

**REQUEST FOR QUOTES  
ARCHITECTURAL SERVICES - 3RD SOUTH OFFICES - AREA 329  
RFQ No. 01-23-24**

<b>RFQ ISSUANCE DATE:</b>	<b>May 22, 2023</b>
<b>PRE-BID JOB WALK:</b>	<b>May 31, 2023</b>
<b>DEADLINE FOR QUESTIONS:</b>	<b>June 7, 2023</b>
<b>ADDENDUM, IF APPLICABLE:</b>	<b>June 13, 2023</b>
<b>PROPOSAL SUBMITTAL DEADLINE:</b>	<b>June 23, 2023</b>

**REQUEST FOR QUOTES**  
**RFQ# 01-23-24**  
**ARCHITECTURAL SERVICES - 3RD SOUTH OFFICES**

The Santa Clara County Office of Education (SCCOE) is seeking proposals from qualified architectural firms to provide architectural and engineering services at 1290 Ridder Park Drive, San Jose, CA 95131 related to the modernization, reconstruction, and renovation of the Ridder Park 3<sup>rd</sup> floor south office building area.

Qualified firms are invited to submit proposals to the address below no later than **3:00 PM on June 23, 2023**:

Santa Clara County Office of Education  
Attn: Jas Sohal (Manager, Purchasing Services)  
1290 Ridder Park Drive  
San Jose, CA 95131-2304

This Request for Proposal does not commit the Santa Clara County Office of Education to award a contract or pay any costs incurred in preparing proposals. The SCCOE reserves the right to accept all or part of any proposal or to cancel this request in part or its entirety. The SCCOE further reserves the right to accept the proposal(s) that it considers being in the best interest of the SCCOE.

**I. GENERAL INSTRUCTIONS**

The proposal must be signed by an officer or authorized representative of the firm and received by **3:00 PM on June 23, 2023**. Any late submissions will be returned to the firm unopened. Proposals that are incomplete or missing forms or required information may be deemed non-responsive and will not be considered. Proposals should be reviewed for accuracy before submission since said document may not be adjusted after submission to the SCCOE. The SCCOE will not be responsible for errors or omissions. Firms may withdraw their proposal submission, either personally or by written request, before **3:00 PM on June 23, 2023**.

**Mandatory Job Walk:**

**Wednesday May 31, 2023  
10:00 AM**

**Santa Clara County Office of Education  
1290 Ridder Park Drive  
San Jose CA 95131**

**A. QUESTIONS/RFIs/ADDENDA**

To control information disseminated regarding this RFQ, firms are directed **not** to make personal contact with members of the SCCOE administration. Any questions concerning this RFQ should be submitted by *email* no later than 3:00 PM on June 7, 2023, to:

**Jas Sohal, Manager Purchasing Services  
Mail Address: JSohal@sccoe.org**

If applicable, an addendum with a summary Q&A will be posted to the SCCOE website at the link below by June 13, 2023: <https://www.sccoe.org/depts/bizserv/purchasing/Pages/Bids-Posting-System.aspx>

**B. SCCOE-REQUIRED FORMS**

Please include the SCCOE required forms enclosed in Appendix 1 with your proposal: *Offer to Enter into a Agreement, Terms and Conditions, Qualification Certification, and Non-Collusion Declaration*.

**C. SUBMISSION OF RFQ/PROPOSALS – June 23, 2023**

Qualified firms are invited to submit an original plus two (2) copies of their proposal to the address below no later than **3:00 PM on June 23, 2023**:

Santa Clara County Office of Education  
Attn: Jas Sohal (Manager, Purchasing Services)  
1290 Ridder Park Drive  
San Jose, CA 95131-2304

## II. DESCRIPTION OF SERVICES REQUIRED – PURPOSE OF RFQ

### A. Scope of Services

The selected firm will be required to provide the SCCOE with professional architectural services that include, but are not limited to, the following:

1. Work with SCCOE staff in the development of the project scope.
2. Work with SCCOE staff in incorporating the specifications and SCCOE's standards in the project scope, whether the project is modernization, renovation, or new construction.
3. Prepare a preliminary project budget based on the approved project scope to include all project costs, including architect fees, agency fees, inspection, construction, testing, inspection, furniture/equipment, etc.
4. Upon approval of project scope and budget by SCCOE staff, complete construction drawings for review and possible modification by SCCOE staff.
5. Update the project budget based on SCCOE approved construction drawings.
6. Prepare a project booklet that includes a summary of the project scope, budget, and schedule for review and approval.
7. Upon approval of the project booklet, obtain all government approvals on plans and specifications, including the Division of State Architect (DSA), California Department of Education, city of project jurisdiction, County of Santa Clara, and any other required State and/or local governmental agency.
8. Work with SCCOE staff, construction management firms/consultants, and engineers in developing the bid packages, including general conditions, plans, drawings, and specifications.
9. Assist SCCOE staff/consultants in the review of bids.
10. Assist SCCOE staff/consultants in the overview of the construction project.
11. Assist SCCOE staff/consultants in the "close-out" of the construction project.
12. Assist SCCOE staff/consultants in gaining approval and sign-off of the construction project from all required State and local government agencies.
13. Other services as necessary to complete the project and agreed to by both parties.

### III. CONTENTS OF PROPOSAL

#### A. Submittal Letter

The cover letter shall be brief (two pages maximum). Include the RFQ title and submittal due date, the name, address, and telephone number of the responding firm (or firms if there is a joint venture or association).

#### B. Table of Contents

Include complete and precise listings of headings and pages to allow easy reference to critical information.

#### C. Description of Firm

This section should provide the SCCOE information regarding the size, location, nature of work performed, years in business, and approach that will be used in meeting the needs of the SCCOE.

#### D. References

Identify similar new construction and modernization/renovation projects your firm has completed. Further, use this section of the proposal to indicate the areas of expertise you have previously provided and how the firm's expertise will enable the SCCOE to benefit from said expertise. Include the name of the project, the size of the project, when the project was completed, and the name of the person and contact information most familiar with the project(s) for use by SCCOE staff in checking references. In addition, provide the names and emails of the SCCOE contacts with whom you worked. *Five pages are the maximum.*

#### E. Fees

Please summarize your firm's fee proposal. Firms are encouraged but not required to be "creative" in their fee proposal by submitting a proposal that does not "mirror" the former fee schedule used by the Office of Public School Construction prior to the adoption of SB 50 in 1998. All architectural agreements will have fixed fee compensation. Two pages are the maximum.

#### F. Construction and Occupancy

Describe the desired working relationship in the field with a construction manager or general contractor during construction. How can change orders be minimized during construction? *Two pages are the maximum.*

#### G. Legal Issues

Please respond to each of the following questions (*One-page maximum*):

- Is there now any legal action pending against your firm by another public agency related to services, or lack thereof, provided by your firm?
- Are there any settlements or judgments involving such actions within the last ten (10) years? Describe each such settlement or judgment, including the nature of the action and the amount of recovery.

- Within the past ten (10) years, has your firm ever had an architectural or construction-related consulting agreement terminated by a California public agency? If yes, please identify the name of the public agency and the reason for the termination.

**H. Other**

Each firm is encouraged to provide any additional information or description of resources or benefits provided by your firm that are pertinent to this RFQ. (*1-page maximum.*)

#### IV. SELECTION PROCESS

##### A. PROPOSAL REVIEW – PHASE I

Quotations received by the June 23rd due date will be reviewed and scored based on the criteria shown in paragraph C below. A total of 100 points can be earned for the written proposal.

