***Instructions / Face Sheet for***
***INDEPENDENT CONSULTANT AGREEMENT FOR***
***PROFESSIONAL/SPECIAL SERVICES (CONSTRUCTION-RELATED)***

***Contract Number:*** _____
***Funding Source:*** _____
***Budget Number:*** _____
***Site/Department:*** _____
***Program Responsibility:*** _____

***The District employee that is providing the attached Independent Consultant Agreement for Construction-Related Professional Services should first do the following:***

1. ***Determine which of the following statutory provisions District is relying on in entering into this contract:***
   - ***If Consultant is furnishing architecture, landscape architecture, engineering, environmental services, land surveying, or construction management, then Government Code section 4529.12 requires District to procure contract through a fair, competitive selection process (e.g., by obtaining proposals, using a request for proposal or request for qualification process).***
   - ***If Consultant is furnishing special services and advice in financial, economic, accounting, engineering, legal or administrative matters, and those persons are specially trained and experienced and competent to perform the special services required, then Government Code section 53060 authorizes District to procure contract through direct negotiation.***
2. ***Review the insurance requirements for District and revise the insurance provisions of the agreement accordingly.***
3. ***Review the forms under section 3 and determine which of those documents should be attached to the agreement.***
4. ***Completely fill in all blanks and delete the unused options in the agreement.***
5. ***Ensure there is an accurate and complete description of Consultant's Scope of Services.***
6. ***Require Consultant to complete the following before it begins working under the Agreement:***
   - ***All required certificates and documents, including insurance documents.***
   - ***All information regarding Consultant located after the signature block.***
7. ***Electronically file PWC-100 form with the Department of Industrial Relations within five (5) days after award of contract, if applicable.***

***DO NOT INCLUDE THIS SHEET WITH FINAL EXECUTED CONTRACT***

**INDEPENDENT CONSULTANT AGREEMENT FOR ARCHITECTURAL SERVICES**

This Independent Consultant Agreement for Architectural Services ("Agreement") is made and entered into as of the 11th day of August, 2022 by and between the Alum Rock Union School District, ("District") and Studio W Architects ("Consultant"), (together, "Parties").

WHEREAS, Public Contract Code section 20111, subdivision (d), provides that professional services, requiring specialized knowledge, training, or skill, are not subject to public bidding requirements; and

WHEREAS, Government Code section 4526, authorizes District to contract with and employ any person(s) for the furnishing of architecture, landscape architecture, environmental, engineering, land surveying, and construction project management services on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required; and

WHEREAS, District duly determined that it needs some or all of the services (collectively, "Services") to be provided pursuant to this Agreement; and

WHEREAS, Consultant is specially trained, experienced, and competent to perform the Services required by District, as needed on the basis set forth in this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Services**. Consultant shall provide Architectural Services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").

2. **Term**. Consultant shall commence providing services under this Agreement on August 11, 2022 and will diligently perform as required and complete performance by December 31, 2023.

3. **Submittal of Documents**. Consultant shall not commence the Services under this Agreement until Consultant has submitted and District has approved the documents, certificate(s) and affidavit(s), and endorsement(s) of insurance required as indicated below:

   X Signed Agreement
   X Workers' Compensation Certification
   X Fingerprinting/Criminal Background Investigation Certification
   X Insurance Certificates and Endorsements
   X W-9 Form
   X COVID-19 Vaccination Certification
   _____ Other: _____

4. **Compensation**. District agrees to pay Consultant for Services satisfactorily rendered pursuant to this Agreement a total fee not to exceed Nine Hundred Thousand Three Hundred Seventy-Five Dollars ($900,375). District shall pay Consultant according to the following terms and conditions:

   4.1. Payment for the Services shall be made for all undisputed amounts based upon the delivery of the work product as determined by District. Payment shall be made

within thirty (30) days after Consultant submits an invoice to District for Services actually completed and after District's written approval of the Services, or the portion of the Services for which payment is to be made.

4.2. The Services shall be performed at the hourly billing rates and/or unit prices included in **Exhibit "B."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Consultant in performing its Services pursuant to this Agreement.

4.3. If Consultant works at more than one site, Consultant shall invoice for each site separately.

4.4. District will withhold 2% of each billing until the Division of the State Architect certification is received for the entire project.

5. **Materials**. Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.

6. **Expenses**. District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District.

7. **Independent Contractor**. Consultant represents and warrants that Consultant is an independent contractor or business entity that is: (i) free from the control and direction of District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of District, and are not entitled to benefits of any kind or nature normally provided employees of District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees.

8. **Performance of Services.**

8.1. **Standard of Care**. Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for Services to California school districts.

8.2. **Due Diligence.** Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.

8.3. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.

8.4. **District Approval.** The Services completed herein must meet the approval of District and shall be subject to District's general right of inspection and supervision to secure the satisfactory completion thereof.

9. **Originality of Services**. Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.

10. **Ownership of Data.** Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for District to use, at its discretion, all plans including, but not limited to, record drawings, specifications, estimates and other documents that Consultant prepared or caused to be prepared pursuant to this Agreement. Consultant retains all rights to all copyrights over designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that Consultant prepares or causes to be prepared pursuant to this Agreement.

    In the event District changes or uses any fully or partially completed documents without Consultant's knowledge or participation or both, District agrees to release Consultant of responsibility for such changes, and shall hold Consultant harmless from and against any and all claims on account of any damages or losses to property or persons, or economic losses, arising out of that change or use, unless Consultant is found to be liable in a forum of competent jurisdiction. In the event that District uses any fully or partially completed documents without Consultant's full involvement, District shall remove all title blocks and other information that might identify Consultant.

