

ENGINEERING SERVICES AGREEMENT

This AGREEMENT is made and entered into this 25th day of May in the year 2021 by and between the RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT, hereinafter referred to as “DISTRICT,” and **IDS GROUP, INC.**, hereinafter referred to as “CONSULTANT.” This AGREEMENT shall include all terms and conditions set forth herein. The DISTRICT and the CONSULTANT are sometimes referred to herein individually as a “PARTY” and collectively as the “PARTIES.” This AGREEMENT is made with reference to the following facts:

WHEREAS, DISTRICT desires to obtain engineering services for the BUILDING K WELDING ELECTRICAL LOAD, located at SANTA ANA COLLEGE hereinafter referred to as the “PROJECT”; and

WHEREAS, CONSULTANT is fully licensed to provide Engineering services pursuant to the laws of the State of California;

NOW, THEREFORE, the PARTIES hereto agree as follows:

ARTICLE I - CONSULTANT’S SERVICES AND RESPONSIBILITIES

1. The CONSULTANT’s services shall consist of those services performed by the CONSULTANT, CONSULTANT’s employees, and CONSULTANT’s consultants, as enumerated in Articles II and III of this AGREEMENT.

2. The CONSULTANT’s services shall be performed in a manner which is consistent with professional skill and care and the orderly progress of the work. The CONSULTANT represents that it will follow the standards of its profession in performing all services under this AGREEMENT. The CONSULTANT shall perform the services in accordance with all standards regarding application and interpretation of applicable law, code, rule, or regulation at the time the CONSULTANT performs the services.

3. The CONSULTANT shall submit for the DISTRICT’s approval a schedule for the performance of the CONSULTANT’s services consistent with the time limits included in EXHIBIT “D.” The schedule may be adjusted as the PROJECT proceeds by mutual written agreement of the PARTIES and shall incorporate the requirements set forth in Section 4 below and include allowances for time required for the DISTRICT’s review and for approval by authorities having jurisdiction over the PROJECT. The time limits established by this schedule shall not, except for reasonable cause, be exceeded by the CONSULTANT.

4. The CONSULTANT shall perform all services under this AGREEMENT within the time limits noted in EXHIBIT “D”.

5. {RESERVED}

6. The CONSULTANT has been selected based on CONSULTANT’s knowledge of California public schools and colleges and CONSULTANT’s knowledge of the educational system

for funding and construction and is thoroughly familiar with the requirements for requirements that are applicable to a public school project for community college districts.

7. {RESERVED}

8. Contract Term. This AGREEMENT shall commence on **May 25, 2021** and shall terminate **June 30, 2022** or when project close-out has been achieved (“Term” or “Contract Term”), unless terminated or otherwise canceled. The parties also agree should all services be completed by CONSULTANT and accepted, in writing by the District, the AGREEMENT shall automatically terminate.

9. CONSULTANT has read and understands Education Code section 45125.2 and acknowledges that, according thereto, the PARTIES have determined and agreed that the services provided by the CONSULTANT, its consultants, and their employees will have only limited contact with pupils at most. CONSULTANT agrees that it is responsible for complying with Education Code section 45125.1 throughout the completion of the services. CONSULTANT shall promptly notify DISTRICT in writing of any facts or circumstances which might reasonably lead DISTRICT to determine that contact will be more than limited as defined by Education Code section 45125.1(d).

ARTICLE II - SCOPE OF CONSULTANT’S SERVICES

1. The CONSULTANT shall provide to the DISTRICT, on the terms herein set forth, all of the design and/or engineering services necessary to complete the PROJECT. The CONSULTANT’s services shall include those described in this AGREEMENT, and any other services necessary to produce a reasonably complete and accurate set of “Construction Documents” defined as including, but not limited to, the following: The contract between the DISTRICT and the “Contractor” awarded the PROJECT (the “Contract”), general and supplementary conditions of the Contract between the DISTRICT and Contractor, drawings, specifications, Addenda, Revisions and other documents listed in the Contract, and modifications issued after execution of the Contract between the DISTRICT and Contractor.

2. {RESERVED}

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

4. The CONSULTANT shall be responsible for visually verifying and determining the capacity of existing utilities, and/or for any design or documentation required to make points of connection to existing utility services that may be located on or off the PROJECT site and which are required for the PROJECT.

5. {RESERVED}
6. {RESERVED}
7. {RESERVED}
8. {RESERVED}
9. {RESERVED}

10. CONSULTANT shall make presentations to the DISTRICT's staff or the DISTRICT's Governing Board upon request, and shall attend meetings of the DISTRICT's Governing Board when required by the DISTRICT.

11. The CONSULTANT shall make revisions to Drawings, Specifications, or other documents when such revisions are necessary due to the CONSULTANT's failure to comply with approvals or instructions previously given by the DISTRICT, including revisions made necessary by adjustments in the DISTRICT's Program or Budget as defined in Article IV, or as a result of CONSULTANT's errors or omissions.