##### B. INTERVIEWS – PHASE II (Optional)

At the SCCOE option, finalists will be invited for panel interviews after scoring the written proposals. An additional 50 points can be earned during interviews.

**Estimated Interview Date: exact date/time TBD**

##### C. EVALUATION CRITERIA AND SCORING

Proposals received by June 23, 2023, the due date, will be reviewed by a SCCOE panel and scored on the minimum criteria below:

- Experience in corporate office settings – 25 points
- Experience of project team – 20 points
- References – 20 points
- Competitive fee proposal – 30 points
- Added value or benefits of the firm – 5 points

At the SCCOE 's option, finalists will be invited to panel interviews. During the interviews, the SCCOE will explore the five areas above in greater detail. During the panel interviews, finalists can increase their scores by up to 20 points (a total of no more than 100) based on the above areas plus any of the following:

- Demonstrated understanding of the SCCOE 's needs
- Experience in the completion of new construction and modernization/renovation projects
- Proven ability to provide high-quality planning services in a cost-effective manner
- Proven ability to complete planning tasks within SCCOE approved schedules
- Successful experience in estimating the scope of facilities design and construction work and associated costs
- Familiarity with the Santa Clara County Office of Education's programs and facilities

Submitters are responsible for any expenses incurred in the preparation of proposals.

**APPENDIX 1**

**SCCOE-REQUIRED FORMS**

*Please sign and return with your response.*

*Not included in page count.*



**OFFER TO ENTER INTO AN AGREEMENT**

The following **“Offer to Enter into an Agreement”** must be completed and included with responses to the RFQ in order for the proposal to be accepted by the SCCOE.

The undersigned hereby proposes to enter into an Agreement for Architectural Services with the Santa Clara County Office of Education and to furnish services as outlined, subject to the terms and conditions contained herein.

**Name and Address of Firm**

**Signature of Authorized Officer  
or Representative of Firm**

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
City and State

\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Email Address

## TERMS AND CONDITIONS

**INSTRUCTIONS AND USE OF FORMS.** To preserve uniformity and to facilitate the award of contracts, Respondents shall complete and return the enclosed SCCOE-required forms with their responses.

1. **ACCEPTANCE OR REJECTION OF RESPONSES.** The SCCOE reserves the right to reject any and all incomplete responses, which contain errors, arrive after the due date/time, or are submitted by unqualified vendors. In addition, the SCCOE reserves the right not to award a contract if it, in its sole discretion, deems the responses received pursuant to this RFQ lacking in any respect or insufficient to meet the SCCOE 's requirements and needs.
2. **PROPOSAL PROTESTS.** The following instructions must be followed by a Respondent who wishes to challenge the SCCOE's selection and award of any contract pursuant to this Request for Proposals:
  - a) Any protest must be submitted in writing to the Manager, Purchasing Services, Santa Clara County Office of Education, 1290 Ridder Park Drive, San Jose, CA 95131-2304, before 3:00 PM five business days before the estimated date of recommendation or award of a contract by the SCCOE.
  - b) Only vendors who submitted a proposal in response to this RFQ may file a protest.
  - c) Protests must contain the following specific information:
    - Protestor's name, address, and telephone number and email address.
    - The date on which the protestor's Response was submitted to the SCCOE.
    - Protestor's *specific, detailed basis for the protest* must be supported by facts and/or documentation. Protests based on hearsay, feelings, or opinions not supported by facts will be deemed invalid.
  - d) The protestor shall send a copy of the initial protest document and any attached documentation to all other parties that may be affected financially by the outcome.
  - e) The SCCOE will review and evaluate the protest for validity, including, if required, review by outside counsel. The SCCOE and/or counsel will respond within ten (10) days of review of the protest letter.
  - f) If upon review, the proposal protest is found to be frivolous or lacking validity, the protest will be rejected, and the protesting party may be deemed ineligible to participate in future SCCOE bidding or contracts.
3. **ASSIGNMENT PROHIBITED.** No contract awarded under this proposal shall be assigned without the express, prior written approval of the SCCOE. Any attempted assignment violating the provision may be voided at the option of the Board of Trustees.
4. **NO CONTACT WITH THE SCCOE.** Respondents may not contact any Santa Clara COE Board of Trustees member regarding this proposal unless specifically invited to an interview conducted by the Board.

**NON-DISCRIMINATION.** The Santa Clara County Office of Education does not discriminate in the selection, acceptance, or treatment of any contractor based upon race, color, national origin, religion, sex, sexual orientation, handicap, age, veterans' status, or medical condition.

The SCCOE likewise prohibits discrimination by contractors and subcontractors and may require the successful vendor(s) to give written notice of their obligations to labor organizations with which they have a collective bargaining or other agreements in compliance with Government Code 12990.

**ACCEPTANCE OF TERMS AND CONDITIONS**

The undersigned hereby acknowledges receipt and acceptance of the above Terms and Conditions.

**Company Name:** \_\_\_\_\_

\_\_\_\_\_  
**Authorized Signature and Date**

**Printed Name:** \_\_\_\_\_

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

## ***Qualification Certification***

I, the undersigned, certify and declare, with specific reference to the California False Claims Act, Government Code sections 12650, *et seq.*, that I have reviewed all the information presented in this submittal and know its contents. The matters stated in the submittal are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

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

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

Signature: \_\_\_\_\_

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

Date: \_\_\_\_\_

**NONCOLLUSION DECLARATION TO BE EXECUTED  
AND RETURNED WITH PROPOSAL**  
(Public Contract Code Section 7106)

\_\_\_\_\_, deposes and says that  
*Authorized Representative*

he/she is \_\_\_\_\_ of \_\_\_\_\_  
*Title Contractor/Company Name,*

the party providing the foregoing proposal; that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the respondent has not directly or indirectly colluded, conspired, connived, or agreed with anyone else to put in a sham proposal; that the respondent has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other respondent, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the respondent has not, directly or indirectly, submitted his or her price or any breakdown thereof, or the contents thereof, or divulged information of date relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member of agent thereof to effectuate a collusive or sham proposal.