11. **Audit**. Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

12. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if

mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to Consultant's right to bring a civil action against District. For purposes of those provisions, the running of the time within which a claim must be presented to District shall be tolled from the time Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

13. **Termination**.

13.1. **For Convenience by District**. District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by Consultant or no later than three days after the day of mailing, whichever is sooner.

13.2. **With Cause by District**. District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

13.2.1. material violation of this Agreement by Consultant; or

13.2.2. any act by Consultant exposing District to liability to others for personal injury or property damage; or

13.2.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, District may secure the required services from another Consultant. If the expense, fees, and/or costs to District exceed the cost of providing the service pursuant to this Agreement, Consultant shall immediately pay the excess expense, fees, and/or costs to District upon the receipt of District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

14. **Indemnification**.

14.1. To the furthest extent permitted by California law, Consultant shall indemnify and hold harmless District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence,

recklessness, or willful misconduct of Consultant ("Claim"). Consultant shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Consultant's own expense, including attorneys' fees and costs, from any and all Claim(s) and allegations relating thereto. District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties. Whereas the cost to defend the Indemnified Parties charged to Consultant shall not exceed the proportionate percentage of Consultant's fault as determined by a court of competent jurisdiction, any amounts paid in excess of such established fault will be reimbursed by District. Notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the design professional shall meet and confer with other parties regarding unpaid defense costs.

14.2. Consultant shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim, subject to section 14.1 above. Consultant's obligation pursuant to this Article includes reimbursing District for the cost of any settlement paid by the Indemnified Parties and for any and all fees and costs, including but not limited to legal fees and costs, expert witness fees, and consultant fees, incurred by the Indemnified Parties in the defense of any Claim(s) and to enforce the indemnity herein, subject to section 14.1 above. Consultant's obligation to indemnify shall not be restricted to insurance proceeds.

14.3. District may withhold any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant from amounts owing to Consultant.

[REMAINDER OF PAGE INTENTIONALLY BLANK; CONTINUED ON FOLLOWING PAGE]

15. **Insurance**.

15.1. **Coverage**. Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

| **Type of Coverage** | **Minimum Requirement** |
|---|---|
| **Commercial General Liability Insurance**, including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments | |
| Each Occurrence | $ 1,000,000 |
| General Aggregate | $ 2,000,000 |
| **Automobile Liability Insurance - Any Auto** | |
| Each Occurrence | $ 1,000,000 |
| General Aggregate | $ 2,000,000 |
| **Professional Liability** | $ 1,000,000 |
| **Workers Compensation** | Statutory Limits |
| **Employer's Liability** | $ 1,000,000 |

15.1.1. **Commercial General Liability and Automobile Liability Insurance**. Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Consultant, District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by District.)

15.1.2. **Workers' Compensation and Employer's Liability Insurance**. Workers' Compensation Insurance and Employer's Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

15.1.3. **Professional Liability (Errors and Omissions)**. Professional Liability Insurance as appropriate to Consultant's profession, coverage to continue through completion of construction plus three (3) years thereafter.

15.2. **Proof of Carriage of Insurance**. Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to District and approved by District. Certificates and insurance policies shall include the following:

15.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

15.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

15.2.3. An endorsement stating that District and its Board of Trustees, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

15.2.4. All policies except the Professional Liability, Workers' Compensation Insurance, and Employer's Liability Insurance Policies shall be written on an occurrence form.

15.3. **Acceptability of Insurers**. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to District.

16. **Compliance with Laws**. Consultant shall observe and comply with all rules and regulations of the Governing Board of District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify District, in writing, and, at the sole option of District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from District. If Consultant performs any Services that is in violation of any laws, ordinances, rules or regulations, without first notifying District of the violation, Consultant shall bear all costs arising therefrom.

17. **Certificates/Permits/Licenses/Registrations**. Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, licenses, and registrations as are required by law in connection with the furnishing of Services pursuant to this Agreement.

18. **COVID-19 Vaccination / Testing Requirements.**

*Vaccination Requirements*

Consultant shall fill out, sign, date and submit to District the COVID-19 Vaccination/Testing Certification Form, attached hereto.

According to the August 11, 2021, California Department of Public Health ("CDPH") State Public Health Officer Order ("Order"), a person is "fully vaccinated" for COVID-19 if two weeks or more have passed since they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna or vaccine authorized by the World Health Organization), or two weeks or more have passed since they received a single-dose vaccine (Johnson and Johnson[J&J]/Janssen).

Pursuant to the CDPH Guidance for Vaccine Records Guidelines & Standards, Consultant shall only accept the following as proof of vaccination:

(a) COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services Centers for Disease Control & Prevention or WHO Yellow Card which includes name of person vaccinated, type of vaccine provided and date last dose administered);

(b) a photo of a Vaccination Record Card as a separate document;

(c) a photo of a Vaccination Record Card stored on a phone or electronic device;

(d) documentation of COVID-19 vaccination from a health care provider;

(e) digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader name, date of birth, vaccine dates and vaccine type; or

(f) documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.

In the absence of knowledge to the contrary, Consultant may accept the documentation presented in (a) through (f) above as valid.

Consultant shall have a plan in place for tracking verified Consultant personnel vaccination status. Records of vaccination verification must be made available, upon request, to the local health jurisdiction for purposes of case investigation.

Consultant personnel, including any and all tiers of subcontractor, supplier, and any other personnel entering the project site, who are not fully vaccinated, or for whom vaccine status is unknown or documentation is not provided, must be considered unvaccinated.

