

**TITLE: RATIFICATION OF AGREEMENT NO. A18.074 BETWEEN SIMI
VALLEY UNIFIED SCHOOL DISTRICT AND RACHLIN
PARTNERS FOR ONGOING ARCHITECTURAL SERVICES**

Business & Facilities

Consent # 4

August 15, 2017
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Prepared by: Ron Todo, Associate Superintendent
Business & Facilities

Background Information

On January 17, 2017 the Board of Education approved the list of selected firms for on-call architectural services for the Measure X Bond Program. The District wishes to enter into agreement(s) for architectural services with the firm of Rachlin Partners, which is on the approved list and can provide these services. The attached agreement is presented to the Board of Education for ratification.

Fiscal Analysis

Ongoing Architectural Services Agreement A18.074 (Exhibit “A”) is a **no-cost master services agreement** establishing the terms and conditions applicable to each project assignment.

Additional information is available at the Bond Management Office.

Recommendation

It is recommended that the Board of Education ratify Agreement A18.074 for ongoing architectural services with the firm of Rachlin Partners.

On a motion # 27 by Trustee Brog, seconded by Trustee White and carried by a vote of 5/0, the Board of Education ratified, by roll-call-vote, Agreement A18.074 for ongoing architectural services with the firm of Rachlin Partners.

**Motion # 27 Ayes: Blough, LaBelle,
Smollen, White, Daniels
Noes: 0; Absent: 0; Abstain: 0**

Absent:  Abstained: 

AGREEMENT A18.074 FOR ON-GOING ARCHITECTURAL SERVICES

This Agreement for On-Going Architectural Services ("Agreement") is entered into July 5, 2017 by and between **SIMI VALLEY UNIFIED SCHOOL DISTRICT**, a California school district ("District") and **Rachlin Partners** ("Architect"); the District and the Architect are collectively referred to herein as "the Parties." This Agreement is entered into with reference to the following Recitals, all of which are incorporated herein by this reference.

WHEREAS, from time-to-time, the District is engaged in the design, bidding and construction of works of improvement consisting generally of the demolition, construction and/or alteration of new and existing physical facilities and maintenance (deferred and scheduled) of physical facilities and equipment/building repairs; these works of improvement are hereinafter collectively referred to as "the Projects" and singularly referred to as "an Assigned Project".

WHEREAS, in or about October 24, 2016, the District issued a Request for Qualifications ("RFQ") pursuant to which the District solicited proposals from architectural services firms to provide architectural services on an on-going basis.

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

WHEREAS, the District desires to retain Architect to provide and perform architectural and related services in connection with the design, bidding and construction of the Assigned Projects; the specific terms and conditions for an Assigned Project will be as set forth in the Project Assignment Amendment ("PAA") in substantially the form attached hereto as Exhibit A.

WHEREAS, Architect is qualified and capable of providing and performing the services and its other obligations under this Agreement in accordance with the terms hereof.

WHEREAS, as required by the Laws and/or the nature of services provided, personnel of the Architect and personnel of the Architect's Design Consultants are duly licensed as architects or registered as engineers under the laws of the State of California; all such personnel are qualified, experienced and capable of completing the Basic Services tasks assigned them for an Assigned Project.

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

1. Basic Services.

1.1. General. Architect shall provide Basic Services and authorized Additional Services for an Assigned Project, as more particularly enumerated in this Agreement and in the PAA for an Assigned Project. All Basic Services and authorized Additional Services for an Assigned Project shall be performed and completed by employees of the Architect and/or the Architect's Design Consultants. Architect's services shall be performed or provided consistent with the Basic Services Completion Schedule set forth in the PAA for an Assigned Project and with professional skill and care and in such a manner as to avoid hindrance, interruption or delay to the orderly progress and completion of the design, bidding and construction of the Assigned Project. The scope of Basic Services to be provided by the Architect in connection with an Assigned Project shall be in accordance with the PAA issued by the District for an Assigned Project; the form of PAA is attached hereto as Exhibit A and incorporated herein by this reference.

1.2. Relationship of Architect to Other Assigned Project Participants. The Architect's services hereunder shall be provided in conjunction with contracts between the District and other Assigned Project participants including the Contractor, the Project Inspector, the Construction Manager, if one is retained by the District for an Assigned Project. The Architect's services and the Design Documents prepared by or through the Architect for an Assigned Project shall conform to processes, procedures and standards established by the District and/or processes, procedures and standards established by DSA for an Assigned Project. The Contractor awarded the Construction Contract for

an Assigned Project is responsible for performance of its obligations under the Construction Contract. Architect's services hereunder shall not be deemed or construed to be Architect's assumption of responsibility for, or control over construction means, methods sequences or procedures, or for safety during construction of the Project, all of which are and remain the responsibility of the Contractor.

1.3. Architect Independent Contractor Status. The Architect is an independent contractor to the District. The express terms hereof set forth the limited extent to which Architect is authorized to act on behalf of the District in its independent contractor capacity. The Architect shall be liable for the consequences of Architect's actions or conduct which exceeds the express limited scope of Architect's authority to act on behalf of the District as set forth herein.

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

1.5. Architect Representation. The Architect shall designate a Project Architect and/or Job Captain for all Phases of Basic Services for an Assigned Project. Unless approved by the District for an Assigned Project, the Project Architect or Job Captain designated by the Architect for an Assigned Project shall be the same for all Phases of Basic Services for the Assigned Project. The Architect's Project Architect and/or Job Captain shall: (i) be reasonably satisfactory to the District; (ii) will not be replaced without approval of the District; (iii) shall have the overall responsibility for performance of Architect's obligations hereunder; and (iv) be authorized to act on behalf of the Architect in discharge of Architect's services hereunder. If the Project Architect or Job Captain designated by the Architect for an Assigned Project is replaced, the District shall have the right to approve of the replacement Project Architect or Job Captain for the Assigned Project. During the Construction Phase of an Assigned Project, the Project Architect and/or Job Captain shall be readily available to communicate by telephone, correspondence, necessary Site visits, e-mail or other means of communication to provide design direction and decisions as necessary to avoid delay, hindrance or interruption to construction of the Assigned Project.

1.6. Design Consultants. Basic Services are generally described in the Agreement and includes all architectural, design and engineering services for the structural, civil, mechanical, electrical, signage, graphics, telecommunications/data cabling and landscaping portions of an Assigned Project as necessary or appropriate to produce accurate Construction Documents for an Assigned Project. The specific architectural, design, engineering and other services forming the Basic Services for an Assigned Project shall be as set forth in the Project Assignment Amendment (PAA) for the Assigned Project; the extent to which the Basic Services for an Assigned Project are completed in whole or in part with the Architect's own personnel or with the personnel of the Architect's Design Consultants shall be at the discretion of the Architect, provided that the personnel (whether of the Architect or its Design Consultants) providing or performing any portion of the Basic Services for an Assigned Project are qualified, skilled and experienced in providing the Basic Services assigned to such personnel.

1.7. Compliance with Regulatory Agencies. The Architect shall respond to and comply with all requests relating to an Assigned Project made by any federal, state, regional or local governmental or quasi-governmental agency with jurisdiction over any portion of the Assigned Project, including

without limitation, the State Allocation Board, California Department of Finance, California Department of Education, Division of State Architect (DSA) and the California Public Works Board.

1.8. Meetings. The Architect and its Design Consultants, as necessary, appropriate or requested by the District, shall attend and participate in meetings, forums and other conferences ("Meetings") relating to the design, bidding or construction of an Assigned Project. Without limiting the generality of the foregoing, the Architect and Design Consultants shall attend and participate in Meetings with the Construction Manager if one is retained by the District, District, end-user groups, shared governance councils/committees, Board of Education and organized public forums relating to an Assigned Project. The Architect and its Design Consultants shall promptly respond to matters assigned to or designated for response, review or other action by the Architect or its Design Consultants. If requested by the District, the Architect shall prepare and distribute minutes of Meetings relating to an Assigned Project.

1.9. Existing Utilities. The Architect is responsible for determining: (i) as applicable, required or appropriate for an Assigned Project, the existence and location of points of connection for telecommunications/data, electrical power, natural gas and domestic water supply utility services, including field review to ascertain the locations and conditions of existing utilities at each school site associated with the Assigned Project; (ii) development of Design Documents for modification/addition/relocation/upgrading existing utility systems and service points of connection to serve the Assigned Project; (iii) development of Design Documents for an Assigned Project with sufficient utility service capacity to serve the Assigned Project and the intended uses/occupancy of the Assigned Project.

1.10. Phased Construction/Construction By Multiple Trade Contractors. Whether or not reflected in the PAA issued by the District for any Assigned Project, the District reserves the right to complete construction of an Assigned Project in phases and/or by multiple Trade Contractors, each under separate contract with the District for constructing a portion of an Assigned Project. The election of the District to phase construction of an Assigned Project or to construct an Assigned Project with multiple Trade Contractors shall not result in increase of the Contract Price to the Architect for an Assigned Project.