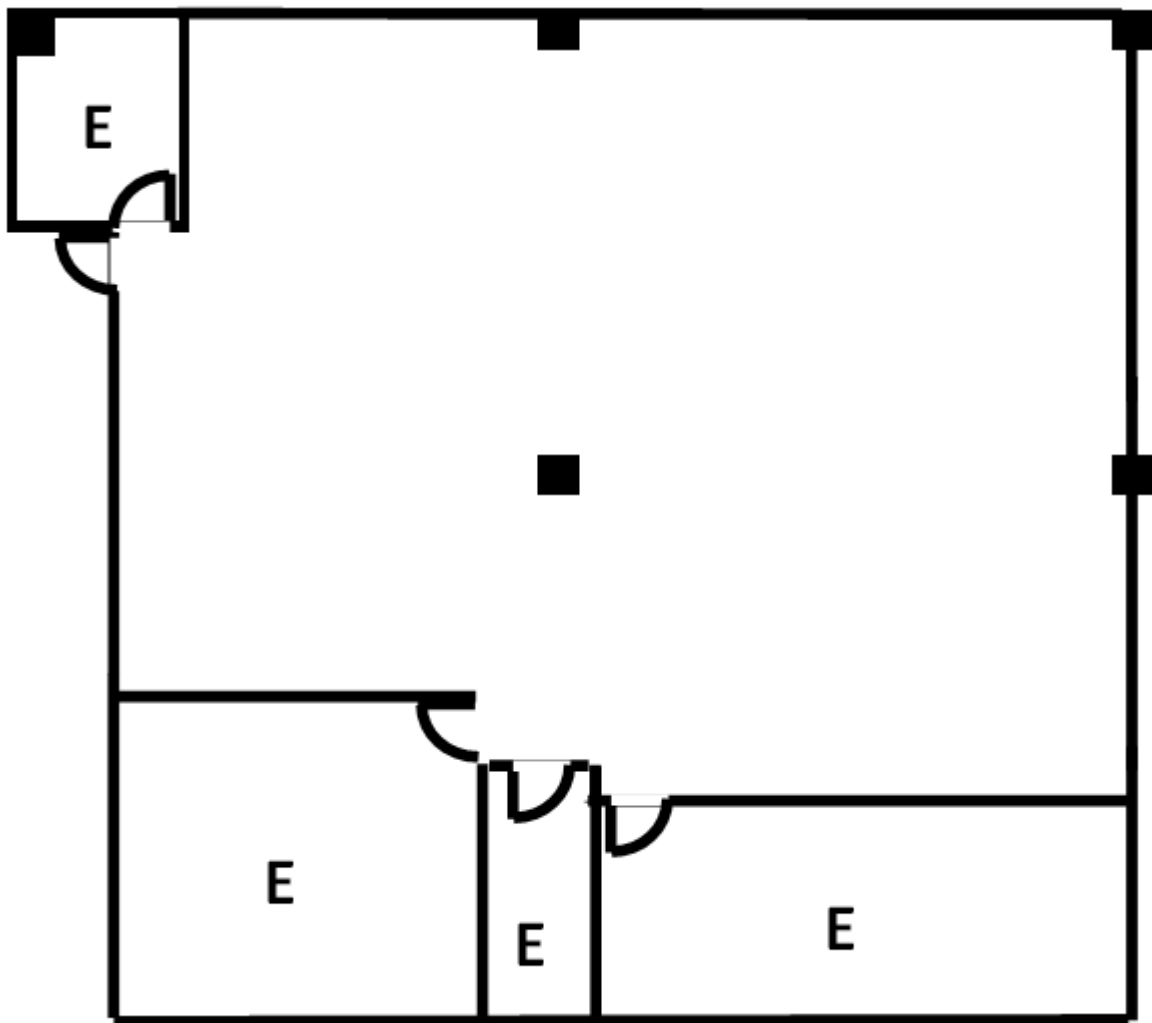
\_\_\_\_\_  
***Signature***

\_\_\_\_\_  
***Typed or Printed Name***

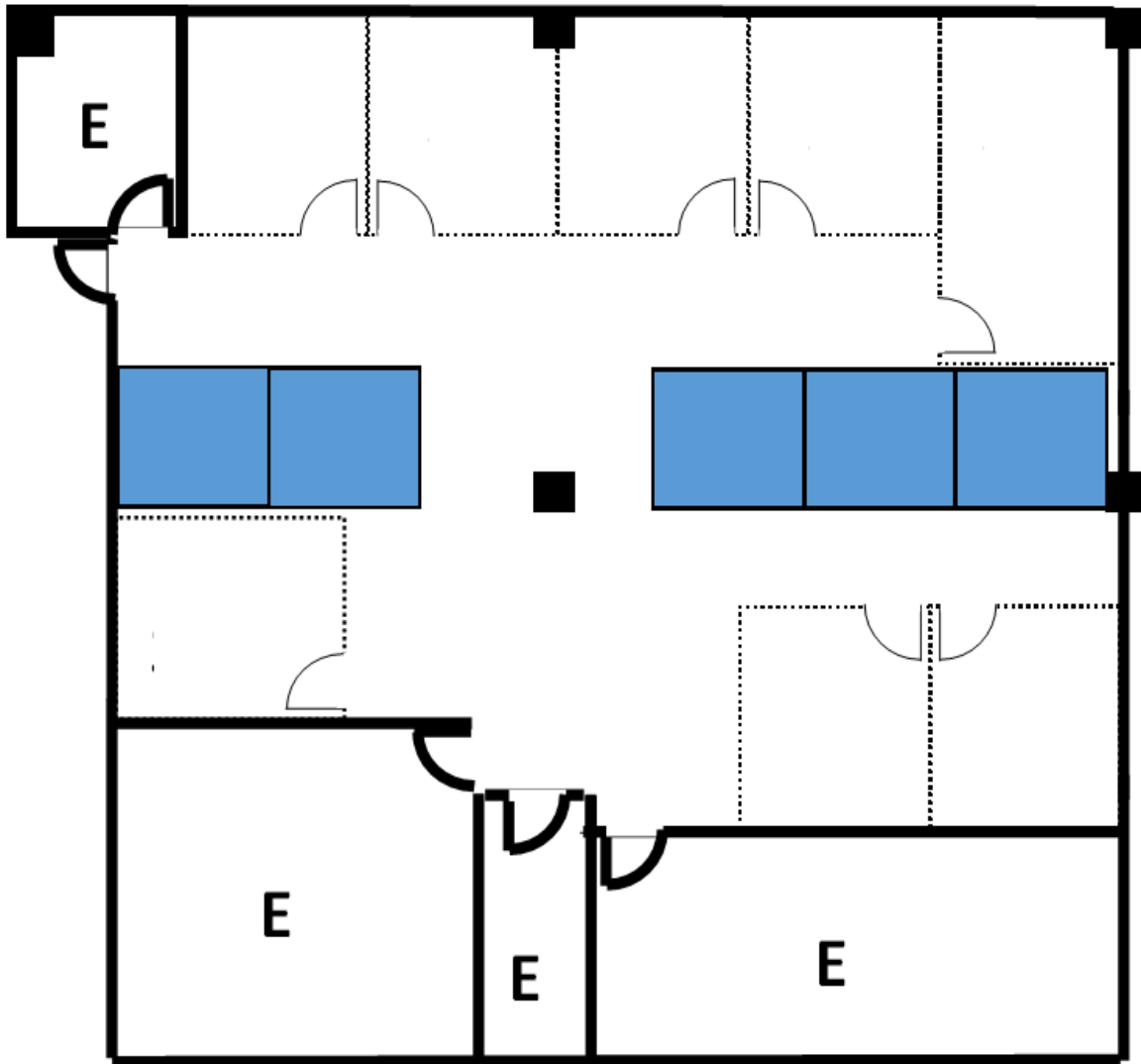
**APPENDIX 2**

**PROJECT SCOPE OF WORK**

**(EXISTING)**



(PROPOSED)



Existing conditions need to be modified to allow for eight new additional offices and five new cubicles with printer area.

The following is SCCOE's Architectural Master Agreement (Appendix- 3) that you are expected to sign after award of this proposal.





