AGREEMENT

FOR

ARCHITECTURAL SERVICES

BETWEEN

PINER-OLIVET UNION SCHOOL DISTRICT

AND

_____

_____, 20__

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AGREEMENT
FOR
ARCHITECTURAL SERVICES

This Agreement for Architectural Services ("Agreement") is between the Piner-Olivet Union School District, a California public school district (the "District"), and _____ license number _____ (the "Architect"), with respect to the following recitals:

A. District proposes to undertake the construction of multiple improvement projects under the Measure K bond construction program which require the services of a duly qualified and licensed architect.

B. Architect represents that Architect is licensed to provide architectural/engineering services in the State of California and is specially qualified to provide the services required by the District, specifically the design and construction oversight of public school projects.

C. The Parties have negotiated the terms under which Architect will provide design and contract administration for some or all of the individual construction projects under Measure K, and the Parties have reduced such terms to writing by this Agreement. As each work of improvement arises that District wishes to assign to Architect, the District and Architect shall fully execute, and the District's governing board shall approve, an addendum to this Agreement in the form of ***Exhibit A or B***.

The Parties therefore agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Additional Services**. "Additional Services" shall mean those services in addition to the Basic Services that are related to the Project, provided by Architect, and authorized in writing by the District, and as further defined in Article 6 below.

1.2 **Agreement**. "Agreement" shall mean this Agreement for Architectural Services.

1.3 **Architect**. "Architect" shall mean _____, and its officers, shareholders, owners, partners, employees, agents and authorized representatives.

1.4 **Basic Services**. Architect's Basic Services consist of the design services (including landscaping architectural services and landscape irrigation design, and civil, structural, mechanical, and electrical engineering services) and other services required by this Agreement and required to complete the Project, as further defined in Article 5.

1.5 **Contract Documents**. "Contract Documents" shall mean those documents which are required for the actual construction of a work of improvement, including but not limited to the Agreement between Owner and Contractor, complete working drawings and specifications setting

forth in detail sufficient for construction the work to be done and the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system and utility-service-connected equipment and site work.

1.6 **Contractor**. "Contractor" shall mean one or more contractors ultimately selected to perform work on the Project or any replacement.

1.7 **District**. "District" shall mean the Piner-Olivet Union School District, and its governing board members, employees, agents and authorized representatives.

1.8 **Project**. "Project" shall mean the design and contract administration of the works of improvement, including construction and post-construction closeout thereof, added by an amendment in the form of ***Exhibit A or B***, as described in this Agreement including but not limited to Article 3.

1.9 **Project Construction Cost**. "Project Construction Cost" shall mean the estimate of the District's total construction costs for a particular work of improvement in the Project as initially submitted by the Architect under this Agreement and accepted by the District, as subsequently revised by changes to the Project Construction Cost under Article 5 of this Agreement, and as subsequently revised at the time the District enters a construction contract to equal the construction contract amount.

1.10 **Wrongful Acts or Omissions.** "Wrongful Acts or Omissions" shall mean Architect's recklessness; willful misconduct; and acts, errors, or omissions in breach of this Agreement, the applicable standard of care, or law.

ARTICLE 2
RETENTION OF ARCHITECT; STANDARD OF CARE; TERM

2.1 District retains Architect to perform, and Architect agrees to provide to District, for the consideration and upon the terms and conditions set forth below, the Basic and Additional Services ("Services") specified in this Agreement for the Project and subsequent amendments for each work of improvement added to the Project, and related incidental services. The Architect agrees to perform the Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The term for the performance of the Services shall be the duration of the Project ("Term"), and Architect shall complete the Services within the Term. The Services shall be performed (a) in compliance with this Agreement and subsequent amendments for the Project, and (b) in a manner consistent with the level of care and skill ordinarily exercised by architects in the same discipline, on similar projects in California with similar complexity and with similar agreements, who are specially qualified to provide the services required by the District; and all such services shall be conducted in conformance to, and compliance with, all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the Americans with Disabilities Act ("ADA"). Architect shall be responsible for the completeness and accuracy of the plans and specifications for the Project.

ARTICLE 3
DESCRIPTION OF PROJECT

3.1 The Project includes each specific work of improvement for which Architect will provide Basic Services for design and contract administration, which shall be set forth in the form of ***Exhibit A or B*** as an amendment to this Agreement, and upon full execution and approval of such amendment it shall amend this Agreement to include such work of improvement, and the Parties' rights and obligations for that work of improvement shall be governed by this Agreement, except as specifically provided in the amendment for that work of improvement.

ARTICLE 4
COMPENSATION

4.1 **Basic Services.**

For the Basic Services satisfactorily performed under this Agreement for any work of improvement added to the Project, Architect shall be compensated as provided in the fully executed addendum that has been approved by the District's governing board based on ***Exhibit A or B*** for that work of improvement. Rather than add a future work of improvement to this Agreement via ***Exhibit A or B***, District may retain another architect for services on such work of improvement. District is not obligated to use Architect for any or all of its future works of improvement.

Architect will not be compensated for any Basic Services required as a result of Wrongful Acts or Omissions. Architect acknowledges that the amount for Basic Services includes contingency compensation in the event that more time and costs than originally anticipated may be necessary to complete the Basic Services.

4.2 **Additional Services.** Architect may invoice separately for Additional Services if provided by Architect under Article 6, to be paid on an hourly basis using the rates stated in Section 4.8, but Architect's total compensation for Additional Services on a particular work of improvement shall not exceed the amount specified in the addendum that added that work of improvement to the Project. Architect will not be compensated for any Additional Services required as a result of Wrongful Acts or Omissions.

4.3 **Reimbursable Expenses**

4.3.1 Reimbursable expenses are those actual out-of-pocket expenses directly incurred as a result of Architect's performance of Basic or Additional Services under this Agreement ("Reimbursable Expenses"). Architect may not charge a mark-up on Reimbursable Expenses. Reimbursable Expenses are limited to these expenses related to the Project: Fax, reproduction expense (excluding such expense for reproductions for office use by Architect and its consultants), postage, messenger, transportation, living expenses in connection with out-of-town travel, long distance communications, expense of renderings, models and mock-ups requested by District, expense of publishing under Section 5.6.5, expense of data processing and photographic

production techniques when used in connection with Additional Services, and, if authorized in advance by the District, expense of overtime work requiring higher than regular rates. Reimbursable Expenses do not include indirect costs, such as general overhead (for example, home office overhead [including technology hardware and software] or insurance premiums), for which Architect must pay out of its compensation for services under Section 4.1, above; nor do they include expenses incurred in connection with Basic or Additional Services that result from Wrongful Acts or Omissions.

4.3.2 Architect shall be reimbursed by District for its Reimbursable Expenses on any work of improvement added to the Project as provided in the fully executed and approved ***Exhibit A or B*** for that work of improvement.

4.4 For services satisfactorily performed on the Project, payment for Basic Services, Additional Services and Reimbursable Expenses shall be made on a monthly basis after receipt and approval by the District of the Architect's properly documented and submitted invoices. To be "properly documented and submitted," an invoice shall be timely, be accompanied by all necessary documentation, list all activities performed, and for each activity performed list the person performing it and the person's rate of compensation. Architect's invoice shall be submitted within ten (10) days of the end of the monthly billing period. Invoices, receipts and other documentation to establish the validity of all Reimbursable Expenses shall be a prerequisite to District payment of such expenses. If District disputes a portion of a properly submitted invoice, it shall notify Architect of the dispute and, upon Architect's request, arrange for a meeting to confer about, and potentially resolve, the dispute. Prior to this meeting, Architect shall provide all documentation requested to support disputed portions of a properly submitted invoice. Regardless of any such dispute about an invoice or payment, Architect shall continue to provide all services required by this Agreement and law until the end of the Project, even if District and Architect cannot resolve all such disputes. Payments of undisputed portions of a properly submitted invoice shall be made within 60 days of receipt of the invoice; Architect otherwise waives all rights and remedies under law related to receipt of payment of undisputed amounts.

4.5 The Architect's compensation for a work of improvement added to the Project shall be paid notwithstanding a Contractor-caused delay in completion of the work of improvement or reduction of final construction cost by reason of penalties, liquidated damages, or other amounts withheld from the Contractor. However, District may withhold from payments to Architect to the extent that (i) Basic and Additional Services remain to be performed, including but not limited to those required for project closeout and payments to Contractor, and (ii) Wrongful Acts or Omissions caused District to incur damages, losses, liabilities or costs, including but not limited to withholding any amounts for which Architect is responsible under Section 5.7.20. The District will withhold $_____ from any Construction Phase payments until District receives certification of Field Act approval.

4.6 Should District cancel the Project, or any portion of the Project, under section 12.1 of this Agreement at any time during the performance of this Agreement, Architect shall, upon notice of such cancellation, immediately cease all work under this Agreement related to the canceled Project or portion of the Project. In such event, Architect's total fee for all services performed shall be computed as set forth in Section 12.1.

4.7 District has the right to audit Architect's records and files regarding, or relating to, any of the work performed by Architect for District on the Project during or after the Project. Architect shall keep complete records showing all hours worked and all costs and charges applicable to its work under this Agreement. Architect will be responsible for Architect's consultants keeping similar records. District shall be given reasonable access to Architect's Project-related records and files for audit purposes within ten (10) days of receipt of District's request. Architect shall keep and maintain those records and files for ten (10) years.