*Weekly Testing Requirements*

Consultant shall ensure that Consultant personnel, including any and all tiers of subcontractor, supplier, and any other worker entering the project site, who are unvaccinated or who are not fully vaccinated are required to undergo diagnostic screening testing, as specified below:

(a) Consultant personnel may be tested with either antigen or molecular tests to satisfy this requirement, but unvaccinated or incompletely vaccinated workers must be tested at least once weekly with either PCR testing or antigen testing. Any PCR (molecular) or antigen test used must either have Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services.

(b) Unvaccinated or not fully vaccinated Consultant personnel must also observe all other infection control requirements, and are not exempted from the testing requirement even if they have a medical contraindication to vaccination, since they are still potentially able to spread the illness. Previous history of COVID-19 from which the individual recovered more than 90 days earlier, or a previous positive antibody test for COVID-19, do not waive this requirement for testing.

Consultant shall have a plan in place for tracking test results and conducting workplace contact tracing, and must report results to local public health departments, if applicable.

19. **Anti-Discrimination**. It is the policy of District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status and therefore Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, Consultant agrees to require like compliance by all of its subcontractor(s).

20. **Fingerprinting of Employees**. The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services. Consultant expressly acknowledges that the following conditions shall apply to any work performed by Consultant and/or Consultant's employees on a school site:

    20.1. All site visits shall be arranged through District;

    20.2. Consultant and Consultant's employees shall inform District of their proposed activities and location at the school site, allowing District time to arrange site visits without a disruption to the educational process;

    20.3. Consultant and/or Consultant's employees shall check in with the school office each day immediately upon arriving at the school site;

    20.4. Once at such location, Consultant and Consultant's employees shall not change locations without contacting District;

    20.5. Consultant and Consultant's employees shall not use student restroom facilities; and

    20.6. If Consultant and Consultant's employees find themselves alone with a student, Consultant and Consultant's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

21. **Not Used.**

22. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.

23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.

24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors**. District may evaluate Consultant in any way District is entitled pursuant to applicable law. District's evaluation may include, without limitation:

    24.1. Requesting that District employee(s) evaluate Consultant and Consultant's employees and subcontractors and each of their performance.

24.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).

25. **Limitation of District Liability**. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

26. **Confidentiality**. Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

27. **Notice**. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, addressed as follows:

| **District:** | **Consultant:** |
|---|---|
| Alum Rock Union School District<br>2930 Gay Avenue<br>San Jose, CA 95127<br>FAX: _____<br>EMAIL: kolvira.chheng@arusd.org<br>ATTN: Kolvira Chheng,<br>Assistant Superintendent of Business Services | Studio W Architects<br>111 N. Market Drive, Ste. 710<br>San Jose, CA 95113<br>FAX: N/A<br>EMAIL: BrianW@StudioW-Architects.com<br>ATTN: Brian Whitmore<br>President & CEO |

Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

28. **Integration/Entire Agreement of Parties**. This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

29. **California Law**. This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which District's administrative offices are located.

30. **Waiver**. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

31. **Severability**. If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

32. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.

33. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.

34. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.

35. **Tolling of District's Claims.** Consultant agrees to toll all statutes of limitations for District's assertion of claims against Consultant that arise out of, pertain to, or relate to contractors' or subcontractors' claims against District involving Consultant's services under this Agreement, until the contractors' or subcontractors' claims are finally resolved.

36. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.

37. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.

38. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.

39. **Counterparts.** This Agreement may be executed in one or more counterparts, and all counterparts together shall be construed as one document. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature. All counterparts so executed shall constitute one Agreement binding all the Parties hereto.

40. **Incorporation of Recitals and Exhibits**. The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 202_

**Alum Rock Union School District**

Signed By: _____

Print Name: _____

Print Title: _____

Dated: August 11, 2022

_____

Signed By: _____

Print Name: Brian Whitmore

Print Title: President and CEO

**Information regarding Consultant:**

License No.: C30345

Address: Studio W Architects
111 N. Market Street, Suite 710
San Jose, CA 95113

Telephone: 408-588-3800

Facsimile: _____

E-Mail: BrianW@StudioW-architects.com

Type of Business Entity:
_____ Individual
_____ Sole Proprietorship
_____ Partnership
_____ Limited Partnership
__X__ Corporation, State: CA
_____ Limited Liability Company
_____ Other: _____

94-3087665:
Employer Identification and/or Social Security Number

**NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of $600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, District requires Consultant to furnish the information requested in this section.**

**EXHIBIT "A"**
**DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT**

Consultant's entire Proposal is **not** made part of this Agreement.

The projects include the HVAC modernization at Russo/McEntee Academy, McCollam Elementary and Adelante II Academy and re-roofing at Russo/McEntee Academy and Adelante II Academy, play structure for Linda Vista Elementary. This work is intended to be submitted to DSA in the Fall 2022 with a Spring 2023 start.

Russo/McEntee Academy – 2851 Gay Avenue, San Jose
McCollam Elementary School – 3311 Lucian Avenue, San Jose
Adelante II Academy – 2999 Ridgemont Avenue, San Jose
Linda Vista Elementary School – 100 Kirk Avenue, San Jose

1.1. **Basic Services.**

1.1.1. Consultant shall be responsible for the professional quality and technical accuracy of all studies, reports, projections, master plans, designs, drawings, specifications and other services furnished by Architect under the Agreement as well as coordination with all master plans, studies, reports and other information provided by District. Consultant shall, without additional compensation, correct or revise any errors or omissions in its studies, reports, projections, master plans, design, drawings, specifications and other Services.

1.1.2. Consultant will use all due care and diligence to confirm that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and publishes any potentially relevant information that could, in any way, have an impact on a Contractor's cost of performance. Consultant shall advise the District of the most effective methods of identifying and securing such information as part of each stage of design. Consultant shall track for District's benefit all such suggested and disclosed information.