**APPENDIX 3**

**MASTER AGREEMENT FOR ONGOING  
ARCHITECTURAL SERVICES**

**MASTER AGREEMENT FOR ONGOING ARCHITECTURAL SERVICES  
BETWEEN SANTA CLARA OFFICE OF EDUCATION AND**

This Agreement for On-Going Architectural Services (“Agreement”) is dated \_\_\_\_\_, 202\_ and shall become effective on the date it is signed by a representative of the Architect firm and by the Santa Clara SCCOE Office of Education’s designee (“Effective Date”). This Agreement (“Agreement”) is between the Santa Clara Office of Education (SCCOE) and \_\_\_\_\_ (“Architect”) (individually referred to herein as the “Party” or collectively as the “Parties”).

WHEREAS, the SCCOE conducted a competitive procurement per Request for Proposals (“RFQ/RFP”), to select an architectural firm to provide ongoing architectural services;

WHEREAS, after conducting the RFQ/RFP, the SCCOE now intends to employ Architect to perform architectural and related design and engineering services for various SCCOE projects for the renovation, modernization, expansion and/or construction of existing and/or new SCCOE facilities (“Project” or “Projects”). The SCCOE will issue a separate Project Authorization agreement to be entered into between the SCCOE and Architect for each specific, identified Project as set forth in Attachment “B” (“Project Authorization”);

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

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

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

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

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

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

C. All work under this Agreement shall be performed in a technically sound manner and in accordance with prevailing professional standards applicable to the architectural services proposed herein (“Standard of Care”). In executing this Agreement and providing services, Architect and its consultants agree it will: (1) use its best professional skill and judgment; (2) act with due care, exercise the ordinary care and skill expected in the industry, and in accordance with respective applicable standards of care under California law for providing similar service for projects of the size, scope and complexity of any and all assigned Projects; (3) act in accordance with the terms of this Agreement; and (4) that it shall assume overall responsibility for ensuring that the work is completed in a satisfactory manner and in compliance with all requirements of this Agreement and all applicable federal, state and local laws and regulations, including SCCOE policies. The Standard of Care shall govern all services rendered by the Architect under this Agreement. Nothing in this Agreement shall be construed to create a performance obligation, warranty or guarantee that exceeds or diminishes the Standard of Care.

D. For each Project Authorization, the Architect shall submit for the SCCOE’s approval a schedule for the performance of the Architect’s services. The schedule may be adjusted as the Project proceeds by mutual written agreement of the Parties and shall include allowances for time required for SCCOE’s review and for approval by authorities having jurisdiction over the Project. The time limits established by this schedule shall not, except for reasonable cause, be exceeded by Architect.

E. For each Project Authorization, the Architect shall prepare the schematic design documents (“Schematic Design”), design development documents (“Design Development”) and construction documents (“Construction Documents”). The Construction Documents shall be submitted to the Division of the State Architect (“DSA”) for review and approval on or before a date to be agreed upon in writing by the SCCOE. Construction Documents shall include, but are not limited, the plans, specifications and any and all other related design documents necessary for the construction of the Project.

F. Architect and SCCOE recognize that at the point in time this Agreement is made, the SCCOE has not selected a project delivery method. This Agreement is intended to apply to a hard bid project delivery method under Public Contract Code section 20111, a multi-prime delivery method and/or a Lease-Leaseback project delivery method under Education Code section 17406. If the SCCOE selects an alternative project delivery method, the Parties will meet and confer in good faith and revise this Agreement accordingly.

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

For each Project Authorization, the Architect shall comply with all applicable provisions under this Article II:

A. Description of Basic Services: Architect’s basic services include those described in this Article II and Article III and include all structural, mechanical, electrical engineering (including low voltage), landscape architecture, on-site civil engineering services and such other services as necessary to produce a complete and accurate set of Construction Documents defined as including, but not limited to, the following: The contract between SCCOE and contractor

awarded the Project; general and special conditions of the contract between SCCOE and contractor; drawings, specifications, addenda, modifications and other documents listed in the contract between SCCOE and contractor.

B. Construction Manager: SCCOE shall employ a Construction Manager (“Construction Manager”) to assist on the Project. The Construction Manager and the Architect will work together in a cooperative and professional manner for the orderly and timely completion of the Project, and shall coordinate their activities.

C. Required Approvals: Architect shall assist the SCCOE in obtaining required approvals from governmental agencies (for both on and off-site approvals) and any other entities including, but not limited to, those responsible for electrical, gas, water, sanitary or storm sewer, telephone, cable/TV, antenna-based services (e.g., Dish Network), internet providers, public utilities, the fire department, as well as the SCCOE Health Department, California Department of Education (“CDE”), as well as the Office of Public School Construction (“OPSC”), State Water Resources Control Board (“SWRCB”), and DSA. If necessary, the Architect shall secure preliminary agency approvals and notify the SCCOE in writing regarding the actions the SCCOE must take to secure formal approvals.

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

E. Planning Surveys: The Architect shall provide planning surveys, site evaluations and comparative studies of prospective sites, buildings or locations.

F. Coordination Meetings: Architect shall attend regular Project coordination meetings between the Architect, its consultants, the SCCOE’s representative(s) and other consultants of the SCCOE during Project development.

G. Budget and Operating Costs: Architect shall provide an initial budget for the Project and shall provide periodic updates, as detailed further in this Agreement.

H. Interior Design: Architect shall provide interior design and other services required for or in connection with code required graphics and signage.

I. Material Quality: Architect shall visit suppliers, fabricators, and manufacturers’ facilities such as for carpet, stone, wood veneers, standard or custom furniture, to review the quality or status of items being produced for the Project.

J. Material Consistency: Architect shall cooperate and consult with SCCOE in the use and selection of manufactured items on the Project, including but not limited to paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials and floor coverings. All such manufactured items shall be standardized to SCCOE’s criteria to the extent such criteria do not interfere with Project design and are in compliance with the requirements of Public Contract Code section 3400, *et seq.*

K. No Asbestos: Architect shall certify to the best of its information pursuant to 40 Code of Federal Regulations section 763.99(a)(7), that no asbestos, asbestos-containing material, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies was specified as a building material in any construction document for the Project and will ensure that contractors provide SCCOE with certification that all materials used in the construction of any school building are free from any asbestos-containing building materials. Architect shall include statements in specifications that materials containing asbestos are not to be included. This certification shall be part of the final Project submittal.

L. Maintenance Costs: Architect shall consider operating or maintenance costs when selecting systems for SCCOE.

M. Public Presentations and Legal Proceedings: As requested, Architect shall prepare for and make formal presentations to the governing board of SCCOE, and attend public hearings and other public meetings. In addition, Architect shall attend and assist in legal proceedings, including but not limited to those that arise from errors or omissions of Architect.

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

O. Legal Compliance: Architect shall comply with all federal, state and local laws, rules, regulations and ordinances, including but not limited to, federal, state, and local laws, rules, regulations and ordinances and SCCOE policies and procedures related to COVID-19 or any other pandemic or epidemic, that are now or may in the future become applicable to the SCCOE and the Project.

P. Access to Work: Architect shall have access to the Project at all times, unless the SCCOE provides notice to the Architect that such access is unavailable or not permitted.

Q. Master Plan Review: As part of its Basic Services, and as part of its work required to develop a project budget and development of plans to meet the SCCOE's needs, the Architect shall review the SCCOE's most recently developed master plan and provide input and guidance on the fiscal and temporal feasibility of that plan as well as propose any modifications to that plan to ensure the project can be completed on time and on budget.

