVICES**

2.1 **Additional Services; General.** The District may, by written instrument, direct or authorize the Architect to complete other Additional Services relating to the Project. The Architect shall not complete any Additional Services without express prior direction or authorization of the District; no payment will be made by the District for any Additional Services completed without the Architect’s prior direction or authorization.

2.2 **Additional Services Compensation.** If the District authorizes or directs the Architect to complete Additional Services and such Additional Services are not necessary as a result (in whole or in part) of deficiencies in the Planning Documents for the Project or fault/neglect of the Architect, the Architect will be compensated for such District-requested Additional Services as set forth in this Agreement. If any Additional Services are the result of deficiencies in the Planning Documents for the Project and/or fault/neglect of the Architect, no compensation is due from the District to the Architect for completing such Additional Services.

2.3 **Additional Services.** Without limiting any Additional Service the District may authorize or direct the Architect to complete Additional Services which may include the following:

2.3.1 **Document Revisions.** Making significant revisions to the Drawings, Specifications or other Documents where such revisions are: (i) inconsistent with approval or instructions previously given by the District, including revisions necessary due to significant adjustments in the District’s Program, budget or construction completion time for the Project; (ii) required by enactment of, or revisions to codes, laws, rules or regulations applicable to the Work of the Project where such enactment or revision could not have been reasonably foreseen by Architect; or (iii) due to the District’s failure to render decisions in a timely manner.

2.3.2 **Existing Conditions.** Services to investigate existing conditions or facilities not included within the scope of the Project or to provide measured drawings thereof.

2.3.3 **Furniture, Furnishings, Equipment.** Services in connection with the District’s selection, procurement or installation of furniture, furnishing or equipment not included within the scope of the Construction Contracts.

2.3.4 **Financial/Special Studies.** Providing financial feasibility or other special study in connection with the Project.

2.3.5 **Special Surveys.** Providing planning surveys or special surveys for Site evaluations, comparative studies or assessment of environmental conditions, to the extent not included in the scope of Basic Services for the Project.

2.3.6 **Operational/Maintenance Cost Analysis.** Analysis of ownership, operational or maintenance costs of the Project or the components thereof to the District.

2.3.7 **Additional Consultants.** Providing services of Consultants for design disciplines not included in the Basic Services.
ARTICLE 3 DISTRICT RESPONSIBILITIES

3.1 Information. The District shall provide full information regarding the Project, including the District’s objectives, general description of the scope, schedule requirements, construction budget, and other constraints and requirements, which may affect the Project. Except as set forth herein, the Architect shall be entitled to rely on the accuracy and completeness of information relating to the Project provided by the District. The foregoing notwithstanding, if any information provided by the District to the Architect consists of information relating to existing “as built” conditions of improvements on or about the Site, the Architect shall be entitled to rely upon information in concealed or covered conditions, but the Architect shall independently verify the accuracy and completeness of information of existing “as built” conditions which are visually apparent without opening or uncovering any existing improvements. If in such independent verification, the Architect encounters conditions different than noted in the District provided information, the Architect shall notify the District, and the Construction Manager in writing of such encountered discrepancies.

3.2 District Representative. The District shall designate a representative to act on the District’s behalf with respect to the Project and who shall be authorized to render decisions on behalf of the District and to carry out the District’s responsibilities under this Agreement, all of which shall be discharged or performed in a manner so as to avoid unreasonable delay in the orderly and sequential progress of design and construction of the Project and Architect’s services hereunder.

3.3 District Consultants. Except for the Consultants retained by the Architect, the District shall furnish all legal, accounting, insurance and other consulting services as may be necessary for the Project.

3.4 District Notice of Non-Conformity. The District will give prompt written notice to the Architect if the District becomes aware of any fault, failure or neglect of Architect or the services provided by Architect hereunder; provided that the failure or delay by District in giving such written notice shall not constitute a waiver of any right or remedy of the District arising out of such fault, failure or neglect of the Architect. Upon receipt of such notice, a material obligation of the Architect under this Agreement is its prompt action to fully remedy the fault, neglect or failure identified by the District in the District’s written notice.

ARTICLE 4 ARCHITECT COMPENSATION

4.1 Contract Price for Architectural Services. The Contract Price for the Architectural Services subject to a Project Assignment Amendment (“PAA”) will be set forth in the PAA. The Contract Price set forth in a PAA for the Architectural Services described in the PAA is the full amount due from the District to the Architect for the Architectural Services described in the PAA.