4.8 Architect's hourly rate schedule for its services is attached as ***Exhibit C***.

4.9 Architect shall not accept compensation or other benefits from other persons related to the Project, including payments from manufacturers of construction materials that are specified in the design.

ARTICLE 5
BASIC SERVICES TO BE RENDERED BY ARCHITECT

5.1 General

5.1.1 Architect's Basic Services consist of the design services, including landscaping architectural services and landscape irrigation design, civil, structural, mechanical, and electrical engineering services, normally required to complete the work of improvement that is described in any fully executed and approved amendment to this agreement (see ***Exhibit A or B***). The Basic Services for each such work of improvement also include the services described in this Agreement, especially Article 5, below, including but not limited to bid package preparation, bid handling, preparation and processing of change orders, requests for information, and other contract administration duties. The District shall have the right to add or delete from the Architect's scope of services as it may determine is necessary for the best interests of the Project and/or the District. Architect shall expeditiously and diligently perform all of its work and obligations under this Agreement. Architect may not cease, delay or reduce, or threaten to cease, delay or reduce, its performance based on a payment dispute with District under Section 4.4, above. The Architect acknowledges that its priority is to complete the Project and the Architect's services, and that any payment disputes with the District under Section 4.4, if not resolved during the Project, must wait for resolution after the Project.

5.1.2 The Architect shall review the estimate described more fully below at each phase of Architect's services, also as defined below. If such estimates are in excess of the Project budget, the Architect shall revise the type or quality of construction to come within the budgeted limit.

5.1.3 Whenever the Architect's services include the presentation to the District of Project Construction Cost for a work of improvement, the Architect shall include a reasonable amount for contingency costs arising from, among other things, higher bids than anticipated, future increase in construction costs, and change orders based on unforeseen site conditions.

5.1.4 The Architect shall notify the District if there are any indicated adjustments in

previously provided Project Construction Cost arising from market fluctuations or approved changes in scope or requirements based upon a mutually agreed upon index.

5.1.5 At the District's request, the Architect and Architect's consultants shall cooperate with District and the District's consultants in verifying that Architect's plans, specifications, studies, drawings, estimates or other documents relating to the Project are constructible and otherwise comply with the Contract Documents. If there are project meetings during the design and construction phases, Architect shall attend those meetings.

5.1.6 The Architect shall investigate existing conditions of facilities and thoroughly account for, and list in the construction documents, any pertinent conditions of such facilities, all in a manner that satisfies the standard of care and level of performance required by this Agreement. Architect's investigation required by this provision shall be limited to non-destructive evaluation.

5.1.7 All personnel provided by Architect shall be qualified to perform the services for which they are provided. Architect shall obtain District's written approval of each employee of Architect who provides services under this Agreement, and written approval of each change of employees who are providing such services. District may, upon _____ (___) days' written notice, cause Architect to remove a person from the Project if he/she has failed to perform to District's satisfaction. Should additional employees be required to timely perform all of the services required under this Agreement and/or to avoid delay, Architect shall provide them immediately.

5.1.8 Architect is an agent of District and shall reasonably represent the District at all times in relation to the Project.

5.1.9 Architect shall be fully licensed as required by law at all times when providing services under this Agreement.

5.2 **Consultants**

5.2.1 Architect's Consultants. The Architect shall employ or retain at Architect's own expense, engineers and other consultants necessary to Architect's performance of this Agreement and licensed to practice in their respective professions in the State of California. Engineers and consultants retained or employed by Architect for this Project shall be approved by District prior to their commencement of work. The Architect's consultants shall be employed or retained to provide assistance during all aspects of the Project and will include, in addition to design services: review of schedules, shop drawings, samples, submittals, and requests for information. The Architect's Consultants shall also conduct periodic inspections of the site to determine conformance with the Project design and specifications and shall participate in the final inspections and development of any "punch list" items. Architect must disclose to District all such consultants employed or retained, and the compensation paid to those retained.

5.2.2 District's Consultants. Architect shall confer and cooperate with consultants retained by District as may be requested by District or as reasonably necessary. District may retain a construction manager to assist District in performance of District's duties for the Project, including assistance to Architect in performance of its duties under this Agreement.

5.2.3 The Architect shall procure a certified survey of the site if required, including grades and lines of streets, alleys, pavements, adjoining properties and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the building site, locations, dimensions and floor elevations of existing buildings, other improvements and trees; and full information as to available utility services and lines, both public and private above and below grade, including inverts and depths. All the information on the survey customarily referenced to a project benchmark shall be referenced to a Project benchmark. The cost of any such survey shall be borne by the District, and the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Architect any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the survey.

5.2.4 If required by District, Architect shall procure chemical, mechanical or other tests required for proper design, tests for hazardous materials and borings or test pits necessary for determining subsoil conditions. The cost of any such tests shall be borne by the District, and the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Architect any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the testing.

5.2.5 Architect shall assist the District and its consultants to apply for funding for the Project from the State Allocation Board. Architect shall be responsible for all submittals required of the Architect by the Division of the State Architect ("DSA"), OPSC and California Department of Education in connection therewith.

5.3 **Schematic Design Phase for a Work of Improvement**

5.3.1 The Architect shall review all information concerning the Project delivered or communicated by the District to the Architect to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the District.

5.3.2 The Architect shall provide a preliminary evaluation of the District's Project, schedule and construction budget requirements, each in terms of the other.

5.3.3 The Architect shall review with the District alternative approaches to the design and construction of the Project, and shall include alternatives that may reduce the cost and/or duration of the Project.

5.3.4 Based on a mutual understanding of the District's budget and scope of work requirements, the Architect shall prepare for the District's governing board's written approval, schematic design documents, which include but are not limited to, schematic design studies, site utilization plans, a description of the Project showing, among other things, the scale and relationship of the components of the Project, preparation of a written estimated statement of Project Construction Cost and a written schedule for the performance of the work that itemizes constraints and critical path issues. The schematic design documents shall represent a 15% complete design. The Project Construction Cost shall be based on current area, volume and other

unit costs, shall conform to District's total construction cost budget, and shall include reasonable contingencies for all construction and construction management work. The written schedule shall conform to District's milestone and completion deadline requirements. Nevertheless, Architect is encouraged to make recommendations to District regarding additional benefits that could be realized by increasing the District's total construction cost budget, or by altering the District's completion deadlines. If District incorporates any recommended changes, then Architect shall revise the schematic design documents, including but not limited to the written statement of Project Construction Cost and written schedule for the performance of work, as necessary until District's governing board approves them in writing. Architect shall attend, and present at, as many meetings of the District's governing board as may be necessary to obtain the board's approval of the schematic design documents.

5.3.5 The Architect shall submit to the District a preliminary Project Construction Cost based on current area, volume and other unit costs.

5.4 **Design Development Phase for a Work of Improvement**

5.4.1 Following District's governing board's written approval of the schematic design documents, including the estimate of Project Construction Cost and schedule, Architect shall provide all necessary architectural and engineering services to prepare design development documents for the District's governing board's written approval, which fix and describe the size and character of the project and which shall include, but are not limited to, site and floor plans, elevations and other approved drawings and shall outline the specifications of the entire Project as to kind and quality of materials, categories of proposed work such as architectural, structural, mechanical and electrical systems, types of structures and all such other work as may be required. During the design development phase, Architect will keep the Project within all budget and scope constraints set by the District. The design development documents shall represent a 50% complete design. The design development documents shall include a revised Project Construction Cost, and a revised construction schedule. The revised Project Construction Cost shall be based on current area, volume and other unit costs. The revised Project Construction Cost shall conform to District's total construction cost budget and shall include reasonable contingencies for all construction and construction management work. The revised construction schedule shall conform to District's milestone and completion deadline requirements. Nevertheless, Architect is encouraged to make recommendations to District regarding additional benefits that could be realized by altering the District's total construction cost budget or completion deadlines. If District incorporates any recommended changes or otherwise does not approve the submitted design development documents, then Architect shall revise the design development documents, including but not limited to the written statement of Project Construction Cost and written schedule for the performance of work, as necessary until District's governing board approves them in writing. Architect shall attend, and present at, as many meetings of the District's governing board as may be necessary to obtain the board's approval of the design development documents.

5.4.2 The Architect shall assist the District and its consultants in the preparation and/or modification of the Storm Water Pollution Prevention Plan if any such plan is required for this Project.

5.4.3 Architect shall prepare necessary documents for and oversee the processing of District's application for and obtaining of required approvals from the DSA, the OPSC (if applicable), the Department of Education, the State Fire Marshall and other agencies exercising jurisdiction over the Project. (Any reference to "DSA" below in this Article 5 includes the DSA and any other government agency reviewing or approving documents.) Architect shall also be responsible for the preparation and submission of any required applications, notices or certificates to public agencies as required by law. Architect shall provide a copy of all such documents to the District.

5.4.4 The Architect shall advise the District of any adjustments to the preliminary Project Construction Cost.

5.4.5 Architect shall identify areas of construction for which unit pricing shall be required as part of the Contractor's bid.