R. If SCCOE determines that the lease-leaseback delivery method will be used, then Architect shall provide pre-construction architectural services, including but not limited to meeting and conferring with the general contractor to discuss and clarify plans and specifications and provide input to the SCCOE on preparation of a guaranteed maximum price.

**ARTICLE III  
DESIGN AND ADMINISTRATIVE PHASES**

A. Planning and Schematic Design Phase

1. Review of Project Requirements

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

2. Methods of Project Delivery

The Architect shall review with SCCOE proposed site use and improvements, selection of materials and methods of Project delivery.

3. Specific Considerations

Architect shall review with the SCCOE the following specific considerations to be taken into account in the design of the Project:

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

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

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

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

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

f. Existing Conditions: Architect shall review and incorporate in construction and budgetary planning information provided by the SCCOE, including surveys, as-built drawings, as-built conditions, subsoil data, chemical, mechanical and other data logs of borings furnished to Architect. Architect shall provide notification of any existing conditions which are observed to differ from documentation provided by the SCCOE.

g. Subsurface and Topographical Conditions: Architect shall use a topographical survey provided by the SCCOE to verify the capacity of all existing Project utilities and document the location of existing utility lines, telephone, water, sewage, storm drains and other lines, within the limits of the SCCOE on-site property. SCCOE shall, upon request, provide to the Architect all information available to SCCOE. Architect shall review this information and incorporate it in the design of the Project.

4. Alternative Design and Construction

Architect shall review with SCCOE alternative approaches to design and construction of the Project.

5. Updating Schematic Documents

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

6. Provide Drawings

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

7. Budget Requirements

Architect shall perform schematic design services to keep Project within all budget and scope constraints set by SCCOE, unless otherwise modified by written authorization by SCCOE.

B. Design Development Phase

1. Design Development Documents

Based on the approved Schematic Design Documents and any adjustments authorized by SCCOE in the program, schedule or construction budget, Architect shall prepare Design Development Documents for SCCOE’s approval. Such documents shall consist of site and floor plans, elevations, cross-sections, outline specifications and other documents necessary to depict

the design of Project, and shall outline specifications to fix and illustrate the size, character, and quality of the entire Project as to requirements, landscapes, civil, structural, mechanical and electrical systems, materials, and such other essential items as may be appropriate.

2. Updating Drawings

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

3. SCCOE Approval

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

4. Cost and Budget

a. Architect shall revise the initial Project construction budget, as needed, to reflect changes to the SCCOE's objectives, schedule, budget constraints, and any other criteria that are provided to the Architect by the SCCOE. The SCCOE shall approve the Project construction budget prepared by the Architect and this shall be the "budget" for each Project Authorization as set forth in this Agreement. SCCOE budget shall include design and construction contingencies as recommended by the Architect and approved by the SCCOE.

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

C. Construction Documents Phase

1. Drawings

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

2. Design Elements to Prevent Water Intrusion

The Parties to the Agreement recognize that the failure of trade contractors to properly seal the buildings against water intrusion is a significant and growing problem in public construction. Architect shall include specific details in the Construction Documents regarding window, door, roof and any other elements of construction to protect the Project from water



intrusion, and shall further illustrate and describe aspects of such construction to include design components that prevent water intrusion into the completed structure in accordance with prevailing professional standards.

3. Fees

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

4. Drawings to SCCOE

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

5. Ownership of Documents

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

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

6. Re-Use of Documents

a. In the event SCCOE ever desires, and it is mutually considered feasible, to erect all or part of another project which would be essentially identical to the Project which is the subject of the Agreement, Architect agrees to:

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

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

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

(iv) In the event the SCCOE re-uses drawings, the Architect's fees will take into account that no royalty will be paid for the re-used documents.

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

#### 7. Project Cost Estimates

Architect shall establish an estimated Project Construction Cost.

a. "Project Construction Cost" shall mean the estimate of construction costs to SCCOE as designed or specified by Architect and accepted by SCCOE until such time as responses have been received, whereupon it shall be the accepted construction agreement amount, including alternates designed when accepted, increased by the dollar amounts of all approved additive change order items. Architect shall perform design development services to keep the Project within all budget and scope constraints set by SCCOE, unless otherwise modified by written authorization by SCCOE.

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

#### 8. Survey Work

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

#### 9. Maintenance Costs

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

#### 10. Modification to Building Design Plans

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

D. Procurement Phase

1. Assistance in Procurement

Architect shall have the primary role in the preparation of procurement documents, to the extent they are needed for a low-bid project delivery method, multi-prime project delivery method or a lease-leaseback project delivery method, etc. The Architect shall assist the Construction Manager and SCCOE, as needed, in the preparation of the necessary procurement information, forms, the conditions of the agreements and the forms of agreement between SCCOE and the contractors including plans, specifications and a requirement that the contractor provide operation manuals and adequate training to SCCOE in the operation of mechanical, electrical, heating, air conditioning and other systems installed by the contractor, all of which shall be part of the procurement documents prepared by Architect. Architect shall have the primary role in the preparation of the Project specifications. Architect shall assist the Construction Manager and SCCOE, as needed, in issuing procurement documents to prospective contractors, conducting conferences with prospective contractors and responding to questions. Architect shall assist the Construction Manager and SCCOE in obtaining responses and awarding the agreement for the construction of the Project. Architect shall respond to questions from prospective contractors and shall issue addenda where necessary.

2. Assistance in Filing Required Documents

Architect shall prepare and file all Construction Documents required for and obtain the approvals of all governmental agencies having jurisdiction over the Project, including OPSC, DSA, California Department of Education, the SCCOE health department, the local fire marshal and others which have jurisdiction over Project. SCCOE shall pay all fees required by such governmental authority. Architect shall, whenever feasible, establish beforehand the exact costs due to governmental agencies and submit this cost information to SCCOE so that payments may be prepaid.

3. Deposit of Documents

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

4. List of Qualified Engineers

Architect shall submit the name of the proposed Project engineer/s for SCCOE approval. In case SCCOE chooses to re-use Construction Documents prepared for another project, this re-use choice includes pre-approval of those consultants involved in preparation of those Construction Documents. Architect shall ensure that each engineer places his or her name, seal and signature on all drawings and specifications prepared by said engineer.

## 5. Responses Exceeding Costs

If the estimate for the cost of construction is exceeded by the lowest bona fide response by more than ten percent (10%), SCCOE may require Architect, without additional compensation, to modify the documents for which Architect is responsible under this Agreement as necessary to bring new responses within ten percent (10%) of such estimate. Alternatively, SCCOE may require Architect to perform one or more of the following tasks at no additional cost to SCCOE: (1) Prepare, at no additional cost, deductive change packages which bring Project within ten percent (10%) of the estimate; or (2) cooperate in revising the Project scope and quality as required to reduce the construction costs to within ten percent (10%) of the estimate.

### E. Construction Phase – Administration of Construction Agreement

#### 1. Start of Services

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

#### 2. Quality Control Coordination

Prior to commencement of work on the Project, representatives from Architect, the Inspector of Record ("Inspector of Record"), the Construction Manager and SCCOE shall meet to discuss and agree to a written plan for monitoring quality control of construction on Project. The plan shall discuss the quality control and monitoring duties of each member of Project team and the methods to be used by each member to ensure quality control of the construction on Project. The same Project team member representatives shall meet periodically, no less than once a month, throughout the duration of Project to specifically discuss quality control issues and monitoring activities. Written documentation of the meetings shall be provided to SCCOE by Architect.