4.2 Fees, Costs and Expenses Incorporated Into Project Contract Price. The Contract Price for the Project includes the Architect’s fee, Consultants’ fees, personnel expense of the Architect and Consultants, inclusive of all benefits and burdens, travel for the personnel of the Architect and Consultants, insurance and all other administrative and overhead costs, including all costs and expenses of a non-capital nature reasonably and necessarily incurred by Architect to perform the Basic Services including without limitation expenses for telephone, postage, delivery, office supplies, reproduction of
plans and prints, basic renderings of projects needed for meetings to better explain design of projects, photography, and travel to and from the offices of the Architect and Consultants to the Project and the District’s Administrative offices. Unless expressly authorized in advance by the District, no payment will be made by the District for expenses or costs of any kind, type, or nature.

4.3 Additional Services. If the District authorizes or directs the Architect to perform or provide Additional Services described generally in Paragraph 3 of this Agreement in connection with the Project, Architect shall be compensated for its personnel providing such Additional Services in accordance with the hourly personnel rate schedule attached to this Agreement (“the Rate Schedule”).

4.4 District Payments.

4.4.1 Allocation of Contract Price. The District’s payment of the Contract Price for Basic Services for the Project shall be allocated amongst the various Phases of the Basic Services for the Project as set forth in this Agreement.

4.4.2 Architect Billings to District. During the course of providing Basic Services for the Project, Architect shall submit monthly billing invoices to the District for payment of the Contract Price for Basic Services and authorized Additional Services performed in the immediately prior month. Architect’s billings shall be in such form and format and accompanied by substantiating data as may be reasonably requested by District.

4.4.3 District Payments to Architect. Within thirty (30) days of receipt of Architect’s billing invoices, District will make payment to Architect of undisputed amounts of the Contract Price due for Basic Services and authorized Additional Services for the Project. The District may withhold or deduct from amounts otherwise due Architect hereunder if Architect shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after Architect has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting therefrom. Notwithstanding any provision of this Agreement to the contrary, if the District shall, in good faith, dispute the amount due Architect under any billing invoice rendered by Architect under this Agreement, pursuant to Civil Code §3320(a), the District may withhold from payment to the Architect an amount not to exceed one hundred and fifty percent (150%) of the disputed amount.

ARTICLE 5 INSURANCE; INDEMNITY

5.1 Architect Insurance. At all times while providing or performing services under this Agreement, the Architect and its Consultants shall obtain and maintain the policies of insurance described in this Article 5. The minimum coverage amounts of each policy of insurance to be obtained and maintained by the Architect and its Consultants while providing or performing services in connection with the Project shall be as set forth in this Agreement.

5.2 Workers Compensation and Employers Liability Insurance. Architect shall purchase and maintain Workers’ Compensation Insurance covering claims under workers’ or workmen’s compensation, disability benefit and other similar employee benefit acts may be liable. Architect shall purchase and maintain Employer’s Liability Insurance covering bodily injury (including death) by accident or disease to any employee which arises out of the employee’s employment by Architect. The Employer’s Liability Insurance required of Architect hereunder may be obtained by Architect as a separate
policy of insurance or as an additional coverage under the Workers’ Compensation Insurance required to be obtained and maintained by Architect hereunder.

5.3 **Commercial General Liability and Property Insurance.** Architect shall purchase and maintain Commercial General Liability and Property Insurance as will protect Architect from the types of claims set forth below which may arise out of or result from Architect’s services under this Agreement and for which Architect may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than Architect’s employees; (ii) claims for damages insured by usual personal injury liability coverage; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance or use of a motor vehicle; and (v) contractual liability insurance applicable to Architect’s obligations under this Agreement. District shall be an additional insured to Architect’s commercial general liability insurance policy. Additional insured verification must include District name and address.

5.4 **Professional Liability Insurance.** Architect will procure and maintain professional liability insurance covering liabilities of the Architect arising out of the performance of services under this Agreement.

5.5 **Consultants’ Insurance.** Each of the Consultants retained by the Architect to provide or perform a portion of the services or obligations of the Architect under this Agreement shall obtain and maintain policies of insurance for Workers Compensation, Employers Liability, Commercial General Liability/Property Damage and Professional Liability. Each policy of insurance to be obtained by each of the Architect’s Consultants shall conform to the standards or requirements set forth in Articles 5.1-5.4, above.

5.6 **Policy Endorsements; Evidence of Insurance.** Architect shall deliver Certificates of Insurance to the District evidencing each of the policies of insurance in the coverage amounts required hereunder. All policies of insurance required hereunder shall be issued by insurer(s) admitted to issue insurance by the State of California and to the reasonable satisfaction of the District. Coverages under each policy of insurance required hereunder, whether by endorsement or otherwise, shall provide that such policy will not be modified or canceled without at least thirty (30) days advance written notice to the District.