5.4.6 Architect shall provide at no expense to the District one complete set of preliminary plans for the review and written approval of the District and one set for each public agency having approval authority over such plans for their review and approval at no expense to the District.

5.5 **Contract Documents Phase for a Work of Improvement**

5.5.1 Following the District's governing board's written approval of the design development documents, including the Project Construction Cost and construction schedule, the Architect shall prepare Contract Documents for the written approval of District's governing board consisting of 100% complete working drawings and specifications setting forth the work to be done in detail sufficient for construction, including but not limited to the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system and utility-service-connected equipment and site work. Architect shall ensure that the drawings and specifications are, among other things, complete, accurate, and coordinated so as to eliminate errors, omissions and conflicts, especially between the work of a (sub)consultant and other (sub)consultants or the Architect; and Architect may not shift its responsibility for completeness, accuracy and coordination to the Contractor, except on a clearly designated design-build project. Architect shall also update the construction schedule and the Project Construction Cost for written approval of District's governing board. The Contract Documents shall conform to, comply with, and satisfy all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the Americans with Disabilities Act ("ADA"). As part of the Contract Documents, Architect shall prepare an accurate set of drawings indicating dimensions and locations of existing buried utility lines, which shall be included in the bid packages. If the project is intended to be split into multiple prime contracts, then the Contract Documents shall be structured in order to maximize the ability to create multiple prime bid packages for the Project, and shall identify the bid packages to be created.

5.5.2 Architect shall consult with, and involve, the District in development of the bid documents and bid package, and shall forward them to the District for written approval prior to their use. If the District is using a multiple prime delivery method for the Project with multiple bid packages, then Architect shall consult with and involve the District in identification and

development of the bid documents and bid packages, and shall forward them to the District for written approval prior to their use.

5.5.3 Prior to submission of the Contract Documents to DSA for plan check, the Architect shall submit the Contract Documents to the District for an opportunity to review them for various issues, including but not limited to constructability, scheduling, general completeness, clarity, consistency, coordination, cost-effectiveness, value engineering, identification of possible add/delete bid alternatives, time of construction, and suitability for separation of the Project design, plans and specifications into bid packages for various categories and/or portions of the work. However, such review by District is not required and does not affect Architect's obligations under this Agreement.

5.5.4 After approval by the District's governing board and any constructability review, the Architect shall submit the Contract Documents to DSA for plan check, and make the necessary corrections to secure DSA approval. At Architect's expense, Architect shall arrange for the scanning of the DSA approved Contract Documents and for the return of the originals and an electronic copy to DSA.

5.5.5 The Architect shall give the District, at the time of DSA approval of the final form of the Contract Documents, Architect's final estimate of Project Construction Cost and construction schedule, which shall be given final written approval by District's governing board along with the Contract Documents. The revised Project Construction Cost shall be based on current area, volume and other unit costs, and on a mutually acceptable recognized building cost index, and shall include a reasonable contingency. In preparing the revised estimate of Project Construction cost and construction schedule for the Contract Documents, the Architect shall consult with, and involve, the District in the process to maximize accuracy and completeness. If the District is intending to enter multiple prime contracts, the Project Construction Cost shall include separate bid estimates for each bid package, plus a reasonable contingency; and the construction schedule shall reflect that multiple contractors will be performing separate bid packages, including a general conditions bid package. The revised Project Construction Cost estimate shall conform to District's total Project budget, and the revised construction schedule shall conform to District's milestone and completion deadline requirements. Architect shall attend, and present at, as many meetings of the District's governing board as may be necessary to obtain the board's written approval of the Contract Documents.

5.6 **Bidding and Negotiations Phase for a Work of Improvement**

5.6.1 Following DSA's and District's governing board's written approval of Contract Documents, and District's governing board's written acceptance of Architect's final estimate of Project Construction Cost and construction schedule, Architect shall continue to work with the District in finalizing the bid documents and bid package, as described in Section 5.5.2, above. Architect shall reproduce the bid documents and bid package in the number requested by the District and distribute them among interested contractors. Architect shall also assist the District in obtaining bids, and shall assist the District in evaluating contract proposals or bids and substitutions proposed by contractors, and in awarding the bids. All sets of Contract Documents, which does not include those for the use of the Architect or its consultants, requested by the District

in excess of _____ shall be reproduced at District's expense.

5.6.2 Architect's estimate of Project Construction Cost at the time of DSA approval of the Contract Documents shall be current as of that date. Should bids be received more than ninety (90) days after the date of that Project Construction Cost, the Architect's total construction cost shall be escalated by the cost-of-construction in the then current mutually agreed upon recognized building cost index.

5.6.3 Should the lowest responsible and responsive bid received on a bid package exceed Architect's most recent approved estimate of Project Construction Cost for that bid package (or amount adjusted according to the then current mutually agreed upon recognized building cost index) as accepted by District by more than ten percent (10%), Architect shall, on request by District and as part of Architect's Basic Services, make such changes in the plans and specifications as shall be necessary to bring new bids within ten percent (10%) of such Project Construction Cost. In making such changes, Architect will exercise Architect's best judgment in determining the balance between the size of the Project, the type of construction, and the quality of the construction to achieve a satisfactory project within ten percent (10%) of Architect's Project Construction Cost. To avoid the potential for bids to exceed the estimate by more than 10% at bid opening, the Architect may, as an alternative, include in the Contract Documents one or more deductive alternatives so that Architect and District may evaluate different means to achieve a satisfactory project within ten percent (10%) of the Architect's Project Construction Cost.

If this project is a financial hardship project, and should the lowest responsible and responsive bid received on a bid package exceed Architect's most recent approved estimate of Project Construction Cost for that bid package (or amount adjusted according to the then current mutually agreed upon recognized building cost index) as accepted by District, Architect shall, on request by District and as part of Architect's Basic Services, make such changes in the plans and specifications as shall be necessary to bring new bids that are less than such Project Construction Cost. In making such changes, Architect will exercise Architect's best judgment in determining the balance between the size of the Project, the type of construction, and the quality of the construction to achieve a satisfactory project at less than the Architect's Project Construction Cost. To avoid the potential for bids to exceed the estimate at bid opening, the Architect may, as an alternative, include in the Contract Documents for a bid package one or more deductive alternatives so that Architect and District may evaluate different means to achieve a satisfactory project at less than the Architect's Project Construction Cost.

5.6.4 Either on its own or in cooperation with the District, the Architect shall review the qualifications of all bidders for the construction of the Project, and shall make recommendations to the District as to whether, in the Architect's professional opinion, a bidder meets the minimum requirements.

5.6.5 If, in the District's discretion, the District will seek total or partial State funding for this Project, the Architect shall, in addition to the above, publish the invitation to bid in the appropriate regional trade papers and publications devoted to Disabled Veteran Business Enterprises. The Architect shall also prepare and submit the appropriate documentation to the OPSC.

5.7 **Construction Phase for a Work of Improvement**

5.7.1 The construction phase shall begin on the date stated in the official Notice to Proceed.

5.7.2 All instructions to the Contractor shall be forwarded through the Architect unless otherwise directed by the District. The Architect shall advise and consult with the District in the general administration of the Project. The Architect will have authority to act on behalf of the District only to the extent provided in the Contract Documents, unless District grants additional authority in writing.

5.7.3 The Architect shall timely provide District with copies of all of its correspondence with the Contractor.

5.7.4 The Architect shall provide prompt and timely direction to the District, Project inspectors and/or Contractor as to the interpretation of Contract Documents. Architect shall respond to all requests for information ("RFI's") from a Contractor within fourteen (14) calendar days of receipt, unless the subject of the RFI is impacting, or may impact, the critical path of the Project and is causing, or may cause, delay, in which case the Architect shall respond as soon as reasonably possible, if not immediately. If the Architect is not able to take action within the time required due to reasons beyond Architect's control, the Architect may take action within a reasonable period of time under the circumstances; however, the Architect shall make such determination within seven (7) calendar days of receipt of the RFI, and shall notify the District and Contractor immediately after such determination with an explanation as to why the Architect cannot take action within the time required, what the Architect is doing to expedite its response, when the Architect expects to be able to issue a response, and what action, if any, should be taken by District or Contractor in the meantime to mitigate delays and/or costs.

5.7.5 Based on information provided by the Contractor and Architect's own knowledge of a work of improvement (including documents in Architect's possession or reasonably available to it), Architect shall prepare an accurate set of as-built record drawings indicating dimensions and locations of all work, including but not limited to buried utility lines and mechanical, electrical and plumbing layouts, which shall be forwarded to the District upon completion of the work of improvement. While Architect cannot guarantee precise accuracy of such drawings, Architect shall exercise reasonable care in reviewing such drawings to determine their general compliance with the Contract Documents. Architect shall have no responsibility for their conformity to field conditions, except that in the event that the Architect, consistent with standards of due care, becomes aware of non-conformity with field conditions, Architect shall have a duty immediately to notify the District in writing. Architect shall also assemble and deliver to District all written guarantees, instruction books, operation and maintenance manuals, diagrams, charts and other documents required of Contractor.

5.7.6 The Architect shall be responsible for the preparation and submission of any notifications regarding excavation in areas which are known or suspected to contain subsurface installations under Government Code section 4216, *et seq*. The Architect may delegate this responsibility to a Contractor if such power to delegate was included in the Contract Documents

and bid package, but Architect shall remain responsible for supervising such Contractor to ensure performance of this task. Architect shall provide a copy of all such notifications to the District.