#### 3. Administration of Agreement

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

#### 4. Modification of Duties

Duties, responsibilities and limitations of authority of Architect shall not be restricted, modified or extended without written agreement of SCCOE and Architect.

5. Technical Assistance to Project Inspector of Record

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

6. Site Visits

Architect shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by SCCOE and Architect in writing to become generally familiar with the progress and quality of the work completed and to determine in general if the work is being performed in a manner indicating that the work when completed will be in accordance with the Construction Documents. In no event shall the site visits be less than once a week unless agreed to by SCCOE.

7. Work Quality

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

8. Not Responsible for Means of Construction

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

b. Architect, as part of its basic services, shall advise SCCOE in writing of any deficiencies in construction following the acceptance of the work and prior to the expiration of the guarantee and/or warranty period of the Project.

9. Access to Work

Architect shall at all times have access to the work wherever it is in preparation or progress, unless the SCCOE issues notice to the Architect otherwise.

10. Coordination Meetings

Architect shall attend regular Project coordination meetings between Architect, its consultants, the Construction Manager, any SCCOE representative(s) and other consultants of SCCOE. The weekly construction meetings may serve as coordination meetings.

11. Review and Certification of Applications for Payment

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

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

12. Rejection of Work

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

13. Submittals

Architect shall review and approve or take other appropriate action upon contractor's submittals, such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Construction Documents. Architect's action shall be taken with such reasonable promptness as

to cause no delay in the contractor's work or in construction by SCCOE's own forces, while allowing sufficient time in Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of on-site safety or for construction means, methods, techniques, sequences, or procedures nor will Architect check for proper numbers or dimensions of the submittal. When professional certification of performance characteristics of materials or equipment is required by the Construction Documents, Architect shall be entitled to rely upon such certification to establish that the materials, systems, or equipment is required by the Construction Documents. Further, review of such submittals is not conducted for substantiating instructions for installation or performance of equipment or systems designed by the contractor. Architect shall be entitled to rely upon such certification to establish that the materials, systems, or equipment will meet the performance criteria required by the Construction Documents.

14. Change Order Review

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

b. Project Drawings: Architect shall maintain a Change Order log which shall identify the Change Order by number, the date the request was received, and the date the response was given. Architect shall cause the Contractor to prepare a set of reproducible record drawings showing significant changes in the work made during construction based on marked-up prints, drawings, and other data. The cost of revising the drawings or specifications, or for the act of preparing change orders resulting from errors or omissions in the drawings shall not be charged to SCCOE.

15. Review of Record Documents

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

16. Request for Information Processing

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

17. Claim Review

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

18. Punchlist

Architect shall prepare the punchlist and, consistent with Article III, Section E.7. above, concerning site visits, determine that the punchlist work performed is in accordance with the construction agreement requirements. Architect will further review the punchlist for completion.

19. Review of Substitutions

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

20. Substantial Completion and Final Certificate of Payment

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

21. Testing of Equipment

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

22. Interpreting the Agreement

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

23. Requirements for Interpretation and Decisions

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



24. Decisions on Aesthetic Effect

Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Construction Documents.

25. Decisions in Writing

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

26. Project Closeout

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

- a. Architect shall conduct inspections as required to determine when the contractor has completed Project and shall prepare punch lists of items that remain in need of correction or completion.
- b. Architect shall collect from the contractor, review, and forward to SCCOE all written warranties, operation manuals, spare parts and subcontractor waivers.
- c. Architect shall prepare or collect, as applicable and provide to DSA, all reports required by DSA on Project, including the final verified report.
- d. Architect shall obtain all required DSA approval on all change orders and addenda to the contractor's contract. Final closeout and certification of Project shall be a condition precedent to Architect receiving final payment on Project.
- e. Architect shall review and confirm a set of as-built drawings for the Project.

**ARTICLE IV  
ARCHITECT'S ADDITIONAL SERVICES**

Architect shall notify SCCOE in writing of any need for additional services required. Architect shall obtain written authorization from SCCOE before rendering such services. Compensation for such services shall be subject to SCCOE approval in writing. Additional services shall be compensated at an hourly rate as set forth in Attachment "A". Such services shall include:

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

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

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

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

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

f. Preparing drawings and specifications associated with Project alternates, where the alternates are of an unusual number or amount, given the size of Project.

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

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

i. Life Cycle Cost Analysis: when requested by the SCCOE, the Architect shall provide analyses of SCCOE ownership and operating costs for the Project.

j. Revising drawings, specifications, the Project Manual or other documents when such revisions are inconsistent with approvals or instructions previously given by SCCOE, including revisions made necessary by adjustments in the SCCOE's program or Project Budget.

k. Architect shall provide services required due to programmatic changes in the Project, when such changes are inconsistent with approvals or instructions previously given by SCCOE, including but not limited to size, quality, complexity, method of project delivery (beyond lease-leaseback, multi-prime or hard bid) or negotiating the contract for construction.

## **ARTICLE V**

### **SCCOE'S RESPONSIBILITIES**

A. SCCOE shall provide to Architect information regarding requirements for Project, including information regarding SCCOE's site, program, objectives, constraints, criteria, educational program, realistic budgets and schedules.

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

C. SCCOE shall furnish all inspection services.

D. SCCOE shall furnish all legal advice and services required for Project, save for those services representing Architect.

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

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

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

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

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

J. The services, information, surveys and reports required by Article V, Sections F through I above, shall be furnished at SCCOE's expense, and Architect shall be entitled to rely upon the accuracy and completeness thereof.

K. Architect shall prepare and SCCOE shall approve a current, overall budget for Project, including the construction costs for Project.

## **ARTICLE VI TERMINATION**

### A. Written Notice of Termination

This Agreement may be terminated by either Party upon fourteen (14) days written notice to the other Party in the event of a default or material failure of performance by such other Party, including bankruptcy or insolvency of Architect, Architect's disregard of applicable law, codes, ordinances, rules or regulations, or if SCCOE should decide to abandon or indefinitely postpone Project.

### B. Abandonment of Work by SCCOE

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

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

The Agreement may be terminated without cause by SCCOE during work on the Project upon fourteen (14) days written notice to Architect. In the event of a termination without cause, SCCOE shall pay to Architect for all services satisfactorily performed and all expenses incurred under the Agreement reasonably supported by documentary evidence, including payroll records, and expense reports up until the date of notice of termination plus any sums due Architect for governing board approved extra services. In ascertaining the services actually rendered hereunder up to the date of termination of the Agreement, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents whether delivered to SCCOE or in the possession of Architect.

### D. Architect Obligations Upon Termination

Upon the SCCOE's exercise of the right of termination under Article IV.A. or Article IV.C., the Architect shall take action as directed by the SCCOE relative to on-going preparation of the Schematic Design and/or Design Development Documents or construction of a specific Project. If requested by the SCCOE, the Architect shall within five (5) days of such request, assemble and deliver to the SCCOE 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 and/or the Project Authorization agreement. The Architect shall deliver the originals of all work product, instruments of service

and other items of a tangible nature requested by the SCCOE 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 SCCOE.