5.7 **Architect’s Insurance Minimum Coverage Limits.** Minimum coverage limits for policies of insurance to be obtained and maintained by the Architect are:

<table>
<thead>
<tr>
<th>Insurance Policy</th>
<th>Minimum Coverage Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers Compensation</td>
<td>In accordance with law</td>
</tr>
<tr>
<td>Employers Liability</td>
<td>Two Million Dollars ($2,000,000)</td>
</tr>
<tr>
<td>Commercial General Liability</td>
<td>Per Occurrence: Two Million Dollars ($2,000,000)</td>
</tr>
<tr>
<td></td>
<td>Aggregate: Four Million Dollars ($4,000,000)</td>
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</tbody>
</table>
### 5.8 Architect’s Consultants’ Insurance; Minimum Coverage Limits

Minimum coverage limits for policies of insurance to be obtained and maintained by each of the Architect’s Consultants are:

<table>
<thead>
<tr>
<th>Insurance Policy</th>
<th>Minimum Coverage Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers Compensation</td>
<td>In accordance with law</td>
</tr>
<tr>
<td>Employers Liability</td>
<td>One Million Dollars ($1,000,000)</td>
</tr>
<tr>
<td>Commercial General Liability</td>
<td>Per Occurrence: One Million Dollars ($1,000,000)</td>
</tr>
<tr>
<td></td>
<td>Aggregate: Two Million Dollars ($2,000,000)</td>
</tr>
<tr>
<td>Automobile Liability</td>
<td>Combined Single Limit: One Million Dollars ($1,000,000)</td>
</tr>
<tr>
<td>Professional Liability</td>
<td>Per Claim: One Million Dollars ($1,000,000)</td>
</tr>
<tr>
<td></td>
<td>Aggregate: One Million Dollars ($1,000,000)</td>
</tr>
</tbody>
</table>

### 5.9 Indemnity

**5.9.1 Architect Indemnity.**

To the fullest extent permitted by law, the Architect shall indemnify, defend and hold harmless the District and its employees, officers, Board of Trustees, each individual member of the Board of Trustees, agents and representatives (collectively “the Indemnified Parties”) from any and all claims, actions, causes of action, demands, losses, responsibilities or liabilities (collectively “Claims”) for: (i) injury or death of persons; (ii) damage to property, and (iii) other costs, losses, expenses or charges which result from the negligent, grossly negligent or willful conduct of the Architect, Consultants to the Architect, employees of the Architect or Consultants or the agents/representatives of the Architect or Consultants to the Architect. The foregoing includes without limitation, reasonable attorneys’ fees and costs (including expert witness fees) incurred by the Indemnified Parties. The Architect shall defend the Indemnified Parties from Claims with counsel retained by the Architect who is reasonably
satisfactory to the Indemnified Parties. If any of the Indemnified Parties object to counsel retained by the Architect to defend the Indemnified Parties, the Architect shall retain alternate counsel who is satisfactory to the Indemnified Parties. The Architect’s obligations hereunder shall survive the Architect’s completion of services under this Agreement, expiration of the Term of the Agreement or the earlier termination of this Agreement until any such claim, demand, loss, responsibility or liability covered by the provisions hereof is barred by the applicable Statute of Limitations.

5.9.2 District Indemnity of Architect. The District shall indemnify and hold harmless Architect from all claims arising out of bodily injury (including death) and physical damage (other than to the Project(s) itself and property covered by a policy of Builder’s Risk Insurance) which arise out of the negligent or willful acts, omissions or other conduct of the District.

ARTICLE 6 TERM; TIME

6.1 Term. The Term of this Agreement commences upon the District and the Architect each executing a counterpart copy hereof, delivery of an executed counterpart copy hereof to the other and ratification of this Agreement by the District’s Board of Trustees.

6.2 Time. All of the Basic Services and authorized Additional Services for the Project(s) shall be completed by the Architect in a prompt and diligent manner as is consistent with professional skill and care. The Architect shall be liable to the District for all costs, losses, damages or other liabilities arising out of the failure of the Architect to complete Basic Services for the Project in accordance with an agreed upon schedule included in this Agreement as the PAA, Exhibit A, provided that the Architect’s liabilities hereunder shall not extend to costs, losses, damages or other liabilities caused by factors beyond the reasonable control of the Architect.