1.11. Existing Conditions Investigation. The Architect and its Design Consultants for an Assigned Project shall inspect each Site of an Assigned Project to ascertain existing conditions, facilities or other improvements on or about each Site of an Assigned Project as necessary to produce complete and accurate Design Documents for the Assigned Project. If the Assigned Project involves any existing improvements, the Architect shall review any materials provided to the Architect by or through the District relating to the as-built and existing condition of the improvements on or about each Site. The Architect shall promptly notify the District in writing of discrepancies encountered between the existing conditions observed by the Architect and the materials provided by or through the District, and shall also inform the District of any recommended improvements needed at each site based on the Architect's and its Design Consultants investigation of existing conditions.

1.12. Obligation to Design Within Construction Budget. A material obligation of the Architect under this Agreement and in connection with each Assigned Project hereunder is the Architect's development and preparation of Design Documents for each Assigned Project that can be constructed (under the then current marketplace conditions) within the Construction Budget established by the District for the Assigned Project. Design Documents for an Assigned Project shall include features, elements, components or other items which may be added to or deleted from the scope of the Assigned Project without impairing the size, intended uses, functions or occupancy of the Assigned Project ("Design Alternatives"). The election to incorporate any Design Alternatives into an Assigned Project shall be solely that of the District. Basic Services of the Architect include incorporation of District selected Design Alternatives into the Design Documents for an Assigned Project.

1.13. Conformity to District Standards. Design Documents prepared by or through the Architect for an Assigned Project shall conform to District standards for materials, equipment and/or workmanship. Upon commencement of work on an Assigned Project, Architect shall request from the District, the then current list of "District Standards", and shall incorporate the "District Standards" into applicable provisions within the Design Documents. The District may from time to time update the "District Standards" at which time the Architect shall incorporate any updates to the "District Standards" into the Design Documents. Modifications of the Design Documents for an Assigned Project to conform to District materials, equipment or workmanship standards shall be without adjustment of the Contract Price for the Assigned Project.

1.14. Compliance with Regulatory Agencies. The Architect shall respond to and comply with all requests relating to an Assigned Project made by any federal, state, regional or local governmental or quasi-governmental agency with jurisdiction over any portion of an Assigned Project ("Regulatory Agencies"). All of the Architect's verbal communications with Regulatory Agencies shall be reduced to writing. The Architect shall copy the District Representative with all written communications received from any of the Regulatory Agencies relating to an Assigned Project or generated by the Architect or a Design Consultant to any Regulatory Agency relating to an Assigned Project. The Architect shall be responsible and liable to the District for all consequences of the Architect's failure or refusal to timely, completely and accurately respond to any communications or requests from/by/between Regulatory Agencies, including but not limited to DSA, relating to an Assigned Project.

1.15. Assigned Projects. The Architect acknowledges that the District has the sole discretion to retain others to provide architectural and related design professional services for any District work of improvement. Unless the District issues the Architect a PAA for an Assigned Project pursuant to the terms hereof, the Architect is not obligated to provide any services hereunder and there is no compensation due from the District to the Architect.

2. Basic Services; Pre-Design (Programming) Phase.

2.1. General. The Architect shall review the Construction Budget and other information provided by the District regarding an Assigned Project to ascertain the requirements and constraints of the Assigned Project. The Architect and its Design Consultants shall visit the Site to become familiar with physical conditions at the Site as they relate to design and construction of the Assigned Project.

2.2. Site Observations. The Architect and its Design Consultants shall visit the Site(s) of an Assigned Project to become familiar with physical conditions and existing improvements at the Site(s) as they relate to design of Assigned Project. Unless specifically indicated in this Agreement, the Site observations of the Architect and its Design Consultants do not include observations of concealed conditions. The foregoing notwithstanding, by conducting Site observations, the Architect is responsible for noting and incorporating patently observable existing Site conditions into the Assigned Project Design Documents. If the Assigned Project involves any existing improvements, the Architect shall review and verify the accuracy of any materials provided to the Architect by or through the District relating to the as-built and existing condition of the improvements on or about the Site(s). The Architect shall promptly notify the District in writing of discrepancies encountered between the existing conditions observed by the Architect and the materials provided by or through the District; failure of the Architect to do so shall result in the Architect's assumption of responsibility for correcting discrepancies between actual conditions and those described in the District-provided materials and incorporating the actual conditions into Design Documents for the Project without adjustment of the Contract Price are the Architect for an Assigned Project.

2.3. Assigned Project Program Statement. In consultation with the District and the Construction Manager, if any, understandings shall be arrived at with respect to the scope, requirements and constraints of the Assigned Project. Architect shall provide the District with a

written evaluation ("the Program Statement") of the District's requirements and constraints, including the selection of materials, building systems, equipment, the Construction Budget for the Assigned Project and alternative approaches to design and construction of the Assigned Project. The Architect shall modify the Program Statement as necessary for the District's acceptance of the entirety of the Program Statement. The Architect's development and preparation of the Design Documents for an Assigned Project shall conform to the District accepted Program Statement for the Assigned Project.

3. Basic Services; Preliminary Plans Phase.

3.1. Initial Preliminary Plans. Based upon the District accepted Program Statement for the Assigned Project, the Architect shall prepare Initial Preliminary Plans consisting of Drawings and other documents illustrating scale and other relationships of the various components of the Work and an outline of Specifications. Preliminary Plans shall include without limitation: (i) a general description of the Assigned Project; (ii) conceptual site plan; (iii) preliminary building plans; (iv) sections and elevations; (v) perspective sketches; (vi) reports describing Architects and Architects Consultants initial evaluation of the site(s); and (vii) other documents requested by the District relating to the preliminary design of an Assigned Project. Upon completion of the Initial Preliminary Plans, or at such other intervals during Architect's development of Initial Preliminary Plans as established in the PAA for an Assigned Project, Architect shall submit the same to the District and the Construction Manager for information, review and comments.

3.2. Final Preliminary Plans. The District, the Construction Manager if one is retained by the District, and Architect will confer and consult with each other to arrive at mutual understandings and agreements as to which of the comments of the District and the Construction Manager to the Initial Preliminary Plans are to be incorporated into the Final Preliminary Plans. The Architect shall prepare Final Preliminary Plans which consist of the Initial Preliminary Plans revised to incorporate therein the mutually agreed upon changes and other comments. Upon completion of the Final Preliminary Plans, Architect shall submit the same to the District for review and acceptance. Architects submission of Final Preliminary Plans shall be in both electronic and printed formats.

3.3. Design Documents. As required for an Assigned Project, Design Documents completed by the Architect in the Preliminary Plans phase for an Assigned Project shall include without limitation the following:

3.3.1. Demolition Plans. Identification of existing facilities and improvements to be demolished, including without limitation, description of items, systems, materials and/or equipment to be: (i) abandoned in place, (ii) removed, or (iii) salvaged.

3.3.2. Architectural Design/Documentation. Development and expansion of the Project requirements to establish the scope, relationships, forms, sizes and appearance of the Project through: (i) plans, sections and elevations; (ii) typical construction details; (iii) materials selections; and (v) equipment layouts.

3.3.3. Structural Design/Documentation. Development of the specific structural system(s) and materials with sufficient detail to establish: (i) basic structural system and dimensions; (ii) final structural design criteria; (iii) foundation design criteria; (iv) sizing of major structural components; (v) critical coordination clearances; and (vi) outline specifications or materials lists.

3.3.4. Mechanical Design/Documentation. Develop mechanical design to establish: (i) approximate equipment sizes and capacities; (ii) equipment layouts; (iii) required space for equipment; (iv) required chases and clearances; (v) acoustical and vibration control; (vi) visual impacts; and (vii) energy conservation measures.

3.3.5. Electrical Design/Documentation. Develop electrical design to establish: (i) criteria for lighting, electrical, audio/visual and telecommunications (voice/data); (ii) approximate equipment sizes and capacities; (iii) equipment layouts; (iv) required space for equipment; (v) required chases and clearances; (vi) visual impacts; and (vii) energy conservation measures.

3.3.6. Plumbing and Fire Protection. Develop plumbing design to establish: (i) general location of plumbing lines; (ii) plumbing line sizing; and (iii) plumbing fixtures. Develop fire protection design showing generally sprinkler piping layout, fire department access areas and connections, and main utility connection.

3.3.7. Civil and Landscape Design/Documentation. Develop civil and landscape design to establish civil engineering and landscaping work within the perimeter of the area of the Assigned Project Site. The foregoing includes: vehicular/pedestrian controls, grading, site lighting and other hardscape/landscape items within the area of the Assigned Project.

3.3.8. Interior Design/Documentation. Develop interior design of the Assigned Project to establish: (i) interior construction of the Project; (ii) special interior design features; (iii) furniture, furnishings and equipment selections; and (vi) finish materials and colors.

3.3.9. Constructability; Value Engineering Reviews of Preliminary Plans. The District will conduct, or cause to be conducted, Constructability Reviews and/or Value Engineering Reviews of the Preliminary Plans for an Assigned Project as set forth in the PAA for the Assigned Project. If the Design Documents for an Assigned Project are subject to either Constructability Reviews or Value Engineering Reviews of the Preliminary Plans, the Architect shall submit Preliminary Plans to the District for such Constructability Reviews and/or Value Engineering Reviews as set forth in the PAA for the Assigned Project. The District and the Construction Manager and Architect will confer and consult with each other to arrive at mutual understandings and agreements as to which of the Constructability Review and/or Value Engineering Review comments are to be incorporated into the Preliminary Plans. If mutual agreement is not reached, the Architect shall incorporate such Constructability Review and/or Value Engineering Review comments as directed by the District. The Preliminary Plans shall incorporate mutually agreed upon comments or comments as directed by the District. Architect shall revise Preliminary Plans as necessary to obtain the District's reasonable acceptance thereof.