1.2. **Construction Oversight Process.** Prior to commencement of construction, Consultant shall:

1.2.1. Ensure that the Project Inspector is approved by the DSA prior to requesting issuance of project inspections cards.

1.2.2. Request issuance of the proper number of project inspection cards from DSA after the construction contract has been awarded and provide project inspection cards to the Project Inspector.

1.2.3. Prepare the Statement of Structural Tests and Special Inspections and submit to DSA. Then provide approved forms to the Project Inspector and Laboratory of Record.

1.2.4. Prepare Contract Information form (form DSA-102 or more current) for all construction contracts and submit to DSA.

1.3. **Observation of the Construction.** Consultant shall maintain such personal contact with the Project as is necessary to assure themselves of compliance, in

every material respect, with the DSA-approved construction documents. Personal contact shall include visits to the project site by the Consultant or its qualified representative to observe construction.

1.4. **Interim Verified Reports.** Consultant shall submit an interim Verified Report (form DSA 6-AE or more current form) to the DSA electronically and a copy to the Project Inspector for each of the applicable nine sections of form DSA-152 prior to the Project Inspector signing off that section of the project inspection card.

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

**EXHIBIT "B"**
**HOURLY BILLING RATES**

Consultant's entire proposal is **not** incorporated.

STUDIO W
ARCHITECTS

# FEE PROPOSAL FOR ARCHITECTURAL SERVICES

For Design Services Associated with Roofing & HVAC Systems for Russo/McEntee Academy & Adelante II Academy, HVAC Systems at McCollam Elementary & Play Structure for Linda Vista Elementary

**Prepared by Studio W Architects on July 28, 2022**

After thorough review of the existing drawings and DSA information provided on their website, Studio W has prepared a fee that includes roofing upgrades at two campuses, HVAC upgrades at three campuses, as well as a play structure at one campus, for a total lump sum fee of $900,375, as detailed on the following pages.

## FEES BY CAMPUS

| SITE | TOTAL |
|---|---|
| **Adelante Academy II** *(roofing & HVAC systems)* | $293,320 |
| **McCollum Elementary** *(HVAC systems)* | $287,260 |
| **Russo - McEntee Academy** *(roofing & HVAC systems)* | $295,520 |
| **Linda Vista Elementary** *(play structure)* | $24,795 |
| TOTAL LUMP SUM FEE | $900,375 |

## FEES BY PHASE

| ADELANTE ACADEMY II (roofing & HVAC systems) | TOTAL |
|---|---|
| **Schematic Design** | $73,740 |
| **Construction Documents** | $111,025 |
| **Agency Approval** | $18,750 |
| **Bidding** | $13,650 |
| **Construction Administration** | $70,180 |
| **Close-Out** | $5,975 |
| TOTAL LUMP SUM FEE | $293,320 |

| RUSSO - MCENTEE ACADEMY (roofing & HVAC systems) | TOTAL |
|---|---|
| **Schematic Design** | $74,395 |
| **Construction Documents** | $111,810 |
| **Agency Approval** | $18,965 |
| **Bidding** | $13,700 |
| **Construction Administration** | $70,625 |
| **Close-Out** | $6,025 |
| TOTAL LUMP SUM FEE | $295,520 |

| MCCOLLUM ELEMENTARY (HVAC systems) | TOTAL |
|---|---|
| **Schematic Design** | $75,500 |
| **Construction Documents** | $106,680 |
| **Agency Approval** | $19,000 |
| **Bidding** | $13,720 |
| **Construction Administration** | $66,330 |
| **Close-Out** | $6,030 |
| TOTAL LUMP SUM FEE | $287,260 |

| LINDA VISTA ELEMENTARY (play structure) | TOTAL |
|---|---|
| **Schematic Design** | - |
| **Construction Documents** | $19,355 |
| **Agency Approval** | $4,260 |
| **Bidding** | - |
| **Construction Administration** | - |
| **Close-Out** | $1,190 |
| TOTAL LUMP SUM FEE | $24,795 |