5.7.7 The Architect shall, at all times, have access to a work of improvement wherever it is in preparation and progress. To the extent reasonably possible given Contractor's work in progress, the District shall provide such access so that the Architect may perform its functions under the Agreement and Contract Documents.

5.7.8 In the discharge of its duties of observation and interpretation, the Architect shall require Contractors to comply with the Contract Documents, and shall guard the District against defects and deficiencies in the work of the Contractor. The Architect shall advise and consult with the District and inspectors concerning the Contractor's compliance with the Contract Documents and shall assist the District and inspectors in securing the Contractor's compliance.

Unless assigned to another party (such as a construction manager) by the District in writing, Architect has the primary responsibility for the Project to supervise, coordinate and manage the compliance of all parties, including the District's Inspector of Record/Project Inspector ("IOR"), Contractor, any Construction Manager, laboratories, District and Architect itself, with the DSA Construction Oversight Process.

The Architect must comply with the applicable requirements of the DSA Construction Oversight Process, including but not limited to (a) submitting the inspection card request form (DSA 102-IC), (b) providing a verified report (DSA 6-AE) at the completion of each block and section of each inspection card, and (c) directing and monitoring the IOR and laboratories of record, and (d) coordinating with the Owner, Contractor, any Construction Manager, laboratories, and the IOR to meet the DSA Construction Oversight Process requirements without delay or added costs to the Project.

The Architect shall be responsible for any additional DSA fees and delay damages related to review of proposed changes to the DSA-approved construction documents, to the extent Architect's negligence, recklessness or willful misconduct caused the additional DSA fees, and for delay damages to the extent required under Section 5.7.20.2 below.

5.7.9 The Architect shall visit the site, both as the Architect deems necessary and as requested by the District, but under no circumstances less than weekly, to maintain familiarity with the quality and progress of a work of improvement, to determine that the Contractor's work substantially complies with all documents, drawings, plans and specifications and that the Project is progressing in substantial accordance with the Contract Documents. Such observations are to be distinguished from the continuous inspection provided by the Project Inspector unless Architect has agreed in writing to serve as the District's Project Inspector.

5.7.10 The Architect shall notify the District promptly of any significant defect in materials, equipment or workmanship, and of any default by any Contractor in the orderly and timely prosecution of the Project. Architect will exercise reasonable care in the discharge of Architect's obligation to discover significant defects and faults.

5.7.11 The Architect shall review and approve, take exception to, or take other appropriate action upon all schedules, shop drawings, samples and other submissions of the Contractor to determine general conformance with a work of improvement's design and specifications as set forth in the Contract Documents. All such action shall be taken within fourteen (14) days of receipt of the submittals, unless the critical path of the work of improvement is impacted in which case Architect shall take such action as soon as possible. If Architect is not able to take such action within the required time due to reasons beyond Architect's control, the Architect may take action within a reasonable period of time under the circumstances; however, the Architect shall make such determination within four (4) calendar days of receipt of the submission, and shall notify the District and Contractor immediately after such determination with an explanation as to why the Architect cannot take action within the time required, what the Architect is doing to expedite its response, when the Architect expects to be able to issue a response, and what action, if any, should be taken by District or Contractor in the meantime to mitigate delays and/or costs. The Architect will have the authority to reject work and materials which do not conform to the Contract Documents. The Architect's approval of a specific item shall not be an approval of an assembly of which the item is a component. Whenever, in the Architect's reasonable judgment, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the work or materials in accordance with the Contract Documents whether or not such work or materials be then fabricated, installed or completed. The Architect will also recommend substitution of materials or equipment when, in the Architect's reasonable judgment, such action is necessary to the accomplishment of the intent and purpose of the Contract Documents. Such actions as are described in this paragraph shall be taken with reasonable promptness.

5.7.12 Architect shall assist the District in requiring Contractor to provide assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals and training personnel for operation and maintenance.

5.7.13 The Architect shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions or programs in connection with the work. The Architect shall not be responsible for acts or omissions of the Contractor, subcontractors, or their agents or employees or of any other persons performing portions of the Project not employed or retained by Architect, unless due to Wrongful Acts or Omissions.

5.7.14 The Architect shall make such regular reports as shall be required by agencies having jurisdiction over a work of improvement and keep the District informed in writing of the progress of the Project.

5.7.15 The Architect will, consistent with standards of due care, make reasonable professional efforts to exclude hazardous materials from new construction. In the event the District or Architect is or becomes aware of the presence of, or exposure of persons to, asbestos, polychlorinated biphenyl (PCB) or any other toxic or hazardous contaminants, materials, air pollutants or water pollutants at the Project site ("Hazardous Substances"), or the substantial risk thereof, each shall have a duty immediately to notify the other in writing. The parties recognize, however, that neither Architect nor the District is trained or licensed in the recognition or

remediation of Hazardous Substances.

Unless indicated otherwise, with respect to asbestos and asbestos containing materials, the parties acknowledge that the Architect has recommended and the District has agreed to retain a qualified consultant to evaluate the presence of such materials at certain District facilities which are included in the scope of this Agreement. In the event that said consultant recommends a procedure to deal with such materials, said consultant shall have the responsibility to draft specification language for the removal or other remediation of such materials, and subsequently may be required to certify that they have been properly removed or otherwise remediated. Architect shall include consultant's recommendations and specifications in the appropriate design documents for modernization and shall, as part of its Basic Services, provide designs and other bid documents consistent therewith.

When construction is properly completed, Architect shall provide such certification as to Hazardous Substances as is required of architects for such projects by the OPSC.

5.7.16 Based on the Architect's observations, and an evaluation of each Project Application for Payment, the Architect will estimate the amount of work completed by Contractor, and assist the District in (a) determining the amount owing to the Contractor, and (b) issuing Project Certificates for Payment incorporating such amount, all in accordance with the Contract Documents. The Architect's estimation of the amount of work completed by Contractor shall constitute representations by the Architect to the District that the quality of the completed work is in accordance with the Contract Documents based upon Architect's observations of the completed work, and that the Contractor is entitled to payment for the completed work.

5.7.17 Notwithstanding anything else in this Agreement, as a part of its Basic Services the Architect shall assist the District in evaluating and responding to claims, disputes and other matters in question between the Contractor and the District, including but not limited to claims made against the District as a result of alleged or claimed Wrongful Acts or Omissions, and shall in all instances provide such truthful testimonial assistance as may be required by the District at no cost to the District. Architect agrees to toll all statutory periods of limitations for District's claims, lawsuits or other proceedings against Architect which arise out of, or are related to, any claims by Contractors against District until Contractors' claims are fully and finally resolved. This tolling period commences upon a Contractor's initial submission of a notice of claim, change order request or claim. At any time, District may terminate the tolling period effective ten (10) days after written notice to Architect, and after such termination, District may pursue claims, lawsuits or other proceedings against Architect.

5.7.18 The Architect will provide advice to the District on apparent deficiencies in construction, both during construction and after acceptance of a work of improvement.

5.7.19 The Architect shall recommend, prepare and process the necessary change orders. Payment of fees to the Architect as a result of change orders shall be handled as follows:

5.7.19.1 District-initiated change orders. If a change order is initiated by the District, the Architect's fee for services related to such change order shall be paid as an Additional Service

under Articles 4 and 6. If a change order is solicited by the District but not subsequently authorized by the District, the Architect shall be paid for time spent on the proposed change order.

5.7.19.2 Change orders due to Architect. When a change order is necessitated as a result of Wrongful Acts or Omissions, the Architect's services in connection with that change order are not compensable and Architect shall not include those services on any invoice.

5.7.19.3 Change orders beyond District or Architect control. If a change order is necessitated as a result of changes in law, in-field changes required by governing agencies after document approval, unknown, unforeseeable or hidden conditions, or actual conditions inconsistent with available drawings of existing conditions, such change orders shall be handled in the same manner as District-initiated change orders.

5.7.20 Notwithstanding any other provision of this Agreement, in the event a change order is caused by, or necessitated as a result of, Wrongful Acts or Omissions, or the District otherwise incurs costs or damages as a result of Wrongful Acts or Omissions, the Architect shall be responsible for the following:

5.7.20.1 In the event of such a change order, Architect shall be responsible for the difference between (a) what the contractor would have added to its original bid for a work of improvement if the Wrongful Act or Omission had not occurred (i.e., the "added value" portion of the change order), and (b) what the contractor charges the District in the change order. The amount of added value of any change order work shall be based on the circumstances of the Architect's Wrongful Act or Omission and the change order work necessitated by the Wrongful Act or Omission. It is the parties' intent that the District should pay no more than what the District would have paid if the Wrongful Act or Omission had not occurred.

5.7.20.2 In addition, Architect shall be responsible for any other costs or damages which the District incurs as a result of Wrongful Acts or Omissions, including but not limited to any delay damages the District pays to, or cannot collect from, Contractor or any third party.