3.3.10. Preliminary Plans Construction Cost Estimate. If required by the PAA for an Assigned Project, the Architect shall prepare and deliver to the District a Construction Cost Estimate of the Preliminary Plans for the Assigned Project as depicted in the Final Preliminary Plans. If the Construction Cost Estimate of the Preliminary Plans materially exceeds the District's Construction Budget for the Assigned Project, the Architect shall consult with the District and the Construction Manager to identify revisions to the Preliminary Plans as necessary so that the Construction Cost Estimate for the Work depicted in the Final Preliminary Plans is consistent with the Construction Budget for the Assigned Project. Revisions of the Preliminary Plans to conform with the Construction Budget shall be without adjustment to the Contract Price for the Assigned Project unless the District shall have directed modifications to, or inclusions in, the scope of the Assigned Project or component parts thereof which cause the Project Construction Budget to be exceeded.

4. Basic Services; Working Drawings Phase.

4.1. Working Drawings. Based upon the District accepted Final Preliminary Plans, the Architect shall prepare Working Drawings consisting of all Drawings and Specifications and other Design Documents necessary or appropriate for setting forth in detail the requirements for the Work of the Assigned Project with sufficient clarity, coordination and consistency to permit qualified and capable contractors to bid upon and construct the Work depicted therein for the Project Construction Budget. Working Drawings shall include without limitation: (i) details establishing and defining the scope, relationships, forms, size and appearance of the Assigned Project and component parts thereof by site plans, floor plans, elevations, cross sections and other documents or calculations necessary to accurately depict design of the Assigned Project; (ii) typical construction details; (iii) equipment specifications and layouts; (iv) dimensions as necessary to accurately depict design of the Assigned Project or as consistent with professional architectural practices; and (v) complete and detailed written Specifications establishing and defining workmanship standards,

materials/equipment standards or performance requirements, administration of the Construction Contract for the Assigned Project and similar matters.

4.2. Working Drawings. Unless otherwise set forth in the PAA for an Assigned Project, the Working Drawings shall be one hundred percent (100%) complete dimensioned plans, elevations, sections, details, schedules and diagrams of all architectural, landscaping, civil, structural, mechanical, plumbing, electrical (including low voltage and telecommunications) and other miscellaneous work. Without limiting the generality of the foregoing component parts of the Working Drawings shall include:

4.2.1. Demolition. Complete and detailed descriptions of the existing facilities and improvements to be demolished, to remain in place or to be re-located, including specific direction for the removal, disposal, recycling or other handling of materials or equipment of the existing facilities and improvements to be demolished.

4.2.2. Structural. Foundation details, structural notes and structural calculations.

4.2.3. Architectural. Dimensioned floor plans, partition details, interior elevations, finish schedules, door and hardware schedules and room signage. Details necessary for ADA compliance.

4.2.4. Mechanical. Floor plans with all components and service/access areas drawn to scale, duct sizing and air flow quantities, detailed piping and duct design with sizing and coordinated with structural supports, equipment details with structural support and vibration isolation methods, penetration and sleeve details, space zoning, installation details, detailed controls requirements and design calculations for mechanical equipment, supporting infrastructure and structural supports to mechanical equipment and ducts.

4.2.5. Plumbing and Fire Protection. Fire protection plans with header and riser layouts, detailing piping design with sizing indicated, sprinkler zone locations, sprinkler installation details including structural supports, penetration details and design calculations. Plumbing components shall be completely identified and located.

4.2.6. Electrical. Details of power service to the Assigned Project, power plans showing any necessary upgrades to power systems, primary cable, raceways, feeder conduits, electrical loads, duplex and special receptacles and branch circuitry design, connections with other building systems, including fire/life-safety, mechanical and telecommunications, grounding details, penetration details. The Electrical Working Drawings shall include interior/exterior lighting with control systems, lighting panels, switching and circuiting, installation details, conduit/wire size notes for lighting branch circuits.

4.2.7. Civil, Landscape and Site. Site lighting details, hardscape details, landscape materials and installation details and landscape irrigation pipe sizing, runs and controls.

4.2.8. Interiors. Dimensioned floor plans, interior details, elevations, finish schedules, audio/visual and special equipment details, building security and access controls details. Interiors shall include interior space planning depicting the layouts of furniture, furnishings and equipment ("FFE") to be incorporated into the Assigned Project as either Group I or Group II FFE.

4.2.9. Specifications. The Working Drawings Phase Specifications shall be complete and incorporate all requirements for workmanship, materials, equipment and other requirements for the Assigned Project.

4.3. Review of Working Drawings Status. At intervals established in the PAA for an Assigned Project or as mutually agreed upon by the District and Architect, the Architect shall provide to the District and/or the Construction Manager, for review and information, the Drawings, Specifications and other documents depicting the then current status of the Architect's preparation of Working Drawings, in electronic and printed formats.

4.4. Constructability and Value Engineering Reviews of Working Drawings. The District will conduct, or cause to be conducted, Constructability Reviews and/or Value Engineering Reviews of the Working Drawings for an Assigned Project as set forth in the PAA for an Assigned Project. If the Design Documents for an Assigned Project are subject to either Constructability Reviews and/or Value Engineering Reviews, the Architect shall submit Working Drawings to the District for such Constructability and/or Value Engineering Reviews as set forth in the PAA for the Assigned Project. The District, the Construction Manager and the Architect will confer and consult with each other to arrive at mutual understandings and agreements as to which of the Constructability Review and/or Value Engineering Review comments are to be incorporated into the Working Drawings. If mutual agreement is not reached, the Architect shall incorporate such Constructability Review and/or Value Engineering Review comments into the Working Drawings as directed by the District. The Architect shall submit revised Working Drawings to the District for acceptance. The Architect shall revise Working Drawings as necessary to obtain the District's reasonable acceptance thereof.

4.5. Detailed Construction Cost Estimate. At such time as the Architect achieves fifty percent (50%) completion of the Working Drawings, the Architect shall prepare a detailed Construction Cost Estimate for the Work depicted in the fifty percent (50%) completed Working Drawings ("the 50% Estimate"). If the detailed 50% Estimate materially exceeds the Construction Budget for the Assigned Project, the Architect shall revise the Working Drawings as necessary so that the 50% Estimate conforms with the Construction Budget for the Assigned Project. Revisions of the Working Drawings shall be without adjustment to the Contract Price for the Assigned Project unless the District shall have directed modifications or inclusions to the scope of the Assigned Project or component parts thereof which cause the Construction Budget for the Assigned Project to be exceeded.

4.6. Approvals/Permitting of Working Drawings. The Architect shall assist the District in obtaining all necessary approvals or permits for the Working Drawings for an Assigned Project from governmental and quasi-governmental agencies with jurisdiction over any portion of an Assigned Project as necessary for the bidding and construction of the Assigned Project including without limitation, approvals by the Division of State Architect ("DSA"). Without adjustment of the Contract Price for an Assigned Project, Architect shall revise Working Drawings, and any other drawings, specifications, forms, or information as required by DSA or other governmental or quasi-governmental agencies with jurisdiction over the Assigned Project, or portions thereof, to obtain their respective approval(s) or permit issuance.

4.7. Architect Provision of Working Drawings. The Architect shall provide the District with one (1) clear background, reproducible copy of the Drawings included in the final District accepted Working Drawings for bidding and construction purposes of each Assigned Project. Reproduction of these sets of Design Documents for an Assigned Project is at the cost of the District, except to the extent that reproduction is required by revisions or corrections arising out of errors or omissions of the Architect or its Design Consultants, in which case, the Architect shall bear all costs of preparing revisions or corrections and reproduction of Working Drawings.

5. Basic Services; Bidding Phase.

5.1. Development of Bid Documents. In consultation with the District and the Construction Manager, if one is retained by the District, the Architect will advise and make recommendations to the District for bidding and award of the Construction Contract for an Assigned Project. Architect will generally review and comment upon the District's proposed forms of Construction Contract and General, Special and other Conditions thereof for conformity and consistency with the Construction Documents. Architect shall assist the District and the Construction Manager in preparation of information, documents and forms necessary or appropriate for bidding the Construction Contract for an Assigned Project ("Bid Documents").

5.2. Bidding Process. During the bidding for Construction Contract, Architect will: (i) attend pre-bid conference(s), as called by the District; (ii) assist the District in responding to bidders' inquiries, questions or clarification requests relating to the Assigned Project; and (iii) where necessary or appropriate, the Architect will prepare and assist the District in issuance of addenda to the Bid Documents for an Assigned Project. The Architect shall obtain DSA review and approval of revisions issued by Addenda, wherever applicable. As requested by the District, the Architect will assist the District in obtaining required governmental approval(s) for award of the Construction Contract.