## ADELANTE ACADEMY II
### Roofing & HVAC Systems

| TASK | PRINCIPAL OWNER ARCH. (AOR) Brian Whitmore $385/hr | | CLIENT LEADER Michele Gargano $215/hr | | SENIOR PROJECT ARCHITECT Adriana Mouser $165/hr | | JOB CAPTAIN Dinh Nguyen $130/hr | | PROJECT ADMIN IV Kathleen Follis $105/hr | | CLERICAL/ ACCOUNTING $95/hr | | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | |
| **Project Administration** | 4 | $1,540 | 4 | $860 | - | - | - | - | 8 | $840 | 12 | $1,140 | $4,380 |
| SCHEMATIC DESIGN | | | | | | | | | | | | | |
| **Review of Existing Plans/ Prepare Electronic Base Plans** | - | - | 4 | $860 | 4 | $660 | 48 | 6,240 | - | - | - | - | $7,760 |
| **Site Investigation** | - | - | 8 | $1,720 | 8 | $1,320 | 12 | $1,560 | - | - | - | - | $4,600 |
| **Architectural Plans** *depicting scope of work, including updated code analysis; 1 meeting with District* | 2 | $770 | 20 | 4,300 | 40 | 6,600 | 40 | 5,200 | - | - | - | - | $16,870 |
| CONSTRUCTION DOCUMENTS | | | | | | | | | | | | | |
| **Architectural Plans** *1 meeting with District* | 4 | $1,540 | 40 | $8,600 | 120 | $19,800 | 120 | $15,600 | 4 | $420 | - | - | $45,960 |
| AGENCY APPROVAL | | | | | | | | | | | | | |
| **DSA Approval** | 2 | $770 | 8 | $1,720 | 20 | $3,300 | 40 | $5,200 | - | - | - | - | $10,990 |
| BIDDING | | | | | | | | | | | | | |
| **Bidding Assistance** *1 pre-bid meeting; respond to pre-bid RFI's, prepare addenda* | - | - | 8 | $1,720 | 16 | $2,640 | 16 | $2,080 | 4 | $420 | - | - | $6,860 |
| CONSTRUCTION ADMINISTRATION (assume 16 week duration concurrent with 2 other projects) | | | | | | | | | | | | | |
| **Architectural Submittal Review** *RFI responses, 1 preconstruction meeting, 4 site visits by Architect, 1 punch list review by Architect* | 4 | $1,540 | 40 | $8,600 | - | - | 192 | $24,960 | 60 | $6,300 | - | - | $41,400 |
| CLOSE-OUT | | | | | | | | | | | | | |
| **Document Submissions** *DSA close-out forms; review contractor close out submittals: warranty/guarantee, as built plans, O&M manuals* | - | - | 4 | $860 | - | - | 8 | $1,040 | 12 | $1,260 | - | - | $3,160 |
| CONSULTANT FEES | | | | | | | | | | | | | |
| MEP Engineer: LP Consulting | | | | | | | | | | | | | $125,000 |
| Structural Engineer: MLA | | | | | | | | | | | | | $6,500 |
| Architectural Specifications Writer: CD specs (Byun & Associates) | | | | | | | | | | | | | $2,000 |
| Cost Estimator: Sierra West Group SD Estimate + CD Estimate | | | | | | | | | | | | | $9,340 |
| Civil Engineer: EXCLUDED - No civil engineer plans in the 2018 drawings | | | | | | | | | | | | | - |
| Landscape Architect: EXCLUDED - No landscape architect plans in the 2018 drawings | | | | | | | | | | | | | - |
| TOTAL CONSULTANT FEE | | | | | | | | | | | | | $142,840 |
| SUB-TOTAL | 16 | $6,160 | 136 | $29,240 | 208 | $34,320 | 476 | $61,880 | 88 | $9,240 | 12 | $1,140 | $284,820 |
| Project Expenses | | | | | | | | | | | | | $8,500 |
| ADELANTE ACADEMY II LUMP SUM FEE | | | | | | | | | | | | | $293,320 |

## MCCOLLUM ELEMENTARY
### HVAC Systems

| TASK | PRINCIPAL OWNER ARCH. (AOR) Brian Whitmore $385/hr | | CLIENT LEADER Michele Gargano $215/hr | | SENIOR PROJECT ARCHITECT Adriana Mouser $165/hr | | JOB CAPTAIN Dinh Nguyen $130/hr | | PROJECT ADMIN IV Kathleen Follis $105/hr | | CLERICAL/ ACCOUNTING $95/hr | | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | |
| **Project Administration** | 4 | $1,540 | 4 | $860 | - | - | - | - | 8 | $840 | 12 | $1,140 | $4,380 |
| SCHEMATIC DESIGN | | | | | | | | | | | | | |
| **Review of Existing Plans/ Prepare Electronic Base Plans** | - | - | 4 | $860 | 4 | $660 | 48 | 6,240 | - | - | - | - | $7,760 |
| **Site Investigation** | - | - | 8 | $1,720 | 8 | $1,320 | 12 | $1,560 | - | - | - | - | $4,600 |
| **Architectural Plans** *depicting scope of work, including updated code analysis; 1 meeting with District* | 2 | $770 | 20 | 4,300 | 40 | 6,600 | 40 | 5,200 | - | - | - | - | $16,870 |
| CONSTRUCTION DOCUMENTS | | | | | | | | | | | | | |
| **Architectural Plans** *1 meeting with District* | 4 | $1,540 | 40 | $8,600 | 100 | $16,500 | 100 | $13,000 | 4 | $420 | - | - | $40,060 |
| AGENCY APPROVAL | | | | | | | | | | | | | |
| **DSA Approval** | 2 | $770 | 8 | $1,720 | 20 | $3,300 | 40 | $5,200 | - | - | - | - | $10,990 |
| BIDDING | | | | | | | | | | | | | |
| **Bidding Assistance** *1 pre-bid meeting; respond to pre-bid RFI's, prepare addenda* | - | - | 8 | $1,720 | 16 | $2,640 | 16 | $2,080 | 4 | $420 | - | - | $6,860 |
| CONSTRUCTION ADMINISTRATION (assume 16 week duration concurrent with 2 other projects) | | | | | | | | | | | | | |
| **Architectural Submittal Review** *RFI responses, 1 preconstruction meeting, 4 site visits by Architect, 1 punch list review by Architect* | 4 | $1,540 | 40 | $8,600 | - | - | 160 | $20,800 | 60 | $6,300 | - | - | $37,240 |
| CLOSE-OUT | | | | | | | | | | | | | |
| **Document Submissions** *DSA close-out forms; review contractor close out submittals: warranty/guarantee, as built plans, O&M manuals* | - | - | 4 | $860 | - | - | 8 | $1,040 | 12 | $1,260 | - | - | $3,160 |
| CONSULTANT FEES | | | | | | | | | | | | | |
| MEP Engineer: LP Consulting | | | | | | | | | | | | | $125,000 |
| Structural Engineer: MLA | | | | | | | | | | | | | $8,600 |
| Architectural Specifications Writer: CD specs (Byun & Associates) | | | | | | | | | | | | | $2,000 |
| Cost Estimator: Sierra West Group SD Estimate + CD Estimate | | | | | | | | | | | | | $11,340 |
| Civil Engineer: EXCLUDED - No civil engineer plans in the 2018 drawings | | | | | | | | | | | | | - |
| Landscape Architect: EXCLUDED - No landscape architect plans in the 2018 drawings | | | | | | | | | | | | | - |
| TOTAL CONSULTANT FEE | | | | | | | | | | | | | $146,940 |
| SUB-TOTAL | 16 | $6,160 | 136 | $29,240 | 188 | $31,020 | 424 | $55,120 | 88 | $9,240 | 12 | $1,140 | $278,860 |
| Project Expenses | | | | | | | | | | | | | $8,400 |
| MCCOLLUM ELEMENTARY LUMP SUM FEE | | | | | | | | | | | | | $287,260 |