ARTICLE 7 TERMINATION; SUSPENSION

7.1 Termination for Default. Either the District or Architect may terminate this Agreement upon seven (7) days advance written notice to the other if there is a default by the other Party in its performance of a material obligation hereunder and such default in performance is not caused by the Party initiating the termination. Such termination shall be deemed effective the seventh (7th) day following the date of the written termination notice, unless during such seven (7) day period, the Party receiving the written termination notice shall commence to cure it default(s) and diligently thereafter prosecute such cure to completion. In addition to the District’s right to terminate this Agreement pursuant to the foregoing, the District may terminate this Agreement upon written notice to Architect if: (i) Architect becomes bankrupt or insolvent, which shall include without limitation, a general assignment for the benefit of creditors or the filing by Architect or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for Architect or any of Architect’s property on account of Architect’s insolvency; or (ii) if Architect disregards applicable laws, codes, ordinances, rules or regulations. If District exercises the right of termination hereunder, the Contract Price due the Architect, if any, shall be based upon Basic Services and authorized Additional Services for the Project as of the date of termination provided prior the effective date of the District’s termination of this Agreement, reduced by the District’s prior payments of the Contract Price due for such Projects and losses, damages, or other costs sustained by the District arising out of the termination of this Agreement or the cause(s) for termination of this
Agreement. Payment of the amount due the Architect, if any, shall be made by District only after completion of the Post Construction Phase of the Project. Architect shall remain responsible and liable to District all losses, damages or other costs sustained by District arising out of termination pursuant to the foregoing or otherwise arising out of Architect’s default hereunder, to the extent that such losses, damages or other costs exceed any amount due Architect hereunder for Basic Services or authorized Additional Services.

7.2 **District’s Right to Suspend.** The District may, in its discretion, suspend all or any part of the design or construction of the Project or the Architect’s services; provided, however, that if the District shall suspend construction of the Project or Architect’s services for a period of sixty (60) consecutive days or more and such suspension is not caused by the Architect’s default or the acts or omissions of Architect or its Consultants, upon rescission of such suspension, the Contract Price will be subject to adjustment to reflect actual costs and expenses incurred by Architect, if any, as a direct result of the suspension and resumption of Project construction or Architect’s services.

7.3 **District’s Termination for Convenience.** The District may, at any time, upon seven (7) days advance written notice to Architect terminate this Agreement, in whole or in part, for the District’s convenience and without fault, neglect or default on the part of Architect. In such event, the Agreement shall be deemed terminated seven (7) days after the date of the District’s written notice to Architect or such other time as the District and Architect may mutually agree upon. In such event, the District shall make payment of the Contract Price to Architect for services provided through the date of termination plus actual costs incurred by Architect directly attributable to such termination.

7.4 **Architect Suspension of Services.** If the District shall fail to make payment of the Contract Price for the Project when due Architect hereunder, Architect may, upon seven (7) days advance written notice to the District, suspend further performance of services relating to such Project hereunder until payment in full is received. In such event, Architect shall have no liability for any delays or additional costs of construction of the Project due to, or arising out of, such suspension.

7.5 **Architect Obligations Upon Termination.** Upon the District’s exercise of the right of termination under Paragraph 7.1 or Paragraph 7.3 of this Agreement, the Architect shall take action as directed by the District relative to on-going preparation of the Master Planning, Planning, Design, Construction, and Post Construction Documents of the Project. If requested by the District, the Architect shall within ten (10) days of such request, assemble and deliver to the District all work product, instruments of service and other items of a tangible nature (whether in the form of documents, drawings, samples or electronic files) prepared by or on behalf of the Architect under this Agreement. The Architect shall deliver the originals of all work product, instruments of service and other items of a tangible nature requested by the District pursuant to the preceding sentence; provided, however, that the Architect may, at its sole cost and expense, make reproductions of the originals delivered to the District.

**ARTICLE 8 MISCELEANOUS**

8.1 **Governing Law; Interpretation.** This Agreement shall be governed and interpreted in accordance with the laws of the State of California in accordance with its fair meaning and not strictly for or against the District or Architect.
8.2 Marginal Headings; Captions. Marginal Headings; Captions. The titles of the various Paragraphs of the Agreement are for convenience of reference only and are not intended to and shall in no way enlarge or diminish the rights or obligations of Architect and District hereunder.

8.3 Severability. If any provision of this Agreement is deemed illegal, invalid unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted herefrom, but all remaining provisions will remain and continue in full force and effect.

8.4 Cumulative Rights; No Waiver. Duties and obligations imposed by this Agreement and rights and obligations hereunder are in addition to and not in lieu of any imposed by or available at law or in equity. No action or failure to act by District or Architect hereunder shall be deemed a waiver of any right or remedy afforded hereunder or acquiesce or approval of any breach or default by the other.

8.5 Successors; Non-Assignability. This Agreement and all terms hereof are binding upon and inure to the benefit of the respective successors of Architect and the District. Neither Architect nor District shall assign rights or obligations hereunder without the prior consent of the other, which consent may be withheld or granted in sole discretion of the Party requested to grant such consent.