E. Work During Dispute

In the event of a dispute between the Parties as to performance of the work or the interpretation of the Agreement, or payment or non-payment for work performed or not performed, the Parties shall attempt to resolve the dispute and as to payment, shall make every reasonable effort to resolve the dispute expeditiously. SCCOE shall be entitled to withhold 150% of any amount in dispute. Payment disputes shall be subject to mediation, and the mediation shall be held no later than sixty (60) days after the funds are withheld by SCCOE, unless both Parties agree otherwise. Pending resolution of this dispute, Architect agrees to continue the work diligently to completion. If the dispute is not resolved, Architect agrees it will neither rescind the Agreement nor stop the progress of the work, but Architect's sole remedy shall be to submit such controversy to determination by a court having competent jurisdiction of the dispute, after the Project has been completed, and not before.

**ARTICLE VII  
MEDIATION**

A. Except in the event of the SCCOE's failure to make undisputed payment of the Contract Price due Architect, notwithstanding any disputes between SCCOE and Architect hereunder, Architect and SCCOE 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. Should Architect fail to continue to perform its services for the Project during any dispute, Architect shall be liable to SCCOE for any and all related damages.

B. All claims, disputes and other matters in controversy between the Architect and the SCCOE arising out of or pertaining to this Agreement shall be submitted for resolution by non-binding mediation conducted under the auspices of the American Arbitration Association ("AAA") and the Construction Mediation Rules of the AAA or under the auspices of JAMS and Engineering and Construction Rules of JAMS in effect at the time that a Demand For Mediation is filed. The Parties shall select a mutually agreeable mediator with public agency construction dispute experience. The Parties shall share the mediator's fee and any filing fees equally. The commencement and completion of these mandatory mediation proceedings pursuant to the foregoing is a condition precedent to either the SCCOE or the Architect commencing arbitration proceedings pursuant to Article VII., Section C below.

C. All claims, disputes or other matters in controversy between Architect and SCCOE arising out of or pertaining to the Project or this Agreement which are not fully resolved through the mandatory mediation set forth in Article VII, Section B above shall be settled and resolved by binding arbitration conducted under the auspices of the AAA Construction Industry Arbitration Rules or JAMS Engineering and Construction Rules in effect at the time of the filing of a Demand for Arbitration. If any claim or dispute is asserted by the Architect, the Project Manager, the Contractor or the SCCOE relating to the Project and arising in whole or in part out

of this Agreement, the services provided by or through the Architect hereunder and any and all work prepared by the Architect, Architect and SCCOE agree that any arbitration proceedings initiated between Architect and SCCOE hereunder shall be consolidated with any arbitration proceedings initiated in connection with such other claim or dispute with the Architect or the Contractor. Any arbitration hereunder shall be conducted in the AAA or JAMS Regional Office closest to the Project Site.

### **ARTICLE VIII ACCOUNTING RECORDS OF THE ARCHITECT**

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

### **ARTICLE IX COMPENSATION TO THE ARCHITECT**

A. For each assigned Project pursuant to the separate Project Authorization agreement, the SCCOE will pay the Contract Price set forth in the Project Authorization for the assigned Project. Unless otherwise expressly provided in the Project Authorization for an assigned Project, the Contract Price for an assigned Project includes without limitation the Architect's fee, its design consultants' fees, personnel expense of the Architect and its design consultants inclusive of all benefits and burdens, incidental expenses for telephone, postage, delivery, office supplies, reproduction of plans and prints, photographic film and development, travel for the personnel of the Architect and its design consultants to and from their respective offices and the SCCOE as well as travel within the SCCOE of Santa Clara, insurance and all other administrative or overhead costs associated with or arising out of the performance of the Basic Services designated in the Project Authorization for an assigned Project. If an Architectural Services Budget is established in the Project Authorization for an assigned Project, the aggregate amount paid by the SCCOE for the Basic Services for the assigned Project shall not exceed the amount of the Architectural Services Budget.

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The SCCOE shall compensate the ARCHITECT as follows:

1. ARCHITECT change order fees are paid as approved by the District Board. If a change order is approved without an ARCHITECT fee, no fee will be paid to the ARCHITECT unless negotiated before commencing change order work.
2. Payment to the ARCHITECT will be as follows:
  - Schematic Design: 10% of the estimated Architect Fee, to be paid monthly based on actual level of completion, as set forth in Section 3 below.
  - Design Development: 15% of the estimated Architect Fee, to be paid monthly based on actual level of completion, as set forth in Section 3 below.

- Construction Documents: 40% of the estimated Architect Fee, to be paid monthly based on actual level of completion, as set forth in Section 3 below.
- D.S.A. Approval: 7% of estimated Architect Fee as set forth in Section 3 below.
- Bidding Phase: 3% of estimated Architect Fee as set forth in Section 3 below.
- Construction Admin: 20% of actual Architect Fee, to be paid monthly based on projected construction period and as set forth in Section 3 below.
- D.S.A. Closeout: 2.5% of actual Architect Fee, to be paid upon submission of the Architect's documents to DSA and 2.5% of actual Architect Fee to be paid upon actual DSA Certification.

**TOTAL THROUGH RECORDATION OF NOTICE OF COMPLETION:**  
 100% of actual Architect Fee based on accepted bid

3. ARCHITECT's Fee is:

- (1) xxxx located at xxx, California, in the County xxxx
  - a. \$xxxx based on the estimated construction cost of \$xxx once the Construction Drawings (CDs) are submitted to DSA or City Approval

A maximum of 10% may augment the fee if the project requires the additional services of consultants relative to the scope of the construction that is still to be defined, such as campus accessibility, security, alarm system interconnection, fire sprinklers/alarm, etc.

4. To the extent that the time initially established for the completion of ARCHITECT's services is exceeded or extended through no fault of the ARCHITECT, compensation for any services rendered during the additional period of time shall be negotiated and subject to prior approval by SCCOE.

B. Architect's Fee is based on a fixed fee based on estimated construction cost and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent actual services are performed.

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

D. Prior to the time the notice to proceed is issued to the contractor, Architect shall

prepare an estimate for Architect's anticipated expenses on Project. The Parties recognize that this figure may be subject to adjustment as work proceeds. In the event the Architect exceeds this budget, Architect shall notify SCCOE and both Parties will agree upon a reasonable adjustment.



**ARTICLE 24**  
**REIMBURSABLE EXPENSES**

A. Reimbursable expenses are in addition to compensation for basic and additional services and shall be paid to the Architect at one and one-tenth (1.10) times the expenses incurred by the Architect, the Architect's employees and consultants for:

1. Approved reproduction of drawings and specifications in excess of the copies provided by the Agreement, which includes sets of Construction Documents and all progress prints.

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

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

B. Reimbursable expenses for each Project will be estimated and shown on the Project Authorization agreement, and this amount shall not be exceeded without the prior written approval of SCCOE.

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

D. Reimbursable expenses shall not include:

1. Internal Check prints;

2. Prints of plans or specifications made for Architect's consultants and two copies of progress prints supplied to SCCOE;

3. Preliminary plans and specifications, unless said submittal is required;

4. Architect's consultants' reimbursables, unless incurred for those consultants authorized to perform Basic Services; certain reimbursable expenses of consultants authorized to perform services other than Basic Services may be incurred with the prior approval of the SCCOE;

5. Models or mock-ups;

6. Long distance services, dedicated data, and communication services, teleconferences, Project websites, and extranets;

7. Postage, handling, and delivery; and

8. Site office expenses.

**ARTICLE 25  
EMPLOYEES AND CONSULTANTS**

A. Architect, as part of the basic services, shall furnish at its expense the services of landscape architects, structural, mechanical, electrical, traffic and street improvements and on- site civil engineers.