The District may back charge, and withhold payment from, the Architect for these costs and damages, and may seek reimbursement for any amount which exceeds any retention of the contract amount at the time of collection. When District so back charges and withholds, upon Architect's request District and Architect shall meet and confer in good faith in an effort to reach agreement on (a) whether a Wrongful Act or Omission occurred, (b) whether it caused the change order expense, (c) what damages have been incurred by District, and (d) what portion of the damages are attributable to Architect as described above. If District and Architect do not reach agreement on all four of these items when meeting and conferring, then District and Architect shall use mediation in good faith to resolve the dispute. If mediation fails, then either District or Architect can initiate a court action to resolve the dispute.

5.7.21 The Architect shall provide a color schedule of all finish materials in the Project for the District's review and approval.

5.7.22 The Architect shall assist District in determining the date of final completion and make a final detailed on-site review of the job with representatives of the District and the Contractor. Architect shall also perform a warranty review with District 30-60 days before expiration of the specified warranty on a work of improvement.

5.7.23 The Architect shall assist the District in issuing the final certificate for payment and any other documents required to be recorded by law or generally accepted architectural or construction contract practice upon compliance with the requirements of the Contract Documents, provided that such certification shall not constitute an admission that the Project has been completed in accordance with Contract Documents or in conformance with this Agreement.

5.7.24 Architect shall make reasonable professional efforts so that the finished work of improvement complies with all standards imposed by the Americans with Disabilities Act, section 504 of the Rehabilitation Act of 1973, disability access requirements of the State Building Code and any other laws applicable to disability access. If a court, administrative agency or other trier of fact later determines that Architect has violated any of the above-referenced laws, or District, because of Wrongful Acts or Omissions, has violated any of the above-referenced laws, Architect shall remedy the violation at its own cost. **Architect shall indemnify, defend and hold the District harmless under Article 18.1 of this Agreement for any breach of this paragraph due to Architect's negligence, recklessness or willful misconduct.** The Architect shall not be responsible for acts or omissions of the Contractor or of any other persons performing portions of the work of improvement not employed or retained by Architect, nor shall Architect be responsible for any subsequent changes in the law or any regulation applicable to disabled access or any subsequent differing interpretation of the laws or regulations applicable at the time Architect's design is reviewed by DSA. In the event that the Architect is or becomes aware of possible non-compliance with the foregoing standards, Architect shall have a duty immediately to notify the District in writing of the possible non-compliance.

5.8 **Use of Previously Prepared Materials.** In the event that there exist previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Architect, whether supplied by District or by Architect, which are relied upon, altered or otherwise utilized by Architect, Architect shall be responsible for giving appropriate recognition to such other design professionals in any materials prepared by Architect under this Agreement.

ARTICLE 6
ADDITIONAL SERVICES TO BE RENDERED BY ARCHITECT

6.1 "Additional Services" shall be provided by Architect if authorized and directed in writing by District. Compensation for Additional Services shall be paid based on the hourly rates in Section 4.8 and as otherwise set forth in this Agreement and the addendum that added the work of improvement to the Project. Any services performed by Architect without such written

authorization and direction shall be presumed to be Basic Services.

6.2 The following is a list of services that are not included in the Basic Services to be provided under this Agreement for the Project, and will be performed only in accordance with Article 6.1, above:

6.2.1 providing financial feasibility or other special studies;

6.2.2 providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase;

6.2.3 providing coordination of Project performed by separate contractors or by the District's own forces;

6.2.4 providing analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment and labor;

6.2.5 making revisions in drawings, specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the District's approval of Contract Documents or are due to other causes not within the control of the Architect;

6.2.6 providing consultation concerning replacement of any work damaged by fire or other cause during construction of the Project, and furnishing services as may be required in connection with the replacement of such work;

6.2.7 providing services made necessary by the default of the Contractor;

6.2.8 preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding, other than when resulting from Architect's or its consultants' alleged Wrongful Acts or Omissions;

6.2.9 providing services of consultants for other than the normal architectural, civil, soils, structural, mechanical and electrical engineering services for the Project;

6.2.10 at the District's request, selecting moveable furniture, equipment or articles which are not included in the Contract Documents;

6.2.11 providing services related to change orders requested by the District, but which are not subsequently authorized (see second sentence of Section 5.7.19.1), above; and

6.2.12 providing any other services not otherwise included in the Agreement and not customarily furnished in accordance with generally accepted architectural practice.

ARTICLE 7
RESPONSIBILITIES OF DISTRICT

It shall be the duty of District to:

7.1 pay all fees required by any reviewing or licensing agency;

7.2 designate a representative authorized to act as a liaison between the Architect and the District in the administration of this Agreement and the Contract Documents;

7.3 furnish, at the District's expense, the services of a Project Inspector;

7.4 review all documents submitted by the Architect and advise the Architect of decisions thereon within a reasonable time after submission;

7.5 issue appropriate orders to Contractors through the Architect;

7.6 furnish existing soil investigation or geological hazard reports, which the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Architect;

7.7 furnish the services of a hydrologist or other consultants not routinely provided by the Architect when such services are reasonably required by the scope of the Project and are requested by the Architect;

7.8 provide asbestos review and abatement, identifying materials which may qualify for same;

7.9 furnish available as-built drawings for buildings and utilities systems related to the Project, which the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by the Architect. The District will also provide information regarding programmatic needs and specific equipment selection data;

7.10 furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents, which the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by the Architect; and

7.11 furnish prompt notice of any fault or defects in the Project or nonconformance with the Contract Documents of which the District becomes aware. However, the District's failure to do so shall not relieve the Architect of Architect's responsibilities under Title 21, Title 24, and the Field Act for this Project and under this Agreement.

ARTICLE 8
PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

8.1 Prior to the commencement of services for each work of improvement added to the Project under this Agreement, the Architect shall furnish to the District a certificate of insurance,

Additional Insured Endorsement and Declarations Page for the period covered by this Agreement, for public liability and property damage with an insurance carrier satisfactory to the District, under forms satisfactory to the District, to protect the Architect and District against loss from liability imposed in relation to such services for damages (1) on account of bodily or personal injuries, including death, disease and sickness, accidentally suffered or alleged to have been suffered by any person or persons that may be caused directly or indirectly by the performance of this Agreement, and (2) on account of injury to or destruction of property, including the resultant loss of use of the Project or other District facilities or equipment, resulting from acts of commission or omission by the Architect, or otherwise resulting directly or indirectly from the Architect's operations in the performance of this Agreement. The District shall be named as an additional insured on all such policies.

8.2 The following insurance shall be maintained by the Architect in full force and effect during the entire period of performance of this Agreement, including any extensions.

Architect's comprehensive general and automobile liability insurance shall be written for not less than the following limits of liability:

Comprehensive General Liability

Each Occurrence:
$_____ Each Occurrence

Damage to Rented Premises:
$_____ Each Occurrence

Medical Expenses:
$_____ Any One Person

Personal and Advertising Injury:
$_____ Each Occurrence

General Aggregate:
$_____ Aggregate

Products – Completed Operations:
$_____ Aggregate

Comprehensive Automobile Liability

Combined Single Limit:
$_____ Each Accident

Property Damage:
$_____ Each Accident

Workers' Compensation

Worker's compensation insurance as required by Labor Code section 3200, *et seq*.

Employers' Liability

$_____ Each Accident
$_____ Disease – Each Employee
$_____ Disease – Policy Limit

If liability insurance is not reasonably available on an occurrence basis, Architect shall provide liability insurance on a claims-made basis.

8.3 Said insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the Declarations Page and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability. Said insurance shall also include a waiver of any subrogation rights as against the District.

8.4 Should any of the required insurance be provided for the Project under a claims-made form, Architect shall maintain such coverage continuously throughout the term of this Agreement, and without lapse, for a period of at least ten (10) years beyond the Agreement expiration or the completion of the Project (whichever is later), to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies. Nothing herein shall in any way limit or diminish Architect's obligations to the District under any provision, including any duty to indemnify and defend the District.

8.5 The Architect's insurance policies for the Project shall contain a provision for thirty (30) days written notice to the District of cancellation or reduction of coverage. The Architect shall name, on any policy of insurance required for the Project, the District as an additional insured. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the insurer's liability for the Project shall not be reduced by the existence of such other insurance. Architect shall not commence work on services under this Agreement until all required insurance certificates, declarations pages and additional insured endorsements for such services have been obtained and delivered in duplicate to the District for approval subject to the following requirements. Thereafter Architect shall produce a certified copy of any insurance policy required under this Article upon written request of the District.

8.6 At the time of making application for any extension of time on the Project, Architect shall submit evidence that all required insurance will be in effect during the requested additional period of time.

8.7 If the Architect fails to maintain such insurance for the Project, the District may, but shall not be required to, take out such insurance to cover any damages of the above-mentioned classes for which the District might be held liable during the Project on account of the Architect's failure to pay such damages, and deduct and retain the amount of the premiums from any sums due the Architect under this Agreement.

8.8 Nothing contained in this Agreement shall be construed as limiting, in any way, the extent to which the Architect may be held responsible for the payment of damages resulting from the Architect's operations during the Project.

8.9 Each of Architect's consultants on the Project shall comply with this Article, and Architect shall include such provisions in its contracts with them.

8.10 Insurance companies providing the above policies on the Project shall be legally authorized, licensed and admitted through the California Department of Insurance to engage in the business of furnishing insurance in the State of California. All such insurance companies shall have no lower than an "A-, VIII" in Best's Rating Guide and shall be satisfactory to the District.