8.6 Authority. The individual(s) executing this Agreement on behalf of Architect warrant and represent that they are authorized to execute this Agreement and bind Architect to all terms hereof. The individual(s) executing this Agreement on behalf of District warrant and represent that they are authorized to execute this Agreement and subject to approval and ratification by the District’s Board of Trustees, to bind District to all terms hereof and authority granted to enter into this Agreement.

8.7 Notices. Notices under this Agreement will be addressed and delivered as set forth as follows.

If to District: 
Chief Business Official
Santa Clara Unified School District
1889 Lawrence Road
Santa Clara, CA 95051

If to Architect:

8.8 Disputes.

8.8.1 Continuation of Architect Services. Notwithstanding any disputes between District and Architect hereunder or in connection with the Project, Architect and District shall each continue to perform their respective obligations hereunder; including the obligation of the Architect to continue to provide and perform services hereunder pending a subsequent resolution of such disputes.

8.8.2 Mandatory Mediation. All claims, disputes and other matters in controversy between the Architect and the District arising out of or pertaining to this Agreement or the Project shall be submitted for resolution by non-binding mediation conducted under the auspices of the JAMS and the Construction Mediation Rules of JAMS in effect at the time that a Demand For Mediation is filed. The commencement and completion of mediation proceedings pursuant to the foregoing is a condition precedent to either the District or the Architect commencing arbitration proceedings pursuant to the following Paragraph.
Mediation shall be conducted at the JAMS regional office situated closest to the Site.

8.8.3 JAMS Binding Arbitration. All claims, disputes and other matters in controversy between the Architect and the District arising out of or pertaining to this Agreement or the Project which are not fully resolved by the mandatory mediation proceedings shall be resolved by binding arbitration conducted before a retired judge in accordance with the Construction Arbitration Rules and Procedures of Judicial Arbitration Mediation Services (“JAMS”) in effect as of the date that a Demand for Arbitration is filed, except as expressly modified herein. The locale for any arbitration commenced hereunder shall be the regional office of the JAMS closest to the Site. The commencement and completion of mediation proceedings pursuant to the foregoing is a condition precedent to either the District or the Architect commencing arbitration proceedings.

8.8.3.1 Architect Compliance with Government Code §900 et seq. All claims, demands, disputes, disagreements or other matters in controversy asserted by the Architect against the District in a Demand for Arbitration are deemed a “suit for money or damages” under Government Code §900 et seq. An express condition precedent to the Architect’s commencement of binding arbitration proceedings hereunder is the Architect’s compliance with and exhaustion of remedies and procedures under Government Code §900 et seq, including without limitation, §§945.4, 945.6 and 946. Notwithstanding the arbitration provisions set forth herein, all claims demands, disputes, disagreements or other matters in controversy asserted by the Architect against the District seeking money or damages shall first be presented to the District’s Board of Trustees and acted upon or deemed rejected by the Board of Trustees in accordance with Government Code §900 et seq. prior to the Consultant’s initiation of binding arbitration proceedings.

8.8.3.2 Demand for Arbitration. A Demand for Arbitration shall be filed and served within a reasonable time after the occurrence of the claim, dispute or other disagreement giving rise to the Demand for Arbitration, but in no event shall a Demand for Arbitration be filed or served after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other disagreement would be barred by the applicable statute of limitations. Arbitration proceedings commenced hereunder are subject to consolidation with any other arbitration proceedings relating to the Project and the Master Planning Documents prepared by or through the Architect for the Project or the Architect’s services in completing architectural and related services for the Project.

8.8.3.3 Discovery. In connection with any arbitration proceeding commenced hereunder, the discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 shall be applicable, and the same shall be deemed incorporated herein by this reference.
8.8.3.4 **Arbitration Award.** The award rendered by the Arbitrator(s) ("Arbitration Award") shall be final and binding upon the District and the Architect only if the Arbitration Award is: (i) supported by substantial evidence; (ii) based on applicable legal standards in effect that the time the Arbitration Award is issued; and (iii) supported by written findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296. Any Arbitration Award that does not conform to the foregoing is invalid and unenforceable. The District and Contractor hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the Arbitration Award if, after review, the Court determines either that the Arbitration Award does not fully conform to the foregoing. The confirmation, enforcement, vacation or correction of an arbitration award rendered hereunder shall be made by the Superior Court of the State of California for the county in which the Site is situated. The substantive and procedural rules for such post-award proceedings shall be as set forth in California Code of Civil Procedure §1285 et seq.