12. The CONSULTANT shall provide services required due to programmatic changes in the PROJECT including, but not limited to, size, quality, complexity, method of bidding or negotiating the contract for construction. The CONSULTANT shall be prepared to prioritize and prepare a priority list to address critical Program and PROJECT needs as opposed to optional items that may be dropped if there is inadequate Budget for the PROJECT. In the case where there are Budget constraints the CONSULTANT shall prepare a priority list of critical programmatic needs and items that may be of lesser priority and review the Program with the DISTRICT.

13. The CONSULTANT shall provide services in connection with the work of a Construction Manager or separate consultants retained by DISTRICT.

14. {RESERVED}
15. {RESERVED}
16. {RESERVED}
17. {RESERVED}

18. CONSULTANT shall be responsible for the coordination of the design and the layout of the technology backbone system with the DISTRICT's Information Technology Department and/or the DISTRICT's technology consultant. The coordination effort shall include location and routing of raceways, conduits and outlets and the required spaces to accommodate electrical, data and communication wiring. CONSULTANT and consultant(s) shall prepare and be responsible for documents prepared by the CONSULTANT based on the information provided by the DISTRICT's technology consultant as appropriate to the level of design completion.

19. To the extent the CONSULTANT is not familiar or does not have experience with any materials or systems designed for the PROJECT, the CONSULTANT shall visit suppliers, fabricators, and manufacturers' facilities, such as for carpet, stone, wood veneers, standard or custom furniture, to review the quality or status of items being produced for the PROJECT.

20. The CONSULTANT shall cooperate and consult with DISTRICT in use and selection of manufactured items on the PROJECT, including, but not limited to electrical equipment. All such manufactured items shall be standardized to the DISTRICT's criteria to the extent such criteria do not interfere with PROJECT design and are in compliance with the requirements of Public Contract Code §3400.

21. The CONSULTANT shall certify to the best of its information, pursuant to 40 Code of Federal Regulations §763.99(a)(7), that no asbestos-containing material was specified as a building material in any Construction Document for the PROJECT and will ensure that contractors provide the DISTRICT with a certification that all materials used in the construction of any school or college building are free from any asbestos-containing building materials ("ACBM's"). CONSULTANT shall include statements in the PROJECT's specifications that materials containing ACBM's shall not to be included or incorporated into the PROJECT. The CONSULTANT shall incorporate requirements into the PROJECT's specifications that indicate the above certification shall be part of the Contractor's final PROJECT submittal to the DISTRICT.

22. The CONSULTANT shall consider operating or maintenance costs when selecting systems for the DISTRICT. The CONSULTANT shall utilize grants and outside funding sources and work with the DISTRICT to utilize and consider funding from grants and alternative funding sources.

23. {RESERVED}

24. The duties, responsibilities and limitations of authority of the CONSULTANT shall not be restricted, modified, or extended without written agreement between the DISTRICT and CONSULTANT.

25. The CONSULTANT shall comply with all federal, state, and local laws, rules, regulations and ordinances that are applicable to the PROJECT.

26. The CONSULTANT shall have access to the work at all times.

27. The CONSULTANT shall commit the same PROJECT representatives from the commencement of services under this AGREEMENT through the completion of the Project Close-Out Phase. Any change in staff and/or sub-consultants will require the written approval of the DISTRICT.

28. The CONSULTANT shall comply with DISTRICT'S Facility Design Standards, Sustainability Standards, and other similar District design criteria and incorporate those standards, as applicable, during the performance of its services.

29. {RESERVED}

30. {RESERVED}

31. {RESERVED}

32. **Construction Document Phase**

a. The CONSULTANT shall prepare, from the Design Development Documents approved by the DISTRICT, Construction Documents (in an acceptable Building Informational Modeling format, such as Autodesk® Revit® and AutoCAD® Civil 3D®) consistent with EXHIBIT “I”, including, but not limited to, all drawings and specifications for the PROJECT setting forth, in detail, the requirements for the construction of the entire PROJECT in conformity with all applicable (on and off site) governmental and code requirements including, but not limited to, the requirements of the State Chancellor, the local fire marshal/department, the County Health Department and any other governmental agency having jurisdiction over the PROJECT. The Construction Documents shall show all the work to be done to a minimum Level of Design (“LOD”) 300, as well as the materials, workmanship, finishes, and equipment required for the completion of the PROJECT. All Construction Documents prepared by the CONSULTANT shall be properly coordinated including, but not limited to, the various disciplines, dimensions, terminology, details, etc. CONSULTANT shall submit 60% and 100% Construction Documents as required herein and pursuant to Exhibit “I”.