8.11 Any failure to maintain any item of the required insurance on the Project may, at District's sole option, be sufficient cause for termination of this Agreement.

ARTICLE 9
WORKER'S COMPENSATION INSURANCE

9.1 Prior to the commencement of services for each work of improvement added to the Project under this Agreement, the Architect shall furnish to the District satisfactory proof that the Architect and all engineers, experts, consultants and subcontractors the Architect intends to employ have taken out, for the period covered by this Agreement, workers' compensation insurance for the Project with an insurance carrier satisfactory to the District for all persons whom they may employ in carrying out the work contemplated under this Agreement in accordance with the Workers' Compensation Laws of the State of California. All such insurance shall include a waiver of any subrogation rights as against the District. If the Architect employs any engineer, expert, consultant or subcontractor which it did not intend to employ prior to commencement of services, it must furnish such proof of workers' compensation insurance to the District immediately upon employment. Such insurance shall be maintained in full force and effect during the period of the Project including any extensions of time. If the Architect is self-insured, the Architect shall furnish a Certificate of Permission to Self-Insure and a Certificate of Self-Insurance satisfactory to the District for each Project.

9.2 Prior to the commencement of services for each work of improvement added to the Project under this Agreement, the Architect shall furnish to the District satisfactory proof that the Architect and all engineers, experts, consultants and subcontractors the Architect intends to employ have taken out employer's liability insurance for the Project with an insurance carrier satisfactory to the District. During the course of Architect's services, if Architect ever intends to employ additional or different engineers, experts, consultants or subcontractors, before so employing them Architect shall furnish such satisfactory proof of insurance to the District. Such insurance shall be maintained in full force and effect during the period covered by this Agreement including any extensions of time. If the Architect is self-insured, the Architect shall furnish a Certificate of Permission to Self-Insure and a Certificate of Self-Insurance satisfactory to the District for each Project.

ARTICLE 10
ERRORS AND OMISSIONS INSURANCE

10.1 Prior to the commencement of services for each work of improvement added to the Project under this Agreement, the Architect shall furnish to the District satisfactory proof that the Architect has, for the period of such services, errors and omissions insurance on an occurrence basis, with limits of at least _____ Dollars ($_____) and with a deductible in an amount

not to exceed the sum of Ten Thousand Dollars ($10,000). If errors and omissions insurance is not reasonably available on an occurrence basis, Architect shall provide errors and omissions insurance on a claims-made basis.

10.2 Each of Architect's professional sub-consultants (including consultants of Architect's) on the Project shall comply with this Article 10, and Architect shall include such provisions in its contracts with them.

10.3 Said errors and omissions insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the Declarations Page and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability.

10.4 Should any of the above required insurance be provided for the Project under a claims-made form, Architect shall maintain coverage continuously throughout the term of this Agreement, and without lapse, for a period of at least ten (10) years beyond the Agreement expiration or the filing of a Notice of Completion (whichever is later), to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policy. Nothing herein shall in any way limit or diminish Architect's obligations to the District under any provision, including any duty to indemnify and defend the District.

10.5 Architect shall not commence work on the Project under this Agreement until all required insurance certificates, declarations pages and additional insured endorsements have been obtained and delivered in duplicate to the District for approval. Thereafter Architect shall produce a certified copy of any insurance policy required under this Article upon written request of the District.

10.6 At the time of making application for any extension of time on the Project, Architect shall submit evidence that all required insurance policies will be in effect during the requested additional period of time.

10.7 If the Architect fails to maintain such insurance on the Project, the District may, but shall not be required to, take out such insurance, and may deduct and retain the amount of the premiums from any sums due the Architect under this Agreement.

10.8 Nothing contained in this Agreement shall be construed as limiting, in any way, the extent to which the Architect may be held responsible for the payment of damages resulting from the Architect's operations on the Project.

10.9 Each of Architect's consultants on the Project shall comply with this Article, and Architect shall include such provisions in its contracts with them.

10.10 Insurance companies providing the above policies on the Project shall be legally authorized, licensed and admitted through the California Department of Insurance to engage in the business of furnishing insurance in the State of California. All such insurance companies shall have no lower than an "A-, VIII" in Best's Rating Guide and shall be satisfactory to the District.

10.11 Any failure to maintain any item of the required insurance on the Project may, at District's sole option, be sufficient cause for termination of this Agreement.

ARTICLE 11
COMPLIANCE WITH LAWS

11.1 Architect shall be familiar with, and Architect and Architect's services and design shall comply with, all State and Federal laws and regulations applicable to the Project or lawfully imposed upon the Project by agencies having jurisdiction over the Project, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, prevailing wage law, and the Americans with Disabilities Act ("ADA"). To the extent that there are conflicting local, State, or Federal laws or regulations, Architect shall interpret and comply with such laws or regulations in accordance with the applicable standard of care.

ARTICLE 12
TERMINATION OF AGREEMENT

12.1 **Termination by District –** This Agreement in its entirety, or only as to an amendment for a work of improvement added to the Project (see ***Exhibits A and B***), or only as to a portion thereof, may be terminated, or the Project may be canceled, by the District for the District's convenience and without cause at any time immediately upon written notice to the Architect. In such event, the Architect shall be compensated for (a) all Basic or Additional Services completed, and Reimbursable Expenses incurred, on the Project under this Agreement through the date of termination, (b) such Basic or Additional Services performed, and Reimbursable Expenses incurred, on the Project after termination which are authorized by the District in writing, and (c) any costs incurred on the Project by reason of such termination; but less any amounts the District is entitled to withhold under law or this Agreement. Upon the District's written request and authorization, Architect shall perform any and all Basic and Additional Services on a Project necessary to complete the work in progress as of the date of termination.

For any material breach of contract by the Architect, the District may also terminate the Agreement in its entirety, or only as to an amendment for a work of improvement added to the Project (see ***Exhibits A and B***), or only as to a portion thereof, for cause by delivering written Notice of Intent to Terminate to the Architect. Such Notice shall include the following: (1) A description of such material breach, and (2) a date not less than fourteen days (14) after delivery of the notice by which the Architect must cure such breach. In response to such Notice, if the Architect fails to cure, and fails to reasonably commence to cure, the breach(es) by the deadline set by the Notice, then the District may terminate the Agreement in its entirety, or only as to an amendment for a work of improvement added to the Project (see ***Exhibits A and B***), through written notice delivered to the Architect, which shall be effective upon such delivery. In such event, the Architect shall be compensated for all services completed under this Agreement through the date of termination,

together with compensation for such services performed after termination which are authorized by the District in writing, but less any amounts the District is entitled to withhold under law or this Agreement. Upon the District's written request and authorization, Architect shall perform any and all services necessary to complete the work in progress as of the date of the termination.

12.2 **Termination by Architect** – For any material breach of contract by the District on the Project other than one related to a payment or invoice dispute as described in Section 4.4 of this Agreement, the Architect may partially terminate the Agreement as to the work of improvement to which the payment or invoice dispute relates (but not as to the rest of the Project) by delivering written Notice of Intent to Terminate to the District. Such Notice shall include the following: (1) A description of such material breach, (2) a date not less than fourteen (14) days after delivery of the notice by which the District must cure such breach or reasonably commence to cure such breach, (3) the status of services completed as of the date of the Notice of Intent to Terminate, and (4) a description and cost estimate of the effort necessary to complete the work in progress on the work of improvement. In response to such Notice, if the District fails to cure, and fails to reasonably commence to cure, the breach by the deadline set by the Notice, then Architect may partially terminate the Agreement as to that work of improvement by written notice delivered to the District within ten (10) days of the cure deadline, which shall be effective upon such delivery.

In the event of such termination by Architect, Architect shall be compensated for all Basic and Additional Services completed, and Reimbursable Expenses incurred, on that work of improvement under this Agreement through the date of termination, together with compensation for such Basic and Additional Services performed, and Reimbursable Expenses incurred, after termination which are authorized by the District in writing. Upon the District's written request and authorization, Architect shall perform any and all Basic and Additional Services necessary to complete the work in progress on that work of improvement as of the date of termination.

12.3 **Miscellaneous Termination Provisions**

12.3.1 Following the termination of this Agreement in its entirety, or only as to an amendment (see ***Exhibits A and B***), for any reason whatsoever, the District shall have the right to utilize any designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared under this Agreement by the Architect, not only as they relate or may relate to the Project under the Agreement (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to the Project under the Agreement (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316. Architect shall promptly make any such documents or materials available to the District upon request without additional compensation.

12.3.2 In the event of the termination of this Agreement in its entirety, or only as to an amendment (see ***Exhibits A and B***), for any reason whatsoever, all designs, plans, specifications,

studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect or any of its agents for the Project under this Agreement shall immediately upon request by the District be delivered to the District. Architect may not refuse to provide such writings or materials for any reason whatsoever, including but not limited to a possessory interest lien for any claim the Architect may have against the District or a claim by the Architect to an ownership interest in the intellectual property embodied in the documents or materials.

ARTICLE 13
ARCHITECT AN INDEPENDENT CONTRACTOR

13.1 It is specifically agreed that in the making and performance of this Agreement, the Architect is an independent contractor and is not and shall not be construed to be an officer or employee of the District.