8.8.3.5 **Arbitration Fees and Expenses.** The expenses and fees of the Arbitrator(s) shall be divided equally among all of the parties to the arbitration. Each party to any arbitration commenced hereunder shall be responsible for and shall bear its own attorneys’ fees, witness fees and other costs or expenses incurred in connection with such arbitration. The foregoing notwithstanding, the Arbitrator(s) may award arbitration costs, including Arbitrators’ fees but excluding attorneys’ fees, to the prevailing party.

8.8.3.6 **Limitation on Arbitrator.** The Superior Court for the State of California for the County in which the Site is situated has the sole and exclusive jurisdiction, and an arbitrator has no authority, to hear and/or determine a challenge to the commencement or maintenance of an arbitration proceeding on the grounds that: (i) the subject matter of the arbitration proceeding is barred by the applicable statute of limitations; (ii) the subject matter of the arbitration proceeding is barred by a provision of the California Government Claims Act; (iii) the subject matter of the arbitration proceeding is outside the scope of the arbitration clause; (iv) the Architect has failed to satisfy all conditions precedent to commencement or maintenance of an arbitration proceeding; (v) waiver of the right to compel arbitration; (vi) grounds exist for the revocation of the arbitration agreement; and/or, (vii) there is the prospect that a ruling in arbitration would conflict or potentially with a ruling in a pending proceeding regarding the Project on a common issue of law or fact.

8.8.4 **Limitation on Special/Consequential Damages.** In the event of the District’s breach or default of its obligations under this Agreement, the damages, if any, recoverable by the Architect shall be limited to general damages which are directly caused by the breach or default of the District and shall exclude any and all special
or consequential damages, if any. By executing the Agreement, the Architect expressly acknowledges the foregoing limitation to recovery of only general damages from the District if the District is in breach or default of its obligations under the Contract Documents; the Architect expressly waives and relinquishes any recovery of special or consequential damages from the District.

8.9 **Confidentiality.** Unless disclosure is required by applicable law or valid court order, the Architect and its Consultants shall maintain the confidentiality of all information provided by or through the District to the Architect or its Consultants and shall not disclose or otherwise disseminate any information conveyed by or through the District to the Architect or its Consultants relating to this Agreement or the Project.

8.10 **Definitions.**

8.10.1 **Construction Contract.** The Contract for Construction awarded by the District to a Contractor for the construction of a portion of the Project. If the Project is constructed by multiple trade contractors, each under contract to the District, references to the Construction Contract in this Agreement for such the Project shall be such contracts individually or collectively as required by context in which such term if used.

8.10.2 **Contractor.** The individual or entity awarded the Construction Contract by the District for the Project. If the Project is constructed by multiple trade contractors, references to the contractor in the Agreement shall be to such multiple trade contractors, individually or collectively, as required by the context in which such term is used.

8.10.3 **Design Documents.** The Drawings, Specifications, calculations and other work product prepared by the Architect or its Consultants for an Assigned Project or any portion thereof. Design Documents include Drawings, Specifications and other documents prepared by the Architect or a Design Consultant for an Assigned Project.

8.10.4 **Design Consultant(s).** Design Consultant(s) or Subconsultants are individuals or entities retained by Architect to provide or perform a portion of the Architect’s services or work product hereunder, including any portion of the Design Documents. Consultants shall be duly licensed as required by law, rule or regulation and shall be qualified to perform or provide the portion of Architect’s services or work product assigned by having previously provided design consulting services for California public school project design and construction. The District shall have the right to reasonably disapprove a Design Consultant. Architect shall be responsible for the adequacy, timeliness and quality of services or work product provided or performed by Consultants; Architect shall be liable to District for, and shall defend, indemnify and hold harmless District and its Board of Trustees, employees, officers, agents and representatives from and against, all losses, costs, damages, liabilities, actions or demands arising out of the services or work product provided or performed by Consultants.

8.10.5 **Submittals.** Shop Drawings, Product Data or Samples prepared or provided by a Contractor or its Subcontractor(s) or supplier(s) illustrating some portion of the Work of an Assigned Project.

8.10.6 **Site.** The physical area for construction and related activities of an Assigned Project.
8.10.7 Drawings and Specifications. The Drawings are the graphic and pictorial portions of the Design Documents showing generally the location, design and dimensions of the Work of an Assigned Project, including without limitation, plans, elevations, sections, details, schedules and diagrams. Specifications are the portion of the Design Documents, which consist of written requirements for materials, equipment, construction systems, standards, criteria and workmanship for the Work and related services for an Assigned Project.

8.10.8 Work. All of the construction and other services required by the terms of a Construction Contract, including all labor, materials, equipment and other services required of the Contractor under the terms of the Construction Contract to complete an Assigned Project.