5.3. Bid Costs Exceeding Project Construction Budget. If within one hundred fifty (150) days of the date of the DSA construction permit for an Assigned Project, the District receives Bid Proposals for the Assigned Project Construction Contract and the lowest bona fide Bid Proposal exceeds the Project Construction Budget, the District may: (i) approve of an increase in the Construction Budget for the Assigned Project; (ii) reject all Bid Proposals and authorize re-bidding of the Assigned Project; (iii) abandon or terminate the Assigned Project; or (iv) revise the scope, or reduce or eliminate portions of the Assigned Project so as to limit and reduce Construction Costs. Unless the District has theretofore directed changes, modifications or inclusions in the scope of the Assigned Project or component parts thereof which cause the Bid Proposals to exceed the Project Construction Budget, if the District elects to revise the Assigned Project pursuant to (iv) above, the Architect shall make all necessary revisions to the Construction Documents without adjustment of the Contract Price for the Assigned Project. The Architect shall also obtain DSA review and approval of the revisions, whenever applicable. If the District re-bids the Assigned Project, for such subsequent re-bid(s), the Architect and its Design Consultants shall perform the obligations set forth in Paragraphs 5.1 and 5.2 above in connection with such re-bid(s) without adjustment of the Contract Price due the Architect for the Assigned Project.

5.4. Pre-Construction. The Architect shall complete the following as necessary for an Assigned Project:

5.4.1. Conformed Design Documents. Prepare Conformed Design Documents consisting of the Design Documents initially issued by or on behalf of the District for bidding as modified by Addenda or other changes thereto made during the Bidding Phase. The Architect shall complete preparation of the Conformed Design Documents so that the Conformed Design Documents are delivered to the District sufficiently in advance of the anticipated/planned commencement date of the Construction Phase of the Assigned Project to allow the District to reproduce Conformed Design Documents for distribution to the Contractor at or prior to commencement of the Construction Phase of an Assigned Project.

5.4.2. Project Inspector; Materials Tests/Inspections. As requested by the District, the Architect shall assist in the District's selection and retention of a Project Inspector and/or materials test/inspection services for the Assigned Project. The Architect shall fully cooperate with the District in completion and submission of required forms to the state for obtaining DSA approval of the proposed Project Inspector and Testing Laboratory for each Assigned Project.

5.4.3. DSA PR 13-01. The Architect shall complete pre-construction activities and forms required by DSA PR 13-01 for the Design Professional in Charge.

5.4.4. Contractor Meetings. Attend and participate in pre-construction meetings with the District, Construction Manager and Contractor.

6. Basic Services; Construction Phase.

6.1. Administration of Construction Contract. Architect will provide assistance to the District in administration of the Construction Contract for the Assigned Project and construction of the Assigned Project. The scope of the Architect's services in administration of the Construction Contract shall include all activities and responsibilities set forth herein and in the Construction Contract. The

Architect's administration of the Construction Contract for an Assigned Project shall be in conjunction with the services and responsibilities of the Project Inspector, Construction Manager if one is retained by the District. The Architect shall be a representative of the District and shall advise and consult with the District regarding construction of an Assigned Project until Final Payment under the Construction Contract for the Assigned Project is due and Final Completion of construction of an Assigned Project is certified by the Architect, DSA and other Project participants including the Construction Manager and the Project Inspector for the Assigned Project. The Architect shall have the authority to act on behalf of the District only to the extent expressly provided for by the terms hereof and as may be subsequently modified in accordance with the provisions hereof. Duties, responsibilities and limitations of the Architect's authority shall not be restricted, modified or extended without written agreement of the District and the Architect along with consent by the Contractor and/or Construction Manager for the Assigned Project as necessary or appropriate. Architect shall cooperate with and comply with controls, procedures, processes and reporting functions reasonably implemented by the District and DSA with respect to design, state oversight, and construction of the Assigned Project.

6.2. Site Observations. The Architect shall attend weekly meetings at the Site(s) and other meetings relating to the Assigned Project and shall visit the Assigned Project Site(s) at intervals appropriate to the stage of construction, as required by the conditions of construction or the Site(s), or as may be reasonably requested by the District from time to time for the purpose of becoming generally familiar with the progress and quality of completed construction and to generally determine if construction of the Assigned Project is being performed in a manner indicating that upon completion it will be generally in accordance with the Construction Contract and the Construction Documents. On the basis of observations made during Site visits and in its capacity as an architect, the Architect shall: (i) keep the District informed of the progress and quality of the construction of the Assigned Project; and (ii) endeavor to guard the District against defects and deficiencies in the Assigned Project construction and the failure or refusal of the Contractor to construct the Assigned Project in accordance with the terms and intent of the Construction Contract and the Construction Documents. Without limiting any other right or remedy of the District whether pursuant to this Agreement or by operation of law, if in the course of its Site observations, the Architect fails to discover or report to the District any patently observable major defect or deficiency in construction of the Assigned Project which by exercise of due care should have been observed by the Architect and reported to the District, the Architect will provide all design services necessary for remedial or corrective measures for such conditions without additional cost or expense to the District. The foregoing shall not be deemed to obligate the Architect to observe or inspect concealed conditions, unless the nature of the visually apparent conditions are such that a prudent Architect would conduct observations or inspections of related concealed conditions to confirm that there are no major defects or deficiencies in the concealed conditions. The provisions hereof shall not be construed as requiring the Architect to make exhaustive or continuous Site observations to check on the quality or quantity of the Assigned Project construction. The Architect shall have access to the Assigned Project wherever in preparation, fabrication or progress.

6.3. Contractor Applications for Payment.

6.3.1. Development of Payment Procedures. In consultation with the District and Construction Manager, the Architect shall assist in the development and implementation of procedures, forms and documents for the submittal, review, processing and disbursement of Progress Payments to the Contractor for each Assigned Project.

6.3.2. Certification of Payment Due. Based on the Architect's observations and evaluations and in conjunction with the observations and evaluations of the District, Construction Manager and the Project Inspector, the Architect shall certify the amount due the Contractor on each Application for Progress Payment. Such certification shall be the Architect's representation to the District that based upon the Architect's Site observations in accordance with this Agreement and the data

contained in the Application for Progress Payment, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the terms of the Construction Contract. Issuance of a Certificate for Payment shall constitute Architect's representation to the District that the Contractor is entitled to the amount certified.

6.3.3. Limitations Upon Architect's Certification. The Architect's certifications and representations hereunder are subject to an evaluation of the Work for conformity with the terms of the Construction Contract upon Substantial Completion, the results of subsequent tests and inspections, minor deviations from the terms of the Construction Contract correctable prior to Final Completion and any specific qualifications expressed by the Architect. The issuance of a Certificate for Payment shall not be deemed a representation that the Architect has: (i) made exhaustive or continuous Site inspections to check the quality or quantity of the Work; (ii) reviewed construction means, methods, sequences or procedures; (iii) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the District to substantiate the Contractor's right to payment, excepted as included in the materials accompanying an Application for Progress Payment transmitted to and reviewed by the Architect hereunder; or (iv) ascertained for or what purpose the Contractor has used funds previously disbursed under prior Application(s) for Progress Payment.

6.3.4. Final Payment. In conjunction with the District, Construction Manager and the Project Inspector, the Architect shall review, evaluate and certify for payment the Contractor's Application for Final Payment.

6.3.5. Timely Action by Architect. Upon receipt of any of the Contractor's Applications for Progress Payment and the Application for Final Payment, the Architect shall promptly commence and complete its review, evaluation and certification of the amount due on each such application so that the District can make payment of the amount certified within the time permitted by law without incurring liability for interest and/or the Contractor's attorneys' fees resulting from untimely payments of any Progress Payment or the Final Payment. If the Architect fails to take timely action pursuant to the preceding, the Architect shall be liable to the District for all costs, demands, liabilities or losses arising out of or related to such failure to timely take action.

6.4. DSA.

6.4.1. Project Inspector. The Architect shall provide initial approval of, consult with and cooperate with the Project Inspector. The Architect shall make available to the Project Inspector, any information the Architect may have pertaining to the Assigned Project to accommodate the Project Inspector's duties to observe construction of the Assigned Project. Where the Project Inspector notes defective or deficient construction, the Architect shall: (i) assist in development of solutions to such conditions; (ii) assist the Project Inspector in oversight of corrective measures; and (iii) prepare and submit to DSA for review and approval, appropriate design details and information..

6.4.2. Materials Tests/Inspections. The Architect shall assist in scheduling and coordination of materials tests/inspections and observe such tests/inspections as required or appropriate. The Architect shall review materials test/inspection reports, data and similar materials ("Test Reports") for confirmation of compliance with requirement of the Construction Contract; the Architect shall advise the District, Construction Manager and Project Inspector of necessary remedial or corrective measures if Test Reports do not comply with Construction Contract requirements.

6.4.3. Reports/Communications. The Architect shall expeditiously file DSA Reports as required by DSA and other reports as required by applicable law and regulations. The Architect shall communicate with DSA regarding the Project on behalf of the District; the Architect shall keep the District informed of Architect/DSA communications relating to the Assigned Project.

6.5. Submittals.

6.5.1. Submittal Procedures. In consultation with the District and the Construction Manager, the Architect shall assist in the development and implementation of forms, documents and procedures for the handling, review and processing the Contractor's Submittals required for an Assigned Project.