ARTICLE 14
STANDARDIZED MANUFACTURED ITEMS

14.1 The Architect shall consult and cooperate with the District in the use and selection of manufactured items to be used in the Project under this Agreement. Manufactured items, including but not limited to paint, finish hardware, plumbing fixtures and fittings, mechanical equipment, electrical fixtures and equipment, roofing materials, and floor coverings, shall be standardized to the District's criteria so long as the same does not interfere seriously with the building design or cost.

ARTICLE 15
OWNERSHIP OF DOCUMENTS

15.1 All designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect for the Project under this Agreement shall be and shall remain the property of the District for all purposes, not only as they relate or may relate to the Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to the Project) but as they relate or may relate to any other project, provided that any invalidity of such ownership in relation to any other project shall not affect the validity of such ownership in relation to the Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to the Project) under Education Code Section 17316.

15.2 The Architect will provide the District with a complete set of reproducible designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect for the Project under this Agreement, and will retain, on the District's

behalf, the original documents or reproducible copies of all such original documents, however stored, in the Architect's files for a period of no less than fifteen (15) years. Architect shall promptly make available to District any original documents it has retained under this Agreement upon request by the District.

ARTICLE 16
LICENSING OF INTELLECTUAL PROPERTY

16.1 This Agreement creates a non-exclusive and perpetual license for the District to copy, use, modify, reuse or sublicense any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates and other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect for the Project under this Agreement, not only as they relate or may relate to the Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to the Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to the Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to the Project) under Education Code Section 17316. The Architect shall require any and all subcontractors and consultants to agree in writing that the District is granted a similar non-exclusive and perpetual license for the work of such subcontractors or consultants performed on the Project under this Agreement.

16.2 The compensation for the Project under this Agreement includes compensation not only for any use in connection with the Project and use or re-use for repair, maintenance, renovation, modernization or other alterations or revisions to the Project, but also for any re-use by the District in relation to other projects. The only other term or condition of such re-use shall be that if the District reuses the plans prepared by the Architect for a Project and retains another certified architect or structural engineer for the preparation of those plans for the re-use, the District shall indemnify and hold harmless the Architect and its consultants, agents, and employees from and against any claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from, in whole or in part, the re-use to the extent required by Education Code section 17316, subdivision (c).

16.3 Architect represents and warrants that Architect has the legal right to license any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates or other documents that Architect or its consultants prepares or causes to be prepared for the Project under this Agreement. **Architect shall indemnify, defend and hold the District harmless under Article 18.1 of this Agreement for any breach of Article 16 due to Architect's negligence, recklessness or willful misconduct.** The Architect makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Architect and provided to Architect by the District.

ARTICLE 17
ACCOUNTING AND OTHER RECORDS OF ARCHITECT

17.1 Architect's records of accounts regarding the Project under this Agreement shall be kept in accordance with generally accepted accounting principles. District has the right to audit Architect's records and files regarding any of the work Architect performed for District on the Project during or after the Project. District shall be given reasonable access to Architect's records and files for audit purposes within ten (10) days of receipt of District's request. Architect shall keep and maintain these records and files for ten (10) years.

ARTICLE 18
INDEMNITY

18.1 **Architect Indemnification. To the fullest extent permitted by law, including California Civil Code section 2782.8, the Architect shall defend, indemnify, and hold harmless the District, the governing Board of the District, each member of the Board, and their officers, agents and employees ("District Indemnitees") against claims to the extent that they arise out of, pertain to, or relate to negligence, recklessness or willful misconduct of the Architect, or the Architect's officers, employees, or consultants, in performing or failing to perform any work, services, or functions provided for, referred to, or in any way connected with any work, services, or functions to be performed on the Project under this Agreement.**

For purposes of this Article 18.1 only, (a) "claims" means all claims, demands, actions and suits brought by third parties against the District Indemnitees for any and all losses, liabilities, costs, expenses, damages and obligations, and (b) the Architect's defense obligation shall include but not be limited to (i) provision of a full and complete defense of the District Indemnitees by an attorney chosen or approved by the District, and (ii) payment of the District's attorneys' fees, experts' fees, and all other litigation costs incurred in the District's defense ("Defense Costs") within thirty (30) days of Architect's receipt of each invoice for such Defense Costs. After conclusion of the action against the District Indemnitees (including all appeals), the District shall reimburse Architect for the portion of the Defense Costs proportionate to the percentage of fault of parties other than the Architect ("Other Parties") for the amounts paid or owed to the third party by the District Indemnitees, but this duty of reimbursement shall only be owed by the District if there are specific findings in a settlement agreement, arbitration award, or verdict as to the Other Parties' percentage of fault, and the Architect's percentage of fault, for those amounts paid or owed to the third party.

If one or more defendants is/are unable to pay its/their share of Defense Costs due to bankruptcy or dissolution of the business, the Architect shall meet and confer with other parties regarding unpaid Defense Costs.

This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Architect.

18.2 District Indemnification for Use of Third Party Materials. The District shall defend, indemnify, and hold harmless the Architect and its employees against any and all copyright infringement claims by any design professional formerly retained by the District arising out of Architect's completion, use or re-use of that former design professional's designs or contract documents in performing this Agreement. Architect shall be entitled to such indemnification only if each of the following conditions are met: (a) Architect actually re-draws or completes such other designs or contract documents; (b) Architect complies with the provisions of Article 5.8 regarding use of materials prepared by other design professionals; (c) District has supplied Architect with the previously prepared documents or materials; and (d) District expressly requests that the Architect utilize the designs or contract documents in question. By providing this or any other indemnification in this Agreement, District does not waive any immunities.

ARTICLE 19
TIME SCHEDULE

19.1 **Time for Completion.** Time is of the essence for performance of the Services under this Agreement. The Architect shall timely complete its Services for a work of improvement as expeditiously as possible and according to the schedule provided in the fully executed and approved amendment for a work of improvement (see ***Exhibits A and B***).

19.2 **Delays.** The District recognizes that circumstances may occur beyond the control of either the District or the Architect and extensions for such delays may be made to the schedule for a work of improvement if approved by the District. Any time during which the Architect is delayed in the Architect's work on a work of improvement by acts of District or its employees or those in a direct contractual relationship with District or by acts of nature or other occurrences which were not or could not have been reasonably foreseen and provided for, and which are not due to any Wrongful Acts or Omissions, shall be added to the time for completion of any obligations of the Architect. District shall not be liable for damages to the Architect on account of any such delay.

ARTICLE 20
MISCELLANEOUS PROVISIONS

20.1 This Agreement shall be governed by and construed in accordance with the laws of the State of California excluding its choice of law rules. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County in which the District maintains its district office, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by the District.

20.2 The Architect shall not assign or transfer any or all of its rights, burdens, duties or obligations under this Agreement without the prior written consent of the District.

20.3 All notices, certificates, or other communications hereunder shall be deemed given when personally delivered or mailed by certified mail, postage prepaid, to the parties at the addresses set forth below:

District: Piner-Olivet Union School District
3450 Coffey Lane,
Santa Rosa, California 95403
Attention: Tony Roehrick, Superintendent

Architect: _____ *[Name of firm]*
_____
_____, California 9____
Attention: _____ *[name or title]*

20.4 This Agreement shall inure to the benefit of and shall be binding upon the Architect and the District and their respective successors and assigns.

20.5 If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

20.6 The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties. No action or failure to act by the District shall constitute a waiver of any right or duty afforded the District under this Agreement, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach under this Agreement, except as may be specifically agreed to in a written amendment to this Agreement.

20.7 Nothing contained in this Agreement shall create a contractual relationship with or cause of action in favor of a third party against either the District or the Architect.

20.8 This Agreement constitutes the entire agreement between the parties, and supersedes any prior agreement or understanding. There are no understandings, agreements, representations or warranties, expressed or implied, not specified in this Agreement. The Architect, by the execution of this Agreement, acknowledges that the Architect has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

20.9 The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's professional materials. The Architect's materials shall not include the District's confidential or proprietary information if the District has previously advised the Architect in writing of the specific information considered by the District to be confidential or proprietary.

20.10 Prior to executing this Agreement or an amendment based on Exhibit A or B, the Architect shall submit a certification if required by Public Contract Code section 3006(b) for roofing projects.

20.11 If a party to this Agreement commences a legal action against the other party to enforce a provision of this Agreement or seek damages related to the services provided under this Agreement, the prevailing party in the legal action will be entitled to recover all of its litigation

expense, costs and fees from the other party, including reasonable attorneys' and experts' fees.

20.12 A party to this Agreement shall, as a condition precedent to initiating any litigation against the other party, demand mediation of any dispute (including a dispute related to indemnity by the Architect for claims against the District by a contractor based on allegations of deficiencies in the Architect's plans or specifications). The parties shall endeavor to include any third party claimant in the mediation. The parties shall select a mediator and schedule the mediation within thirty (30) days of the initial demand for mediation. If the parties cannot agree on a mediator, the mediator shall be appointed by JAMS. The parties to the mediation, including the parties to this Agreement, shall pay equal shares of the mediator's fees. Each party shall bear its own attorney's fees related to the mediation.