B. Architect shall submit, for written approval by SCCOE, the names of the consultant firms proposed for Project. Nothing in the Agreement shall create any contractual relation between SCCOE and any consultants employed by Architect under the Agreement.

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

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

**ARTICLE XII  
MISCELLANEOUS**

A. Indemnification

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

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

2. If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Architect, the Architect shall indemnify and hold the SCCOE harmless from any liability for damages for: (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law; or (4) any other loss, damage, or expense arising under either (1), (2), or (3) in this Subsection, sustained by the Architect or the SCCOE, its officers, agents or employees, or any person, firm or corporation employed by the Architect or the SCCOE upon or in connection with the Project, except to the extent the damages arose from the active negligence of the SCCOE.

3. Any loss, injury to or death to persons or damage to property caused by any negligence, recklessness or willful misconduct of the Architect, its officers, agents or employees, or any person, firm or corporation employed by the Architect, either directly or by independent contract, including all damages due to loss or theft sustained by any person, firm or corporation including the SCCOE, arising out of or in any way connected with the Project,

including injury or damage either on or off SCCOE property; but not for any loss, injury, death or damages caused by the active negligence of the SCCOE. With regard to the Architect's obligation to indemnify for acts of professional negligence, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought against the SCCOE, but rather to reimburse the SCCOE for attorney's fees and costs incurred by the SCCOE that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect.

4. To the furthest extent permitted by California law and in accordance with California Civil Code section 2782.8, Architect shall defend, indemnify and hold free and harmless the SCCOE from any claims, actions, suits, or other proceedings that may be brought or instituted against the SCCOE, its officers, agents or employees, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the SCCOE, its officers, agents, or employees in any action, suit or other proceedings to the extent that the claim is due to the negligence, recklessness or willful misconduct of the Architect. This indemnity excludes Architect's liability as to the active or sole negligence or willful misconduct of the SCCOE.

5. State Allocation Board

If requested, Architect shall assist SCCOE and its consultants to apply for funding or reimbursement for the Project from the State Allocation Board; however, Architect shall not be responsible for preparation, form, submittal, monitoring, or tracking of funding applications prepared by the SCCOE. Architect shall be responsible for submittals required of the Architect by the DSA, OPSC, and California Department of Education in connection therewith.

B. Maintenance of Insurance

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

1. Architect shall carry Employers Liability Insurance in accordance with the laws of the State of California. However, such an amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).

2. General Liability (including operations, products and completed operations, as applicable): \$2,000,000 per occurrence for bodily injury, personal injury & property damage. If commercial general liability insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

3. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

4. Workers' Compensation: As required by the State of California.

5. Professional liability insurance, including contractual liability, with limits of FIVE MILLION DOLLARS (\$5,000,000) aggregate. Such insurance shall be maintained during the term of the Agreement and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the rates current at the time of execution of this Agreement adjusted for inflation. Failure to maintain professional liability insurance is a material breach of the Agreement and grounds for immediate termination.

C. SCCOE as Additional Insured

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

D. Insurance for Subcontractors

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

E. Lack of Insurance Is a Material Breach

Failure to maintain professional liability insurance is a material breach of the Agreement and grounds for immediate termination under Article VI., Section A. herein.

F. Valuable Document Insurance

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

G. Architect Is an Independent Contractor

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

H. Nothing contained in the Agreement shall create a contractual relationship with or a cause of action in favor of any third party against either SCCOE or Architect.

I. SCCOE and Architect, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other Party to the Agreement with respect to the terms of the Agreement. Architect shall not assign the Agreement.

J. The Agreement shall be governed by the laws of the State of California.

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

L. The Agreement represents the entire agreement between SCCOE and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. The Agreement may be amended or modified only by an agreement in writing signed by both SCCOE and Architect. The Agreement may be executed in counterpart and with facsimile signatures.

M. If either Party becomes involved in any dispute and/or litigation arising out of this Agreement or the performance thereof, each Party shall bear its own litigation costs and expenses, including reasonable attorneys' fees.

N. All notices under the Agreement shall be in writing and shall be given by electronic mail (e-mail), facsimile transmission or U.S. mail to the addresses listed below. E-mail and facsimile transmissions shall be documented by the sending Party with transmission receipts and the transmissions will be deemed received on the date of transmission with delivery confirmation. Transmissions by U.S. mail shall be deemed to have been received forty-eight (48) hours after deposit in the U.S. mail in registered or certified form with postage fully prepaid.

If to the SCCOE: Santa Clara SCCOE Office of Education  
ATTN: Stephanie Gomez  
Assistant Superintendent,  
Business Services  
1290 Ridder Park Drive  
San Jose, CA 95131

If to the Architect: **[INSERT Architect CONTACT NAME AND ADDRESS]**

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

P. The Agreement is subject to ratification or approval by the SCCOE’s Board of Trustees.

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement as of the Effective Date.

Architect:

SCCOE:

**[INSERT ARCHITECT NAME]**

**Santa Clara SCCOE Office of Education**

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

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

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

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

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

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

**ATTACHMENT “A”**  
**(HOURLY RATES AND FEES)**

Insert applicable architect positions and rates:

<b>ARCHITECT POSTIONS</b>	<b>\$ RATES PER HR</b>
<b>Architect – Principal</b>	
<b>Architect – Associate</b>	
<b>Project Manager/Architect</b>	
<b>Job Captain</b>	
<b>Construction Admin Project Manager</b>	
<b>Specifications Writer</b>	
<b>CADD/Drafting</b>	
<b>Construction Admin Technician</b>	
<b>Clerical</b>	

**ATTACHMENT “B”**

**FORM OF PROJECT AUTHORIZATION**

This Project Authorization (“Project Authorization”) is entered into as of **[INSERT DATE OF PROJECT AUTHORIZATION]** (“Effective Date”) by and between Santa Clara Office of Education (“SCCOE”) and **[INSERT ARCHITECT]** (“Architect”) pursuant to the Master Agreement for On-Going Architectural Services (“Agreement”) between the SCCOE and Architect dated **[INSERT DATE OF MASTER AGREEMENT]**. By this reference, the Agreement is incorporated herein as if set forth in full.

1. Project Description.

**[INSERT Project Description and Define “Project”. Include Project commencement date.]**

2. Architect Services to be Provided.

**[INSERT include general scope of work of services pursuant to the Agreement. Define as Basic Services, Additional Services or both.]**

3. Project Schedule and Project Term.

**[INSERT applicable Project schedule information and Term of Project Authorization, if applicable.]**

4. Project Construction Budget.

**[INSERT Total Project Amount.]**

5. Architect Budget, Compensation and Payment.

**[INSERT Architect, Fee Schedule, Allocation of Contract Price as present in sample agreement.]**

6. Special Conditions and/or Miscellaneous Provisions.

**[INSERT specific insurance provisions, additional schedule requirements and/or other miscellaneous and/or Project specific provisions.]**

IN WITNESS WHEREOF, the Parties hereto have executed this Project Authorization as of the Effective Date.

[signatures on the following page]



**Architect:**

**SCCOE:**

**[INSERT ARCHITECT]**

Santa Clara SCCOE Office of Education

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

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