6.5.2. Submittal Review. The Architect shall review, and take appropriate action upon Submittals for the purpose of checking for conformance with the information given and the design concept expressed in the Design Documents. The Architect's actions hereunder shall be taken with such reasonable promptness as to cause no delay, interruption or hindrance to the activities of the Contractor or others performing construction activities at the Site affected by such Submittal while allowing sufficient time in the Architect's professional judgment to permit adequate review. If a Submittal Schedule or time frames for completion of the Architect's review and evaluation of Submittals are developed and established pursuant to the Construction Contract with the participation and concurrence of the Architect, Architect's actions hereunder shall conform with such Submittal Schedule or time frames; Architect shall be responsible for all results or consequences of its failure or refusal to complete its review and evaluation of Submittals in accordance with such Submittal Schedule. When professional certification of performance characteristics of materials, systems or equipment is required by the terms of the Construction Contract, the 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 Contract.

6.5.3. Limitations Upon Submittal Review. The Architect's review of Submittals is not for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor in accordance with the Construction Contract. The Architect's review shall not constitute approval of safety precautions or, unless otherwise expressly stated by the Architect, construction means, methods, sequences or procedures.

6.6. Changes.

6.6.1. Changes Procedures and Processing. In consultation with the District and the Construction Manager, the Architect shall assist in the development of procedures, forms and processes for the evaluation of Changes or potential Changes to the Work of an Assigned Project.

6.6.2. Evaluation of Changes; Change Orders. The Architect shall assist the District and the Construction Manager in evaluating Change Proposals of the Contractor and will advise the District of the nature, extent and scope of Change Proposals along with alternatives. Where Changes are authorized by the terms of the Construction Contract, the Architect shall prepare, execute and forward to District a Change Order describing such Change and the adjustment if any, to the Contract Price or Contract Time of the Construction Contract.

6.6.3. Authority to Direct Minor Changes. The Architect may authorize and direct minor Changes in the Work of an Assigned Project which do not involve an adjustment of the Contract Time or the Contract Price of Construction Contract and which are consistent with the intent of the Design Documents. Such Changes shall be effected by written order issued by the Architect and copied to the District and the Construction Manager for an Assigned Project.

6.7. Collaboration Tools. The Architect shall utilize on-line collaboration software, if the District elects to utilize such software or on-online programs, at the District's sole discretion, for any Assigned Project. The District may elect to utilize e-Builder, Constructware, SchoolDude, or other similar collaborative products, for the Assigned Project. The District may also elect not to utilize any such software.

6.8. Interpretations.

6.8.1. Procedures for Handling Contractor's Requests. In conjunction with the District and the Construction Manager, the Architect shall assist in the development of forms, documents and procedures for the transmittal, handling, response and disposition of requests and inquiries relative to the Work or the Design Documents.

6.8.2. Architect's Interpretation. The Architect shall interpret and decide matters concerning the performance of the District, Construction Manager or the Contractor on written request of the District, Construction Manager or the Contractor. The Architect shall respond to and issue clarifications as necessary to address and resolve questions or inquiries of the Contractor relative to coordination, consistency and clarity of the Design Documents and the component parts thereof. The Architect's responses to the foregoing shall be made with reasonable promptness and within any time limits established in the Construction Contract or which may otherwise be mutually agreed upon.

6.8.3. Effect of Architect's Decisions. The Architect's decisions and interpretations rendered hereunder shall be consistent with the intent of and reasonably inferable from the Construction Contract or the Design Documents and shall be in writing or in the form of drawings. When making such decisions or interpretations, the Architect shall endeavor to secure faithful performance of the Contractor and the District, shall show no partiality to either and shall not be liable for the results of such decisions or interpretations rendered in good faith, in accordance with the terms hereof and the Architect's discharge of due care. The Architect's decisions or interpretations in matters pertaining to aesthetic effect shall be final and binding on the Contractor and District if consistent with the intent expressed in the Construction Contract or Design Documents.

6.8.4. Contractor Claims. The Architect shall render written decisions regarding claims, disputes or other matters in controversy between the District and the Contractor arising under or relating to the Construction Contract, including the execution or progress of Work thereunder. The Architect's decisions shall be in accordance with any applicable time limits set forth in the Construction Contract; if no time limits are set forth, the Architect shall render decisions within a reasonable time.

6.9. Records and Reports. The Architect shall maintain current, accurate and complete records relating to the construction of the Assigned Project, including without limitation, correspondence, memorandum, Change Orders, Change Order Requests, Proposal Requests, Meeting Minutes and similar records for an Assigned Project. The Architect shall timely prepare and submit all reports regarding the Assigned Project construction required by applicable law, rule or regulation.

6.10. Limitations Upon Architect's Construction Phase Services. Architect's services during the Construction Phase shall not be deemed Architect's assumption of, or control over, construction means, methods and sequences or Site safety, all of which remain the responsibility of the Contractor. Architect shall not have control over or charge of the acts or omissions of the Contractor or its Subcontractors or their agents and employees.

7. Basic Services; Post Construction Phase.

7.1. Substantial Completion. Upon request of the Contractor and in conjunction with the District, the Project Inspector and the Construction Manager, the Architect shall inspect the Work to determine if Substantial Completion has been achieved and if not the measures necessary to achieve Substantial Completion. The Architect shall determine and certify the date of Substantial Completion of the Assigned Project, or portions thereof.

7.2. Punchlist. At the time of determining Substantial Completion and in conjunction with the District, the Project Inspector, the Construction Manager and the Contractor, the Architect shall note the discovered conditions of the Work requiring correction, replacement, removal or other action necessary to comply and conform with the requirements of the Construction Contract ("the

Punchlist"). The Architect shall, in conjunction with the District, the Project Inspector, the Construction Manager, and the Contractor, determine the time reasonably necessary to complete the Punchlist Items. If mutual agreement is not reached establishing the time for the Contractor's completion of the Punchlist, the Architect shall make a binding good faith determination of the time for the Contractor's completion of the Punchlist. The Architect shall thereafter periodically review the Contractor's performance and completion of the Punchlist.

7.3. Final Completion. In conjunction with the District and upon request of the Contractor, the Architect shall inspect the Work of an Assigned Project to determine that Final Completion has been achieved and that the Work conforms and complies with the requirements of the Construction Contract, including completion of the Punchlist prepared at Substantial Completion. The Architect shall determine and certify the date of Final Completion of an Assigned Project or portions thereof.

7.4. Close-Out Documents.

7.4.1. Assembly/Transmittal of Close-Out Documents. If the District does not retain a Construction Manager for an Assigned Project, the Architect for such an Assigned Project shall compile and assemble the Contractor's close-out documents for delivery to the District, including without limitation, Record As-Built Drawings, Operations and Maintenance manuals, key schedules and warranties. If the District retains a Construction Manager for an Assigned Project, the Architect shall review the close-out materials assembled by the Contractor and delivered to the Construction Manager for conformity to the Close-Out requirements for an Assigned Project. If the Contractor fails to fully comply with its close-out obligations, the Architect shall make recommendations to the District and Construction Manager for implementation of measures to secure the Contractor's compliance; as requested by the District, the Architect shall take action to enforce or implement measures to secure the Contractor's compliance with close-out obligations.

7.4.2. DSA Certification. The Architect shall assist the District in preparation and submittal of such documentation as required by DSA for DSA Certification of the Assigned Project. The Architect shall advise and assist the District in completing remedial/corrective measures required for issuance of DSA Certification.

7.4.3. As-Built Drawings. The District shall require each Contractor for an Assigned Project to provide the District with As-Built Record Drawings indicating the location and size of all concealed, underground or imbedded construction not covered in the original Drawings, Change Orders, Supplemental Drawings or Shop Drawings. The Contractor shall be required to record such work on reproducible drawings furnished to the Contractor by the District. The Contractor's As-Built Record Drawings shall be delivered by the Contractor to the Architect for the Architect's review and delivery to the District. The Architect's review of the Contractor's As-Built Record Drawings shall be for the limited purpose of generally determining that the Contractor has complied with its obligations to prepare As-Built Record Drawings; responsibility for the accuracy and completeness of the As-Built Record Drawings is that of the Contractor. The Architect shall provide the Contractor engaged in the mechanical, electrical, plumbing and structural portions of an Assigned Project with all Drawings Sheets of Building Backgrounds for the Contractor's preparation of its As-Built Drawings.

8. Additional Services.

8.1. Additional Services: General. The services described in this Paragraph 8 are not included in the scope of Architect's Basic Services for an Assigned Project, unless expressly set forth in the PAA for an Assigned Project. Additional Services described in this Paragraph 8, which are not part of the Basic Services of an Assigned Project shall be compensated for the same in accordance with the provisions of this Agreement relating to payments for District authorized Additional Services.

8.2. Additional Services Authorization and Compensation. The Architect shall not perform any Additional Services for an Assigned Project without the District's prior written direction or authorization. If the District directs or authorizes the Architect to complete any Additional Services for an Assigned Project, compensation to the Architect for such Additional Services shall be in accordance with the terms of this Agreement. No compensation shall be due from the District to the Architect for any Additional Services performed by the Architect if: (i) the Additional Services were not authorized or directed in writing in advance by the District; or (ii) the Additional Services result (in whole or in part) of deficiencies in the Design Documents for an Assigned Project or fault/neglect of the Architect.

8.3. Additional Services. The following are Additional Services for an Assigned Project, unless included in the scope of Basic Services for an Assigned Project as reflected in the PAA issued by the District for the Assigned Project.