## RUSSO - MCENTEE ACADEMY

### Roofing & HVAC Systems

| TASK | PRINCIPAL OWNER ARCH. (AOR) Brian Whitmore $385/hr | | CLIENT LEADER Michele Gargano $215/hr | | SENIOR PROJECT ARCHITECT Adriana Mouser $165/hr | | JOB CAPTAIN Dinh Nguyen $130/hr | | PROJECT ADMIN IV Kathleen Follis $105/hr | | CLERICAL/ ACCOUNTING $95/hr | | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | |
| **Project Administration** | 4 | $1,540 | 4 | $860 | - | - | - | - | 8 | $840 | 12 | $1,140 | $4,380 |
| SCHEMATIC DESIGN | | | | | | | | | | | | | |
| **Review of Existing Plans/ Prepare Electronic Base Plans** | - | - | 4 | $860 | 4 | $660 | 48 | 6,240 | - | - | - | - | $7,760 |
| **Site Investigation** | - | - | 8 | $1,720 | 8 | $1,320 | 12 | $1,560 | - | - | - | - | $4,600 |
| **Architectural Plans** *depicting scope of work, including updated code analysis; 1 meeting with District* | 2 | $770 | 20 | 4,300 | 40 | 6,600 | 40 | 5,200 | - | - | - | - | $16,870 |
| CONSTRUCTION DOCUMENTS | | | | | | | | | | | | | |
| **Architectural Plans** *1 meeting with District* | 4 | $1,540 | 40 | $8,600 | 120 | $19,800 | 120 | $15,600 | 4 | $420 | - | - | $45,960 |
| AGENCY APPROVAL | | | | | | | | | | | | | |
| **DSA Approval** | 2 | $770 | 8 | $1,720 | 20 | $3,300 | 40 | $5,200 | - | - | - | - | $10,990 |
| BIDDING | | | | | | | | | | | | | |
| **Bidding Assistance** *1 pre-bid meeting; respond to pre-bid RFI's, prepare addenda* | - | - | 8 | $1,720 | 16 | $2,640 | 16 | $2,080 | 4 | $420 | - | - | $6,860 |
| CONSTRUCTION ADMINISTRATION (assume 16 week duration concurrent with 2 other projects) | | | | | | | | | | | | | |
| **Architectural Submittal Review** *RFI responses, 1 preconstruction meeting, 4 site visits by Architect, 1 punch list review by Architect* | 4 | $1,540 | 40 | $8,600 | - | - | 192 | $24,960 | 60 | $6,300 | - | - | $41,400 |
| CLOSE-OUT | | | | | | | | | | | | | |
| **Document Submissions** *DSA close-out forms; review contractor close out submittals: warranty/guarantee, as built plans, O&M manuals* | - | - | 4 | $860 | - | - | 8 | $1,040 | 12 | $1,260 | - | - | $3,160 |
| CONSULTANT FEES | | | | | | | | | | | | | |
| MEP Engineer: LP Consulting | | | | | | | | | | | | | $125,000 |
| Structural Engineer: MLA | | | | | | | | | | | | | $8,600 |
| Architectural Specifications Writer: CD specs (Byun & Associates) | | | | | | | | | | | | | $2,000 |
| Cost Estimator: Sierra West Group SD Estimate + CD Estimate | | | | | | | | | | | | | $9,340 |
| Civil Engineer: EXCLUDED - No civil engineer plans in the 2018 drawings | | | | | | | | | | | | | - |
| Landscape Architect: EXCLUDED - No landscape architect plans in the 2018 drawings | | | | | | | | | | | | | - |
| TOTAL CONSULTANT FEE | | | | | | | | | | | | | $144,940 |
| SUB-TOTAL | 16 | $6,160 | 136 | $29,240 | 208 | $34,320 | 476 | $61,880 | 88 | $9,240 | 12 | $1,140 | $286,920 |
| Project Expenses | | | | | | | | | | | | | $8,600 |
| RUSSO - MCENTEE ACADEMY LUMP SUM FEE | | | | | | | | | | | | | $295,520 |

## HVAC/Roofing Scope

### Assumptions

- Projects will move concurrently and site visits will occur on the same day
- Survey (CAD) file for each site to be provided by District
- Existing Geotechnical Report for each site to be provided by District
- HAZMAT Report for each site to be provided by District
- No Design Development Phase (schematic design, construction documents, agency approval, bid, construction & close-out included)