20.13 Architect shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1. Before performing any Services, Architect shall execute and return the District's Fingerprinting Notice and Acknowledgement form and the required certification (see ***Exhibit D***).

Architect further agrees and acknowledges that if at any time during the Term of this Agreement Architect learns or becomes aware of information which differs in any way from the information learned as a result of compliance with the above requirements, or Architect adds personnel who will provide Services under this Agreement, Architect shall immediately notify District and prohibit any new personnel from interacting with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any interaction is permissible.

20.14 Before performing any Services, Architect shall prepare, execute, and submit all forms that may be required by law for this Agreement or an amendment, including but not limited to a roof project certification (Public Contract Code §3006), disabled veteran business enterprises ("DVBE") certification (Education Code §17076.11), and an Iran Contract Act certification (Public Contract Code §2204). If a form is necessary, Architect shall use the District's versions of these forms, which the District shall make available upon request.

20.15 Sanctions in Response to Russian Aggression. The District is using State of California funds for this Contract, and therefore Architect must comply with the Governor's March 4, 2022, Executive Order N-6-22 ("Order") relating to any existing sanctions imposed by the United States government and the State of California in response to Russia's actions in Ukraine, including additional reporting requirements for contracts of $5 million or more. Failure to comply may result in the termination of the Contract. *[Note to District: If no state funds are being used for this contract, then the District may either (1) delete this paragraph in its entirety; or (2) delete the previous two sentences and replace them with the following:]* The District requires Architect to comply with the Governor's March 4, 2022, Executive Order N-6-22 ("Order") relating to any existing sanctions imposed by the United States government and the State of California in response to Russia's actions in Ukraine, including additional reporting requirements for contracts of $5 million or more. Failure to comply may result in the termination of the Contract.

* * * * * * * * * * * * * * * * * * * *

ARCHITECT:
_____ *[Name of firm]*

By:_____
_____ *[name or title]*

Date: _____, 20__

DISTRICT:
PINER-OLIVET UNION SCHOOL DISTRICT

By:_____
Superintendent

Date: _____, 20__

[NOTE TO DISTRICT: Do not fill in the blanks in Exhibit A or B below. These two exhibits are for use in the future when the District assigns a particular project to the architect. They should not be filled out when preparing this master agreement for award.]

Exhibit A

FORM OF AMENDMENT TO ADD PROJECT TO AGREEMENT
(NOT-TO-EXCEED FEE)

* * * * * * * *

Amendment No. ___

Pursuant to the agreement between the Piner-Olivet Union School District ("District") and _____ ("Architect") effective _____, 20__ ("Agreement") for the _____ construction program, the District and Architect agree to amend the Agreement to add architectural services for design and construction administration of the _____ work of improvement ("_____ Work").

The terms of the Agreement are incorporated into, and govern, this amendment except as may be provided otherwise by this amendment. In the event of a conflict between the Agreement and this amendment, the terms of this amendment shall control.

For the _____ Work, Architect shall perform the Basic and Additional Services specified in the Agreement. In addition, Architect shall _____ ***[insert any other services to be performed that are not described in the Agreement]*** . Multiple prime construction contracts _____ ***[insert "are" or "are not"]*** being used as the delivery method for the _____ Work.

For the architectural services to be provided under this amendment to the Agreement, Architect shall complete such services according to the following schedule: _____ ***[insert description of schedule, including milestone deadlines]***.

For the Basic Services satisfactorily performed under this amendment to the Agreement, Architect shall be compensated according to its hourly rate schedule (***Exhibit C*** to the Agreement). Architect's total compensation for its Basic Services shall not exceed $_____, which is Architect's estimate of the maximum total cost of its Basic Services on the _____ Work, based on its _____, 20__, fee estimate. Architect acknowledges that the amount for Basic Services includes contingency compensation in the foreseeable event that more time and costs may be necessary to complete the Basic Services.

If the total amount invoiced by Architect reaches the not-to-exceed Basic Services amount before Architect's Basic Services under the Agreement are complete, Architect must complete the Basic

Services without submitting additional invoices, or receiving additional payment, for Basic Services.

Architect's total reimbursement for Reimbursable Expenses shall not exceed $_____, which is Architect's estimate of the maximum total cost of Reimbursable Expenses on the _____ Work.

Architect's total contingency compensation for Additional Services pursuant to Article 6 for the ____ Work shall not exceed $_____.

The total not-to-exceed price of this amendment for the _____ Work, based on Basic and Additional Services and Reimbursable Expenses (see above), is $_____.

Architect shall provide a minimum of ___ (_) full-time employees for the _____ Work before construction commences, and ___ (_) full-time employee after construction commences, to perform its duties and responsibilities under the Agreement.

For the _____ Work, Architect shall provide the following insurance in addition to the insurance that is required by the Agreement: _____.

DVBE requirements apply to the _____ Work (Education Code §17076.11), and Architect has met these requirements by submitting the District's DVBE certification and worksheet forms. ***[Delete this paragraph if DVBE does not apply to the scope of this amendment.]***

Before performing any Services pursuant to this amendment, Architect shall submit the fingerprinting forms required by the Agreement.

ARCHITECT:	**DISTRICT:**
_____***[Name of firm]***	PINER-OLIVET UNION SCHOOL DISTRICT
By:_____	
_____ ***[name or title]***	By:_____
	Superintendent
Date: _____, 20__	
	Date: _____, 20__

Exhibit B

FORM OF AMENDMENT TO ADD PROJECT TO AGREEMENT (PERCENTAGE FEE)

* * * * * * * *

Amendment No. ___

Pursuant to the agreement between the Piner-Olivet Union School District ("District") and _____ ("Architect") effective _____, 20__ ("Agreement") for the _____ construction program, the District and Architect agree to amend the Agreement to add architectural services for design and construction administration of the _____ work of improvement ("_____ Work").

The terms of the Agreement are incorporated into, and govern, this amendment except as may be provided otherwise by this amendment. In the event of a conflict between the Agreement and this amendment, the terms of this amendment shall control.

For the _____ Work, Architect shall perform the Basic and Additional Services specified in the Agreement. In addition, Architect shall _____ ***[insert any other services to be performed that are not described in the Agreement]*** . Multiple prime construction contracts _____ ***[insert "are" or "are not"]*** being used as the delivery method for the _____ Work.

For the architectural services to be provided under this amendment to the Agreement, Architect shall complete such services according to the following schedule: _____ ***[insert description of schedule, including milestone deadlines]***.

For the Basic Services satisfactorily performed under this amendment to the Agreement, the total compensation paid to the Architect for the _____ Work shall be no more than _____ percent (__%) ***[sliding scale percentages may be used]*** of the final adjusted Project Construction Cost for the _____ Work. This compensation shall be paid pursuant to the following schedule:

Initial Payment	None
Payment Upon Completion of:	
Schematic Design	20%
Design Development Phase	20%
Contract Documents Phase	30%
DSA Back Check	5%
Bidding Phase	5%
Construction Phase	20%
TOTAL BASIC COMPENSATION	100%

Upon any adjustment (increase or decrease) to the Project Construction Cost as contemplated by section 1.9 of the Agreement, including but not limited to any adjustment made at such time as

bids are received, the Architect's total compensation for Basic Services for the _____ Work shall also be increased or decreased, including retroactively for Basic Services already performed and payments already made. Such adjustments may be effected by the District by either (a) adjusting any future payment due under the payment schedule immediately above, or (b) issuing a revision notice to Architect that either tenders any additional payment owed or demands reimbursement from the Architect of any overpayment to date. Architect acknowledges that the amount for Basic Services includes contingency compensation in the foreseeable event that more time and costs may be necessary to complete the Basic Services. The current estimate of construction costs is $_____, thus the current estimate of fees for Basic Services is $_____.

Architect's total reimbursement for Reimbursable Expenses shall not exceed $_____, which is Architect's estimate of the maximum total cost of Reimbursable Expenses on the _____ Work.

Architect's total contingency compensation for Additional Services pursuant to Article 6 for the ____ Work shall not exceed $_____. If Additional Services increase the construction costs of the project, then such construction costs shall not be included in the Project Construction Cost for purposes of calculating Architect's fee for Basic Service above.

The total not-to-exceed price of this amendment for the _____ Work, based on Basic and Additional Services and Reimbursable Expenses (see above), is $_____.

Architect shall provide a minimum of ___ (_) full-time employees for the _____ Work before construction commences, and ___ (_) full-time employee after construction commences, to perform its duties and responsibilities under the Agreement.

For the _____ Work, Architect shall provide the following insurance in addition to the insurance that is required by the Agreement: _____.

DVBE requirements apply to the _____ Work (Education Code §17076.11), and Architect has met these requirements by submitting the District's DVBE certification and worksheet forms. ***[Delete this paragraph if DVBE does not apply to the scope of this amendment.]***

Before performing any Services pursuant to this amendment, Architect shall submit the fingerprinting forms required by the Agreement.

ARCHITECT:	**DISTRICT:**
_____ ***[Name of firm]***	PINER-OLIVET UNION SCHOOL DISTRICT
By:_____	
_____ ***[name or title]***	By:_____
	Superintendent
Date: _____, 20__	
	Date: _____, 20__

Exhibit C

HOURLY RATES

Exhibit D

FINGERPRINTING NOTICE AND ACKNOWLEDGEMENT FORM