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

8.3.2. District/Contractor Default. Services required or necessary as a result of the default or termination of the Contractor, failure of performance by the District or the Contractor, or major defects or deficiencies in the Work of the Contractor which were not and could not have been noted by the Architect in its Site observations under Paragraph 6.2 hereof.

8.3.3. Design Documents Changes. Except as provided in Paragraph 6 above, preparing Drawings, Specifications or other Design Documents, along with supporting data in connection with Changes to the Work of an Assigned Project.

8.3.4. Contractor Substitutions. Providing services in connection with the evaluation(s) or request(s) by the Contractor for an Assigned Project to provide substitute or alternative systems, equipment or materials to those indicated in the Design Documents and making subsequent revisions to the Design Documents and other documentation resulting therefrom.

8.3.5. Damaged Work. Providing consultation or other services in connection with repairs, replacements or corrections of the Work of an Assigned Project damaged or destroyed by fire or other casualty so long as no negligent or willful acts, omissions or other conduct of Architect or its employees, agents or representatives have caused or contributed to such damage or destruction to an Assigned Project.

8.3.6. Excessive Contractor Claims. Providing services in connection with evaluation of an extensive and excessive number of claims submitted by the Contractor for an Assigned Project, except to the extent that such claims arise out of the services, Design Documents or other work product provided or performed by or through Architect hereunder.

8.3.7. Expert Witness. Providing services as an expert witness in connection with a public hearing, arbitration or other legal proceeding arising out of an Assigned Project, except where Architect is a party thereto, is called as a percipient witness (in which case Architect shall be entitled to witness fees and costs as allowed by law) or is found liable for damages or other relief.

8.3.8. Future Improvements. Services relative to future systems, facilities or equipment not included within the scope of an Assigned Project.

8.3.9. Furniture, Furnishings, Equipment. Services in connection with the District's selection, procurement or installation of furniture, furnishing or equipment not included within the scope of

the Construction Contract for Assigned Project or identified as part of the Architect's scope of Basic Services for an Assigned Project in the PAA for such an Assigned Project.

8.3.10. Financial/Special Studies. Providing financial feasibility or other special study in connection with an Assigned Project.

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

8.3.12. Verification of District Provided Information. Providing services to verify the accuracy of drawings or other information provided by the District relating to existing conditions affecting an Assigned Project.

8.3.13. Operational/Maintenance Cost Analysis. Analysis of ownership, operational or maintenance costs of an Assigned Project or the components thereof to the District.

8.3.14. Additional Design Consultants. Providing services of Design Consultants except for the Design Consultants which are included and contemplated as part of the Basic Services for an Assigned Project, as set forth in the PAA for an Assigned Project.

9. District Responsibilities.

9.1. Information. The District shall provide full information regarding the Assigned Project, including the District's objectives, general description of the scope, schedule requirements, construction budget, and other constraints and requirements which may affect the Assigned Project. Except as set forth herein, the Architect shall be entitled to rely on the accuracy and completeness of information relating to an Assigned Project provided by the District.

9.1.1. As Built Drawings. To the extent available to the District, the District will provide the Architect with As-Built Drawings of the Assigned Project Site. The foregoing notwithstanding, if any information provided by the District to the Architect consists of information relating to existing "as built" conditions of improvements on or about the Site of an Assigned Project, the Architect shall be entitled to rely upon information in concealed or covered conditions, but the Architect shall independently verify the accuracy and completeness of information of existing "as built" conditions which are visually apparent without opening or uncovering any existing improvements. If in such independent verification, the Architect encounters conditions different than noted in the District provided information, the Architect shall notify the District, and the Construction Manager in writing of such encountered discrepancies.

9.1.2. Assigned Project Construction Budget. The District will provide the Architect with the District's Construction Budget for the Assigned Project. The District may, in the District's sole discretion include contingencies in an Assigned Project Construction Budget, but the obligation of the Architect to prepare Design Documents for an Assigned Project that can be constructed within the District's Construction Budget does not include any contingency amount included by the District in the Construction Budget for an Assigned Project.

9.2. Allowance Item; Allowance Amount. The District will inform the Architect of any items within the scope of an Assigned Project which are to be identified by the Architect as an "Allowance Item" and the amount allocated by the District as the allowance amount for such Allowance Item. If Allowance Items are designated by the District for an Assigned Project, the Architect shall design the Allowance Item so that it can be furnished and installed within the allowance amount allocated by the District for the Allowance Item. The District reserves the right to include an Allowance Amount in Construction Contracts for unforeseen conditions. The District will identify the Allowance Amount for unforeseen conditions, if any, in the Special Conditions of the Project Manual.

9.2.1. Hazardous Materials Surveys. If hazardous materials surveys have been completed for the Site of an Assigned Project or any portion thereof, the District will provide the Architect with

such hazardous materials surveys. Hazardous materials surveys shall be included in the Project Manual prior to finalization of the bid documents.

9.2.2. Site Survey; Topographic Survey. If necessary for an Assigned Project, the District will provide the Architect with a site survey or topographic survey of the Site. The Architect shall inform the District if a topographical survey is needed, during the initial stage of design.

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

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

9.5. Test and Inspections. The District shall furnish or otherwise retain inspection or testing services in connection with construction of an Assigned Project as required by applicable code, regulation, DSA, and ordinance or the terms of the Construction Contract. The District shall provide, if required by applicable code, regulation or rule or by conditions encountered, tests or inspections for hazardous or toxic materials.

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

10. Insurance and Indemnity.

10.1. Architect Insurance. At all times while providing or performing services under this Agreement, the Architect and its Design Consultants shall obtain and maintain the policies of insurance described in this Paragraph 10. The minimum coverage amounts of each policy of insurance to be obtained and maintained by the Architect and its Design Consultants while providing or performing services in connection with an Assigned Project shall be as set forth in this Agreement, subject to modifications set forth in the PAA for the Assigned Project.

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

10.3. Commercial General Liability and Property Insurance. Architect shall purchase and maintain Commercial General Liability and Property Insurance as will protect Architect from the types of claims set forth below which may arise out of or result from Architect's services under this Agreement and for which Architect may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than Architect's employees; (ii) claims for damages insured by usual personal injury liability coverage; (iii) claims for damages, other than an Assigned Project during construction thereof, because of injury to or destruction of tangible

property, including loss of use resulting therefrom; (iv) products/completed operations; (v) advertising injury; and (vi) contractual liability insurance applicable to Architect's obligations under this Agreement. District shall be an additional insured to Architect's commercial general liability insurance policy. The General Liability Insurance policy shall be on an occurrence basis.

10.4. Automobile Liability Insurance. The Automobile Liability insurance policy shall be on an occurrence basis, covering owned, hired, and non-owned automobiles used by or on behalf of the Architect and providing insurance for bodily injury, property damage, and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists.

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

10.6. Design Consultants' Insurance. Each of the Design Consultants retained by the Architect to provide or perform a portion of the services or obligations of the Architect under this Agreement shall obtain and maintain policies of insurance for Workers Compensation, Employers Liability, Commercial General Liability/Property Damage and Professional Liability. Each policy of insurance to be obtained by each of the Architect's Design Consultants shall conform with the standards or requirements set forth in Paragraphs 10.1-10.5, above.

10.7. Coverage Limits. Insurance to be procured and maintained by Architect and its Design Consultants hereunder shall be in at least the minimum coverage limits set forth in the Agreement.

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

10.9. Architect's Insurance Minimum Coverage Amounts. Minimum coverage amounts for policies of insurance to be obtained and maintained by the Architect are:

Insurance Policy	Minimum Coverage Limit
Workers Compensation	In accordance with law
Employers Liability	One Million Dollars (\$1,000,000)
Commercial General Liability	Per Occurrence: Two Million Dollars (\$2,000,000)
	Aggregate: Four Million Dollars (\$4,000,000)
Automobile Liability	Combined Single Limit: One Million Dollars (\$1,000,000)
Professional Liability	Per Claim: Two Million Dollars (\$2,000,000) 1,000,000
	Aggregate: Four Million Dollars (\$4,000,000) 3,000,000

Prof. Liability
Coverage Limit
Revisions
Applicable Only
to Master Planning
Services

10.10. Architect's Design Consultants' Insurance; Minimum Coverage Limits. Minimum coverage limits for policies of insurance to be obtained and maintained by each of the Architect's Design Consultants are:

Insurance Policy	Minimum Coverage Limit
Workers Compensation	In accordance with law
Employers Liability	One Million Dollars (\$1,000,000)
Commercial General Liability	Per Occurrence: One Million Dollars (\$1,000,000)
	Aggregate: Two Million Dollars (\$2,000,000)
Automobile Liability	Combined Single Limit: One Million Dollars (\$1,000,000)
Professional Liability	Per Claim: One Million Dollars (\$1,000,000)

Aggregate: Two Million Dollars (\$2,000,000)
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10.11. Modifications to Minimum Coverage Amounts. The foregoing notwithstanding, the minimum coverage amounts required for an Assigned Project may be modified as set forth in the PAA for an Assigned Project.