### Scope Exclusions

- Civil engineering
- Landscape architect
- Surveying (topographic & underground utility locator)
- Geotechnical engineering
- Hazmat report
- CEQA related services and environmental consultants
- All LEED services
- Calgreen commissioning
- Standby emergency power system design
- Alternative energy source design/ engineering
- Design of formwork, shoring or other means and methods required for construction
- Path of travel upgrades (mitigation of existing non-complying path or travel walkways, curb ramps & non-complying parking lot curb ramps or grading elements)
- Upgrades to existing campus-wide systems or site utilities (fire alarm, clock/bell, data, power, water, sewer, gas, fire water)
- Upgrades to existing electrical, communications, gas, domestic water, fire water, or sewer service connections to the campus
- Seismic upgrades to existing structures
- Restroom ADA upgrades and/or restroom reconfigurations
- Agency or utility company fees
- SWPPP, C.3 and QSP services
- SWPPP permit fee
- SWPPP monitoring or reports during construction (contractor handles SWPPP during construction)
- CGS fees
- Water supply test fee
- Fire flow test fee
- Bid or construction set printing
- DSA inspector of record fees
- Testing and inspections
- Hazardous materials sampling, monitoring or abatement
- Utility energy incentive or rebate applications
- Phased construction
- Subsurface and utility investigation/validation
- Mitigation of contractor deviations from DSA approved plans
- Lift stations and off-site utility design/connections
- McCollum Elementary School Exclusion: roofing

## LINDA VISTA ELEMENTARY

### Play Structure

| TASK | PRINCIPAL OWNER ARCH. (AOR) Brian Whitmore $385/hr | | CLIENT LEADER Michele Gargano $215/hr | | SENIOR PROJECT ARCHITECT Adriana Mouser $165/hr | | JOB CAPTAIN Dinh Nguyen $130/hr | | PROJECT ADMIN IV Kathleen Follis $105/hr | | CLERICAL/ ACCOUNTING $95/hr | | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | HRS | TOTAL | |
| **Project Administration** | 1 | $385 | 1 | $215 | | - | | - | 2 | $210 | 4 | $380 | $1,190 |
| SCHEMATIC DESIGN | | | | | | | | | | | | | |
| **Review of Existing Plans/ Prepare Electronic Base Plans** | - | - | 1 | $215 | 2 | $330 | 16 | $2,080 | - | - | - | - | $2,625 |
| **Site Investigation** | - | - | - | - | - | - | 4 | $520 | - | - | - | - | $520 |
| CONSTRUCTION DOCUMENTS | | | | | | | | | | | | | |
| **Architectural Plans** *1 meeting with District* | 1 | $385 | 4 | $860 | 40 | $6,600 | 40 | $5,200 | 4 | $420 | - | - | $13,465 |
| AGENCY APPROVAL | | | | | | | | | | | | | |
| **DSA Approval** | 1 | $385 | 2 | $430 | 12 | $1,980 | 8 | $1,040 | 1 | $105 | - | - | $3,940 |
| BIDDING | | | | | | | | | | | | | |
| **Bidding Assistance** | - | - | - | - | - | - | - | - | - | - | - | - | - |
| CONSTRUCTION ADMINISTRATION (assume 4 week duration) | | | | | | | | | | | | | |
| **Architectural Submittal Review** | - | - | - | - | - | - | - | - | - | - | - | - | - |
| CLOSE-OUT | | | | | | | | | | | | | |
| **Document Submissions** *DSA close-out forms; review contractor close out submittals: warranty/guarantee, as built plans, O&M manuals* | - | - | 1 | $215 | - | - | 4 | $520 | 4 | $420 | - | - | $1,155 |
| CONSULTANT FEES | | | | | | | | | | | | | |
| MEP Engineer: EXCLUDED | | | | | | | | | | | | | - |
| Structural Engineer: EXCLUDED | | | | | | | | | | | | | - |
| Architectural Specifications Writer: CD specs (Byun & Associates) | | | | | | | | | | | | | $1,200 |
| Cost Estimator: EXCLUDED | | | | | | | | | | | | | - |
| Civil Engineer: EXCLUDED | | | | | | | | | | | | | - |
| Landscape Architect: EXCLUDED | | | | | | | | | | | | | - |
| TOTAL CONSULTANT FEE | | | | | | | | | | | | | $1,200 |
| SUB-TOTAL | 3 | $1,155 | 9 | $1,935 | 54 | $8,910 | 72 | $9,360 | 11 | $1,155 | 4 | $380 | $24,095 |
| Project Expenses | | | | | | | | | | | | | $700 |
| LINDA VISTA ELEMENTARY LUMP SUM FEE | | | | | | | | | | | | | $24,795 |

## Assumptions

- Survey (CAD) file for each site to be provided by District
- Construction documents, agency approval & close-out only

## Scope Exclusions

- Schematic design, design development, bidding & construction phase services
- Civil engineering
- Landscape architect
- Structural engineering
- MEP engineering
- Cost estimates
- Surveying (topographic & underground utility locator)
- Geotechnical engineering
- Hazmat report
- CEQA related services and environmental consultants
- All LEED services
- Calgreen commissioning
- Standby emergency power system design
- Alternative energy source design/ engineering
- Design of formwork, shoring or other means and methods required for construction
- Path of travel upgrades (mitigation of existing non-complying path or travel walkways, curb ramps & non-complying parking lot curb ramps or grading elements)
- Upgrades to existing campus-wide systems or site utilities (fire alarm, clock/bell, data, power, water, sewer, gas, fire water)
- Upgrades to existing electrical, communications, gas, domestic water, fire water, or sewer service connections to the campus
- Seismic upgrades to existing structures
- Restroom ADA upgrades and/or restroom reconfigurations
- Agency or utility company fees
- SWPPP, C.3 and QSP services
- SWPPP permit fee
- SWPPP monitoring or reports during construction (contractor handles SWPPP during construction)
- CGS fees
- Water supply test fee
- Fire flow test fee
- Bid or construction set printing
- DSA inspector of record fees
- Testing and inspections
- Hazardous materials sampling, monitoring or abatement
- Utility energy incentive or rebate applications
- Phased construction
- Subsurface and utility investigation/validation
- Mitigation of contractor deviations from DSA approved plans
- Lift stations and off-site utility design/connections