8.10.9 Project Construction Budget. The Project Construction Budget refers to the total costs allocated by the District for construction of an Assigned Project, exclusive of the Contract Price under this Agreement, site acquisition costs and the costs of furniture, furnishing and/or equipment for the Project. The Project Construction Budget established by the District may be modified by the District upon notice to the Architect. As used in this Agreement, the term “Project Construction Budget” refers to the then current amount allocated for construction of the Project as modified from time-to-time.

8.10.10 Construction Cost Estimate. Construction Cost Estimates are estimates prepared by or on behalf of the Architect of the current costs of labor, materials, equipment and services plus a reasonable allowance for the Contractor’s profit, overhead and administrative cost as necessary to complete construction of an Assigned Project in accordance with the Design Documents. Construction Cost Estimates shall include a reasonable allowance for contingencies relating to market conditions at the time of solicitation of Contractor bids for the Work of the Project and Changes in the Work during construction of an Assigned Project; the allowance for contingency costs shall be consistent with the contingency established by the District in the Project Construction Budget, if any.

8.10.11 Construction Manager. The Construction Manager is the individual or entity retained by the District as an independent contractor to provide certain management, planning, other services and/or work product in connection with the design and/or construction of the Project. Services, functions and responsibilities of the Construction Manager shall be provided in conjunction with and complementary to the Architect’s services and work product under this Agreement.

8.10.12 Assigned Project. An Assigned Project is a Project described in a Project Assignment issued by the District under this agreement.

8.10.13 Project Assignment. A Project Assignment is the written instrument issued by the District and mutually executed by the District and the Architect which establishes the specific terms and conditions for the Architect’s performance and provision of Architectural and related services for an Assigned Project. The form of Project Assignment is attached as Exhibit A to the Agreement. Notwithstanding execution of the Agreement by the District and the Architect, the Architect shall have no right to provide Architectural services or to be compensated for any Project which may be undertaken by the District unless the District has theretofore issued a
Project Assignment for such Project and the Project Assignment is mutually executed by the District and the Architect.

8.11 Use and Ownership of Documents

8.11.1 Ownership. Subject to the provisions hereof, all Drawings, Specifications, estimates, Instruments of Service and other tangible items ("Project Documents") prepared by or through the Architect for the Project shall be and remain the property of the District. The Project Documents shall be and remain the property of the District regardless of the format on which said items are prepared or stored, including without limitation paper copies, AutoCAD files, Revit files, (or similar computer-aided drafting of design formats), or other types of computerized data. The District specifically maintains ownership of the design of the Project and the design of any buildings or other improvements which are a part thereof, notwithstanding creation/preparation of such design by or through the Architect, and such design may not be re-used by the Architect or its employees or Consultants without the specific prior written consent of the District which may be granted, denied or conditioned in the sole exclusive discretion of the District. Subject to the District’s ownership of tangible Project Documents, the copyright and other intellectual property rights in all Project Documents shall remain with the Architect. Notwithstanding any other provision contained herein, Architect shall retain the absolute right to use and re-use standard graphics, details, specifications, requirements, notes and other provisions included in the Work Product on other projects for other clients and at any time as part of its ongoing professional practice.

8.11.2 Right to Use. The Architect grants to the District a perpetual license to use and/or reuse all or any part of the Project Documents at the District’s sole discretion with no additional compensation to the Architect for the purposes of: (i) construction of all or part of the Project; (ii) the repair, renovation, modernization, replacement, reconstruction or expansion of the Project; or (iii) the construction of another project by or for the District for the District’s ownership and/or use. The District is not bound by this Agreement to employ the services of the Architect in the event any of the Project Documents are used for such purposes. The District shall be authorized to use or reuse the Project Documents for these purposes without liability to the Architect, its Consultants or third parties with respect to the condition of the Project Documents, and the use or reuse of the Project Documents for these purposes shall be not be construed or interpreted to waive or limit the District’s right to recover for latent defects or for errors or omissions of the Architect; provided, however, that any use or reuse by the District of the Project Documents on any project other than the Project for which the Project Documents were prepared without employing the services of the Architect shall be at the District’s own risk. If the District uses or reuses the Project Documents on any project other than the Project for which the Project Documents were prepared for, the District shall remove the Architect’s seal from the Project Documents and indemnify and hold harmless the Architect from claims arising out of the use or re-use of the Project Documents on such other project.

8.11.3 District License to Use Project Documents. This Agreement creates a non-exclusive and perpetual license for the District to copy, use, modify or reuse any and all Project Documents and any intellectual property rights therein. The Architect shall require any and all of the Architect’s Consultants to agree in writing
that the District is granted a non-exclusive and perpetual license for the work of such Consultants performed pursuant to this Agreement.