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

10.13. Indemnity.

10.13.1. Architect Indemnity. To the fullest extent permitted by law, the Architect shall indemnify, defend and hold harmless the District and its employees, officers, Board of Education, Trustees, agents and representatives (collectively "the Indemnified Parties") from any and all claims, actions, demands, losses, responsibilities or liabilities for: (i) injury or death of Architect's employees arising out of this Agreement; (ii) injury or death of persons, damage to property, or (iii) other costs or charges arising out of or attributable, in whole or in part, to the negligent or willful acts, omissions, errors and/or other conduct of Architect, its Design Consultants or the employees, agents and representatives of Architect or any of its Design Consultants in performing or providing any of the obligations, services or other work product contemplated under this Agreement. The foregoing shall include without limitation, reasonable attorneys' fees and costs incurred by the Indemnified Parties and shall survive the termination of this Agreement until any such claim, demand, loss, responsibility or liability covered by the provisions hereof is barred by the applicable Statute of Limitations.

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

11. Architect Compensation.

11.1. Contract Price. For each Assigned Project, the District will pay the Contract Price set forth in the PAA for the Assigned Project.

11.2. Fees, Costs and Expenses Incorporated Into Assigned Project Contract Price. Unless otherwise expressly provided in the PAA for an Assigned Project, the Contract Price for an Assigned Project includes the Architect's fee, Design Consultants' fees, personnel expense of the Architect and Design Consultants, inclusive of all benefits and burdens, travel for the personnel of the Architect and Design Consultants to and from their respective offices and the District as well as travel within the counties of Los Angeles, Orange, Ventura and Kern, insurance and all other administrative or overhead costs associated with or arising out of performance of the Basic Services designated in the PAA for an Assigned Project.

11.3. Reconciliation of Contract Price Computed by Percentage of Construction Costs. (This provision only applies to non-Fixed-Fee Assigned Projects). As soon as is practical after the District's award of the Construction Contract(s) for an Assigned Project, the District and the Architect shall review payments of the Assigned Project Contract Price made prior thereto based upon the Assigned Project Construction Budget. Based upon the actual Construction Cost, payments of the Assigned Project Contract Price made prior thereto will be reconciled by applying the percentage allocated to each Phase. If it is determined that the payments of the Assigned Project Contract Price made prior thereto exceed the cumulative amount due, the overpaid amount shall be credited against

the Architect's billings until the entire credit balance is exhausted. If it is determined that payments of the Assigned Project Contract Price made prior thereto are less than the amount due, payment of the underpaid amount will be made by the District within thirty (30) days of the completion of such reconciliation. At completion of the Construction Phase for an Assigned Project, the District and Architect shall perform a subsequent reconciliation consistent with this Article.

11.4. Construction Phase Changes; Adjustment of Contract Price. The Contract Price for the Basic Services for an Assigned Project is not subject to adjustment unless there are Changes authorized by the District during the Construction Phase of an Assigned Project which are not the result of errors, omissions or other defects in the Design Documents or failures of the Architect or Design Consultants to timely and completely perform the Basic Services for the Assigned Project. If services of the Architect or Design Consultants are required in connection with Changes during the Construction Phase of an Assigned Project which do not result from errors, omissions or other defects in the Design Documents or failures of the Architect or Design Consultants to timely and completely perform the Basic Services for an Assigned Project, the Contract Price for an Assigned Project will be equitably adjusted by an amount equal to the lesser of: (i) eight percent (8%) of the Construction Costs of a Change; or (ii) the time reasonably necessary for personnel of the Architect and its Design Consultants to complete modifications to the Design Documents to incorporate such a Change, multiplied by the applicable hourly rate for such personnel. If a Change during the Construction Phase of an Assigned Project is the result of errors, omissions or other defects in the Design Documents or failures of the Architect or the Design Consultants to timely and completely perform the Basic Services, services required of the Architect or the Design Consultants in connection with such Change shall not result in adjustment of the Contract Price for the Assigned Project.

11.5. Reimbursable Expenses. The Contract Price for Architect's Basic Services for an Assigned Project includes all costs and expenses of a non-capital nature reasonably and necessarily incurred by Architect to perform the Basic Services including without limitation expenses for telephone, postage, delivery, office supplies, reproduction of plans and prints, photographic film and development and travel to and from the offices of the Architect and Design Consultants to the Assigned Project and the District's Administrative offices. Unless expressly authorized in advance by the District, no payment will be made by the District for expenses or costs of any kind, type or nature.

11.6. Additional Services. If the District authorizes or directs the Architect to perform or provide Additional Services described generally in Paragraph 8 of this Agreement in connection with an Assigned Project, Architect shall be compensated for its personnel providing such Additional Services in accordance with the hourly personnel rate schedule attached to the PAA for the Assigned Project ("the Rate Schedule").

11.7. District Payments.

11.7.1. Allocation of Contract Price. The District's payment of the Contract Price for Basic Services for an Assigned Project shall be allocated amongst the various Phases of the Basic Services for an Assigned Project as set forth in the PAA for an Assigned Project.

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

11.7.3. District Payments to Architect. Within thirty (30) days of receipt of Architect's billing invoices, District will make payment to Architect of undisputed amounts of the Contract Price due for Basic Services and authorized Additional Services for an Assigned Project. No deductions shall be made or withheld from payments due Architect hereunder on account of any penalty,

assessment, liquidated damages or other amounts withheld by the District from payment to the Contractor engaged by the District for construction of an Assigned Project. The District may, however, withhold or deduct from amounts otherwise due Architect hereunder if Architect shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after Architect has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting therefrom. Notwithstanding any provision of this Agreement to the contrary, if the District shall, in good faith, dispute the amount due Architect under any billing invoice rendered by Architect under this Agreement, pursuant to Civil Code §3320(a), the District may withhold from payment to the Architect an amount not to exceed one hundred and fifty percent (150%) of the disputed amount.

12. Term; Time.

12.1. Term. The initial term of this Agreement shall commence upon the District and the Architect each executing a counterpart copy hereof, delivery of an executed counterpart copy hereof to the other and ratification of this Agreement by the District's Board of Education ("the Initial Term"). The Term shall expire sixty (60) months after the date of ratification of this Agreement by the District's Board of Education. Notwithstanding expiration of the Term, if at such time, there are remaining Basic Services or authorized Additional Services to be performed by the Architect in connection with an Assigned Project under a PAA issued prior to expiration of the Term of this Agreement, the Architect shall continue to diligently perform and complete all such remaining Basic Services or authorized Additional Services for the Assigned Project; notwithstanding expiration of the Term of this Agreement, the District will continue to make payment for the Basic Services and authorized Additional Services performed in connection with an Assigned Project after expiration of the Term of this Agreement in accordance with the terms of the PAA for such an Assigned Project.

12.2. Time. All of the Basic Services and authorized Additional Services set forth in the PAA for an Assigned Project shall be completed by the Architect in a prompt and diligent manner as is consistent with professional skill and care. If a schedule for completion of Basic Services in connection with an Assigned Project is agreed upon between the District and the Architect, the Architect's performance and completion of Basic Services shall be in accordance with such schedule. The Architect shall be liable to the District for all costs, losses, damages or other liabilities arising out of the failure of the Architect to complete Basic Services for an Assigned Project in accordance with an agreed upon schedule, provided that the Architect's liabilities hereunder shall not extend to costs, losses, damages or other liabilities caused by factors beyond the reasonable control of the Architect.

13. Termination; Suspension

13.1. Termination for Default. Either the District or Architect may terminate this Agreement or a PAA upon seven (7) days advance written notice to the other if there is a default by the other Party in its performance of a material obligation hereunder or in connection with a PAA and such default in performance is not caused by the Party initiating the termination. Such termination shall be deemed effective the seventh (7th) day following the date of the written termination notice, unless during such seven (7) day period, the Party receiving the written termination notice shall commence to cure its default(s) and diligently thereafter prosecute such cure to completion. In addition to the District's right to terminate this Agreement pursuant to the foregoing, the District may terminate this Agreement upon written notice to Architect if: (a) Architect becomes bankrupt or insolvent, which shall include without limitation, a general assignment for the benefit of creditors or the filing by Architect or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for Architect or any of Architect's property on account of Architect's insolvency; or (b) if Architect disregards applicable laws, codes, ordinances, rules or regulations. If District exercises the right of termination hereunder, the Contract Price due the Architect, if any, shall be based upon Basic Services and authorized Additional Services for each Assigned Project as of the date of termination provided prior the effective date of the District's termination of this Agreement, reduced by the District's prior payments of the Contract Price due for

such Assigned Projects and losses, damages, or other costs sustained by the District arising out of the termination of this Agreement or the cause(s) for termination of this Agreement. Payment of the amount due the Architect, if any, shall be made by District only after completion of the Post-Construction Phase of all pending Assigned Projects as of the date of termination. Architect shall remain responsible and liable to District all losses, damages or other costs sustained by District arising out of termination pursuant to the foregoing or otherwise arising out of Architect's default hereunder, to the extent that such losses, damages or other costs exceed any amount due Architect hereunder for Basic Services or authorized Additional Services.

13.2. District's Right to Suspend. The District may, in its discretion, suspend all or any part of the design or construction of an Assigned Project or the Architect's services under a PAA; provided, however, that if the District shall suspend construction of an Assigned Project or Architect's services under a PAA for a period of one-hundred fifty (150) consecutive days or more and such suspension is not caused by the Architect's default or the acts or omissions of Architect or its Design Consultants, upon rescission of such suspension, the Contract Price will be subject to adjustment to reflect actual costs and expenses incurred by Architect, if any, as a direct result of the suspension and resumption of Assigned Project construction or Architect's services under a PAA.