# EXHIBIT B
# (return with proposal)

## ADDITIONAL SERVICES – ROSTER OF RATES

| Position | Hourly Rate |
|---|---|
| Principal Owner Architect | $385 |
| Principal Architect | $320 |
| Associate Principal or Senior Bond Program Manager | $230 |
| Senior Associate Client Leader | $ 215 |
| Associate Project Manager | $205 |
| Associate Senior Project Manager | $205 |
| Senior Construction Administrator | $ 180 |
| Associate Design Leader | $ 175 |
| Senior Project Architect | $ 165 |
| Construction Administrator | $ 165 |
| Project or Program Manager | $ 165 |
| Project Architect | $ 155 |
| Senior Designer | $ 155 |
| Senior Job Captain | $ 145 |
| Job Captain | $ 130 |
| Project Admin V | $ 120 |
| Project Designer III | $ 115 |
| Project Designer II | $ 105 |
| Project Admin IV | $ 105 |
| Accounting/Clerical | $ 95 |
| Project Designer I | $ 90 |
| Project Admin III | $ 95 |
| Project Admin I and II | $ 75 |
| Project Assistant | $ 70 |
| Intern | $ 60 |

## WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

> Every employer except the State shall secure the payment of compensation in one or more of the following ways:
>
> - By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
>
> - By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: 8/11/22

Name of Consultant: Studio W Architects

Signature: 

Print Name and Title: Brian Whitmore, President & CEO

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with District prior to performing any Services under this Agreement.)

## FINGERPRINTING CERTIFICATION/CRIMINAL BACKGROUND INVESTIGATION

The undersigned does hereby certify to District that I am a representative of Consultant entering into this Agreement with District; that I am familiar with the facts herein certified; and that I am authorized and qualified to execute this certificate on behalf of Consultant.

Consultant certifies that it has taken at least one of the following actions (check all that apply):

☒ The Work of the Agreement is either (i) at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of the Agreement shall come in contact with District pupils or (ii) if Consultant's employees or any subcontractor or supplier of any tier of the Contract interacts with pupils, such interaction shall only take place under the immediate supervision and control of the pupil's parent or guardian or a school employee, so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant under the Agreement.

☐ Consultant, who is not a sole proprietor, has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined (A) that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1 and/or (B) that the prohibition does not apply to an employee as provided by Education Code section 45125.1(e)(2) or (3). When Consultant performs the criminal background check, it shall immediately provide any subsequent arrest and conviction information it receives to District pursuant to the subsequent arrest service. No work shall commence until the Department of Justice ascertains that Consultant's employees and any subcontractors' employees have not been convicted of a felony as defined in Government Code Section 45122.1.

**A complete and accurate list of Consultant's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto as ATTACHMENT "A."**

☐ Consultant is a sole proprietor and intends to comply with the fingerprinting requirements of Education Code section 45125.1(h) with respect to all Consultant's employees who may have contact with District pupils in the course of providing services pursuant to the Agreement, and hereby agrees to District's preparation and submission of fingerprints such that the California Department of Justice may determine (A) that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1 and/or (B) that the prohibition does not apply to an employee as provided by Education Code section 45125.1(e)(2) or (3). No work shall commence until the Department of Justice ascertains that Consultant has not been convicted of a felony as defined in Government Code Section 45122.1.

Consultant's responsibility for background clearance extends to all of its employees, subcontractors, and employees of subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of Consultant.

**FINGERPRINTING CERTIFICATION/CRIMINAL BACKGROUND INVESTIGATION**

**ATTACHMENT "A"**

**List of Employees/Subcontractors**

**Name/Company:** Brian Whitmore / Studio W Architects

**Name/Company:** Michele Gargano / Studio W Architects

**Name/Company:** _____

**Name/Company:** _____

**Name/Company:** _____

**Name/Company:** _____

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**Name/Company:** _____

**Name/Company:** _____

If further space is required for the list of employees/subcontractors, attach additional copies of this page.

Date: _____

Name of Consultant: _____

Signature: _____

Print Name: _____

Title: _____

## COVID-19 VACCINATION CERTIFICATION

**Architect ("Architect"):** Studio W Architects

The California Department of Public Health ("CDPH") requires, pursuant to its August 11, 2021, Order ("Order"), that all public and private schools serving students in transitional kindergarten through grade twelve, unless exempt, are required to verify the vaccine status of all K-12 school workers, effective October 15, 2021. Further, pursuant to the Order, all such schools are required to verify that all workers are either fully vaccinated or undergo weekly diagnostic testing.

In light of these CDPH requirements, Architect certifies that the following entity: _____

Studio W Architects has verified that Architect personnel providing services at District's Project site(s):

☒ Have all been fully vaccinated in accordance with the CDPH Order.

☐ Have not all been fully vaccinated, but those who are unvaccinated or not fully vaccinated undergo weekly diagnostic testing in accordance with the CDPH Order.

☐ Have not been fully vaccinated and do not undergo weekly diagnostic testing in accordance with the CDPH Order.

Architect understands that the District's Project site will need to comply with the CDPH Order's COVID-19 requirements for fully vaccinated personnel or unvaccinated personnel. Personnel who are not fully vaccinated or decline to state their vaccination status will be treated as unvaccinated, and Architect will comply with the CDPH Order, and all applicable state and local laws for vaccinated and unvaccinated personnel.

**CERTIFICATION**

I, Brian Whitmore,

certify that I am Architect's President and CEO and that I have made a diligent effort to ascertain the facts with regard to the representations made herein.

Date: August 11, 2022

Name of Firm: Studio W Architects

Signature: _____

Print Name: Brian Whitmore

Title: President and CEO