8.11.4 Architect Right to Grant License. The Architect represents and warrants that the Architect has the legal right to license any and all copyrights, designs and other intellectual property embodied in the Project Documents prepared by or through the Architect under this Agreement.

8.12 Entire Agreement. This Agreement and the following are all of the documents forming a part of the Agreement:

The RFP and the RFP Response
Exhibit A- Project Assignment Amendment (“PAA”)

The foregoing constitute the entire agreement and understanding between the District and Architect concerning the subject matter hereof, replacing and superseding all prior agreements or negotiations, whether written or verbal. The foregoing notwithstanding, in the event of conflict or inconsistency between the terms of this Agreement or the RFQ, as applicable, shall control and govern. No term or condition of this Agreement shall be modified or amended except by writing executed by the District and Architect.

IN WITNESS WHEREOF, the District and Architect have executed this Agreement as of the date set forth above.

“District”
SANTA CLARA UNIFIED SCHOOL DISTRICT

By: ____________________________
Name: Eric Dill
Title: Chief Business Official

“Architect”

By: ____________________________
Name: __________________________
Title: ____________________________
EXHIBIT A
PROJECT ASSIGNMENT AMENDMENT

This Project Assignment Amendment ("PAA") is entered into between SANTA CLARA UNIFIED SCHOOL DISTRICT ("District") and __________________________ ("Architect") as of ___________________ with reference to the following.

WHEREAS, the District and Architect have entered into an agreement entitled Agreement for Ongoing Architectural and Engineering Services ("Agreement") pursuant to which the Architect agreed to provide Architectural Services for the Projects assigned by the District ("Assigned Projects").

WHEREAS, the Consultant will complete the Architectural Services for the following Assigned Project as set forth herein.

1. **Assigned Project.** The Assigned Project subject to this PAA is described as:

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

2. **Architectural Scope Description.** The scope of Architectural Services subject to this PAA is generally described as:

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

3. **Architectural Services Completion Schedule.** Consultant will complete Architectural Services in accordance with the following completion schedule:

<table>
<thead>
<tr>
<th>Architectural Service</th>
<th>Completion Date</th>
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4. **Contract Price for Architectural Services.** The Contract Price for Architectural Services under this PAA is:

   ________________________________________________________________

5. **Consultant Personnel Rates.** The following hourly rates for the Architect’s personnel completing Architectural Services for the Assigned Project will be used for: (i) calculating the Contract Price if the Contract Price is a “Not to Exceed” based on Consultant personnel
time to complete Architectural Services; (ii) calculating the Contract Price if the Contract Price is based on Consultant personnel time to complete Architectural Services; or (iii) for calculating adjustments to the Contract Price if the District authorized Additional Architectural Services for the Assigned Project.

<table>
<thead>
<tr>
<th>Personnel</th>
<th>Hourly Rate</th>
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<tr>
<td>Principal</td>
<td>$___________</td>
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<tr>
<td>Architect</td>
<td>$___________</td>
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<tr>
<td>Interior Designer</td>
<td>$___________</td>
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<tr>
<td>Project Manager</td>
<td>$___________</td>
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<tr>
<td>Construction Project Manager</td>
<td>$___________</td>
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<tr>
<td>(if different from Project Manager)</td>
<td>$___________</td>
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<tr>
<td>Clerical</td>
<td>$___________</td>
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6. **Architect Personnel.** The Architect designates and the District accepts the following Architect personnel for the functions/positions described herein. Architect personnel identified below shall not be replaced by the Architect except under the following conditions: (i) the Architect terminates any of the identified personnel for cause; (ii) death or incapacitation of identified personnel; or (iii) any of the identified personnel voluntarily cease employment with the Architect without duress or coercion. Architect personnel for the Project are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
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7. **No Modification to Agreement.** Except as expressly modified in the foregoing, the Agreement is not modified by this PAA. All of the foregoing described Architectural Services for the Assigned Project will be completed by the Consultant in accordance with the applicable terms and requirements of the Agreement.

IN WITNESS HEREOF, the District and Consultant have executed this PAA as of the date set forth above.

<table>
<thead>
<tr>
<th>“District”</th>
<th>“Architect”</th>
</tr>
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<tbody>
<tr>
<td>SANTA CLARA UNIFIED SCHOOL DISTRICT</td>
<td></td>
</tr>
<tr>
<td>By: __________________________</td>
<td>By: _________________________</td>
</tr>
<tr>
<td>Eric Dill</td>
<td>Name: _______________________</td>
</tr>
<tr>
<td>Chief Business Official</td>
<td>Title: ______________________</td>
</tr>
</tbody>
</table>

[END OF DOCUMENT]