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

13.4. Architect Suspension of Services. If the District shall fail to make payment of the Contract Price for an Assigned Project when due Architect hereunder, Architect may, upon fourteen (14) days advance written notice to the District, suspend further performance of services relating to such Assigned Project hereunder until payment in full is received. In such event, Architect shall have no liability for any delays or additional costs of construction of the Assigned Project due to, or arising out of, such suspension.

13.5. Architect Obligations Upon Termination. Upon the District's exercise of the right of termination under Paragraph 13.1 or Paragraph 13.3 of this Agreement, the Architect shall take action as directed by the District relative to on-going preparation of the Design Documents or construction of an Assigned Project. If requested by the District, the Architect shall within ten (10) days of such request, assemble and deliver to the District all work product, instruments of service and other items of a tangible nature (whether in the form of documents, drawings, samples or electronic files) prepared by or on behalf of the Architect under this Agreement. The Architect shall deliver the originals of all work product, instruments of service and other items of a tangible nature requested by the District pursuant to the preceding sentence; provided, however, that the Architect may, at its sole cost and expense, make reproductions of the originals delivered to the District.

14. Miscellaneous.

14.1. Governing Law; Interpretation. This Agreement shall be governed and interpreted in accordance with the laws of the State of California in accordance with its fair meaning and not strictly for or against the District or Architect.

14.2. Marginal Headings; Captions; Marginal Headings; Captions. The titles of the various Paragraphs of the Agreement are for convenience of reference only and are not intended to and shall in no way enlarge or diminish the rights or obligations of Architect and District hereunder.

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

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

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

14.6. Authority. The individual(s) executing this Agreement on behalf of Architect warrant and represent that she/he is authorized to execute this Agreement and bind Architect to all terms hereof. The individual(s) executing this Agreement on behalf of District warrant and represent that she/he is authorized to execute this Agreement and subject to approval and ratification by the District's Board of Education, to bind District to all terms hereof and authority granted to enter into this Agreement.

14.7. Notices. Notices under this Agreement shall be addressed and delivered as follows:

(To District)		(To Architect)	
Name	Anthony Joseph, Bond Program Manager	Name	Michael Rachlin, AIA, LEED AP Partner
Address	875 E. Cochran Street, Simi Valley, California 93065	Address	8640 National Blvd. Culver City, California 90232
Phone	805-306-4500 ext. 4461	Phone	310-204-3400
Email	Anthony.Joseph@simivalley.org	Email	mrachlin@rachlinpartners.com

14.8. Disputes.

14.8.1. Continuation of Architect Services. Except in the event of the District's failure to make undisputed payment of the Contract Price due Architect for an Assigned Project, notwithstanding any disputes between District and Architect hereunder or in connection with an Assigned Project, Architect and District shall each continue to perform their respective obligations hereunder; including the obligation of the Architect to continue to provide and perform services hereunder pending a subsequent resolution of such disputes.

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

14.8.3. Arbitration. All claims, disputes or other matters in controversy between the Architect and District arising out of or pertaining to an Assigned Project or this Agreement which are not fully resolved through the mandatory mediation set forth above shall be settled and resolved by binding arbitration conducted under the auspices of the JAMS Construction Arbitration Rules in effect at the time of the filing of a Demand for Arbitration. The award rendered by the Arbitrator(s) ("Arbitration Award") shall be final and binding upon the District and the Architect only if the supported by law and substantial evidence pursuant to California Code of Civil Procedure §1296. An Arbitration Award that does not include findings of fact and conclusions of law in conformity

with California Code of Civil Procedure §1296 and Rule R-43 of the JAMS Construction Arbitration Rules shall be invalid and unenforceable. The District and the Architect hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the award if, after review of the award, the Court determines either that the award is not supported by substantial evidence or that it is based on an error of law. If any claim or dispute is asserted by the Architect, the Construction Manager if any, the Contractor, Architect or the District relating to an Assigned Project and arising in whole or in part out of this Agreement or the services provided by or through the Architect hereunder, Architect and District agree that any arbitration proceedings initiated between Architect and District hereunder shall be consolidated with any arbitration proceedings initiated in connection with such other claim or dispute. Any arbitration hereunder shall be conducted in the JAMS Regional Office closest to the Site.

14.8.4. Architect Compliance with Government Code §900, et seq. The foregoing dispute resolution procedures notwithstanding, neither the provisions of this Agreement issued hereunder, shall be deemed to waive, limit or modify any requirements under Government Code §900, et seq. relating to the Inspector Firm's submission of claims to the District. The Architect's strict compliance with all applicable provisions of Government Code §900, et seq. in connection with any claim, dispute or other disagreement arising hereunder shall be an express condition precedent to the Architect's initiation of any other dispute resolution procedure or proceeding.

14.8.5. Limitation on Arbitration. Notwithstanding any other provision of this Article, the Superior Court for the State of California for the County of Ventura, shall have sole and exclusive jurisdiction, and an arbitrator shall have no authority, to hear and/or determine: (i) a challenge to the institution or maintenance of a proceeding in arbitration of a claim on the grounds that the claim is barred by the applicable statute of limitations, (ii) the claim is barred by a provision of the California Tort Claims Act, (iii) claimant has failed to satisfy any and all conditions precedent to arbitration, (iv) the right to compel arbitration has been waived by the petitioner, (v) grounds exist for the revocation of the arbitration agreement, and/or (vi) there is the prospect that a ruling in arbitration would conflict with a ruling in a pending proceeding regarding the Project on a common issue of law or fact.

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

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

14.11. Definitions.

14.11.1. Construction Contract. The Contract for Construction awarded by the District to the Contractor for the construction of the Project. If an Assigned Project is constructed by a general contractor under contract to the District, references to the Construction Contract in this Agreement and the PAA shall be deemed references to such general contractor's contract with the District for the Assigned Project. If an Assigned Project is constructed by multiple trade contractors, each under contract to the District, references to the Construction Contract in this

Agreement and the PAA for such an Assigned Project shall be such contracts individually or collectively as required by context in which such term is used.

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

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

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

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

14.11.6. Site(s). The physical area(s) for construction and related activities of an Assigned Project.

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

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

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

14.11.10. Construction Cost Estimate. Construction Cost Estimates are estimates prepared by or on behalf of the Architect of the current costs of labor, materials, equipment and services plus a reasonable allowance for the Contractor's profit, overhead and administrative cost as

necessary to complete construction of the Assigned Project in accordance with the Design Documents. Construction Cost Estimates shall include a reasonable allowance for contingencies relating to market conditions at the time of solicitation of Contractor bids for the Work of the Assigned Project and Changes in the Work during construction of the Project; the allowance for contingency costs shall be consistent with the contingency established by the District in the Project Construction Budget, if any.

14.11.11. Construction Manager. The Construction Manager is the individual or entity who may be retained by the District as an independent contractor to provide certain management, planning, other services and/or work product in connection with the design and/or construction of an Assigned Project. Services, functions and responsibilities of the Construction Manager shall be provided in conjunction with and complementary to the Architect's services and work product under this Agreement. If the District has not retained or designated a Construction Manager as of the issuance of a PAA for an Assigned Project, without adjustment of the Contract Price for any Assigned Project, the District reserves the right to utilize District personnel or to subsequently retain a Construction Manager to provide services and/or work product for the Assigned Project as generally described herein.

14.11.12. Assigned Project. An Assigned Project is the Project described in a PAA issued by the District under this Agreement.

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

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

14.12. Use and Ownership of Design Documents.

14.12.1. Ownership. Subject to the provisions hereof, all Drawings, Specifications, estimates, Instruments of Service and other tangible items ("Project Documents") prepared by or through the Architect for an Assigned Project shall be and remain the property of the District. The Project Documents shall be and remain the property of the District regardless of the format on which said items are prepared or stored, including without limitation paper copies, original or reproducible transparencies, AutoCAD R-2002 files (or similar computer-aided drafting of design formats), or other types of computerized data. The District specifically maintains ownership of the design of each Assigned Project and the design of any buildings or other improvements which are a part thereof, notwithstanding creation/preparation of such design by or through the Architect, and such design may not be re-used by the Architect or its employees or Design Consultants without the specific prior written consent of the District which may be granted, denied or conditioned in the sole exclusive discretion of the District. Subject to the District's ownership of tangible

Project Documents, the copyright and other intellectual property rights in all Project Documents shall remain with the Architect.

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

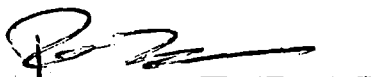
14.12.3. District License to Use Project Documents. This Agreement creates a non-exclusive and perpetual license for the District to copy, use, modify or reuse any and all Project Documents and any intellectual property rights therein. The Architect shall require any and all of the Architect's Design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

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

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

District
Simi Valley Unified School District

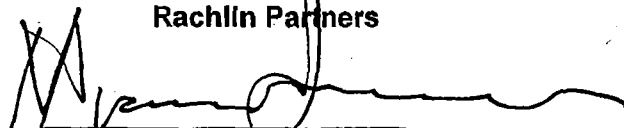
By:



Ron Todo
Associate Superintendent,
Business & Facilities

Architect
Rachlin Partners

By:



Michael Rachlin, AIA, LEED AP
Partner