b. Prior to listing any specific equipment, material, supply, or furnishing, CONSULTANT shall verify, list and identify lead times, performance specifications, quality, durability, maintenance requirements to ensure compliance with District design guidelines, including, proper coordination with sub-consultants and availability of all PROJECT equipment, materials, supplies, and furnishings and ensure that all of these will be available to the contractor(s) in a timely fashion so as to not delay the PROJECT and/or delay the DISTRICT’s beneficial occupancy of the PROJECT. The CONSULTANT shall also provide other options to the DISTRICT regarding other possible and more available equipment, materials, supplies, or furnishings.

c. {RESERVED}

d. {RESERVED}

e. The CONSULTANT shall provide technical specifications for the PROJECT as required by EXHIBIT “I”.

f. The CONSULTANT shall perform Construction Document Services to keep the PROJECT within all Program scope constraints set by the DISTRICT, as well as approved Budget, unless otherwise modified by written authorization by the DISTRICT.

g. {RESERVED}

a. The CONSULTANT shall provide the following copies for DISTRICT review and approval:

1. PDF Digital File of the 60% and 100% Construction Drawings;

33. {RESERVED}

34. **Bidding & Award Phase**

a. The CONSULTANT, following the DISTRICT's approval of the Construction Documents and of the latest estimate of Construction Cost, shall assist the DISTRICT in obtaining bids and awarding the Contract for the construction of the PROJECT.

b. The CONSULTANT shall assist the DISTRICT to prepare all the necessary bidding information and bidding forms required to bid the PROJECT. The CONSULTANT shall coordinate the development of bidding procedures and shall attend a bid/site walk(s). The CONSULTANT shall also assist the DISTRICT with the preparation of the Contractor's Contract form, the general conditions, the supplementary conditions, and all other contract documents necessary to bid the PROJECT and award a complete Contract to the lowest responsible responsive bidder. The DISTRICT will provide the standard general conditions and supplementary conditions that must be incorporated into the Contract with the Contractor. The CONSULTANT shall review the general conditions, supplementary conditions, and all other contract documents provided by the DISTRICT for incorporation into the Contract with the Contractor and shall coordinate such documents with all other Construction Documents that are prepared by the CONSULTANT pursuant to this AGREEMENT. The CONSULTANT's coordination obligations under this Section include, but are not limited to, verifying that any and all bid instructions and requirements set forth in the specifications prepared by the CONSULTANT are also set forth in the Instructions to Bidders and the Bid Form that are distributed to the bidders in connection with the PROJECT. The CONSULTANT shall prepare and sign all written Addendums that are necessary to incorporate changes into the approved Construction Documents prior to the award of the PROJECT. The CONSULTANT shall assist the DISTRICT in distributing all Addendums to each bidder that has obtained a set of the approved Construction Documents. During the bidding period of the PROJECT, CONSULTANT shall process all questions presented to the DISTRICT concerning the intent of the Contract Documents. In the event that items requiring interpretation of the Drawings or Specifications are discovered during the bidding period, those items shall be analyzed by the CONSULTANT for decision by the DISTRICT as to the proper procedure required. Corrective action will be in the form of an Addendum(a) prepared by the CONSULTANT and issued by the DISTRICT.

c. The CONSULTANT shall deposit a reproducible set of Construction Documents including, but not limited to, all drawings and specifications for the Project at a reprographics company specified by the DISTRICT for the printing of additional sets of the approved Construction Documents during the PROJECT. In accordance with the requirements of this Section, the CONSULTANT shall forward all plans, drawings,

specifications, record drawings, models, mock-ups, renderings and other documents (including all computer files) prepared by the CONSULTANT or the CONSULTANT's consultants during the course of the Project to the reprographics company specified by the DISTRICT at no additional cost to the DISTRICT. The DISTRICT may request that such documents be delivered to the reprographics company selected by the DISTRICT in CAD, PLOT, TIFF or other format approved by the DISTRICT.

d. Upon the DISTRICT's request, the CONSULTANT shall recommend an acceptable plan room, or blueprinting shop, or, in the alternative, CONSULTANT shall print the necessary bidding information, Contract forms, general conditions, supplementary general conditions and all other Construction Documents necessary to bid the PROJECT and award a complete Contract to a successful bidder and shall deliver/distribute such printed copies to all interested bidders.

e. The CONSULTANT shall make subsequent revisions to drawings, specifications, and other approved Construction Documents that result from the bidding phase and issue via addendum. All Addenda shall be prepared in writing and signed by the CONSULTANT. The CONSULTANT shall ensure that all Addenda are submitted to and approved by DISTRICT to construction beginning on the PROJECT.

f. The CONSULTANT shall attend bid opening at the DISTRICT's request.

g. If the lowest bid exceeds the Budget (or if a complete detailed estimate is prepared by a certified professional cost estimator from Construction Documents that are at least 90% completed) for the PROJECT, the CONSULTANT, in consultation with, and at the direction of, the DISTRICT, shall provide such modifications in the Construction Documents as necessary to bring the cost of the PROJECT within its Budget as set forth in Articles V and VI.

h. Upon completion of the Bidding & Award Phase, CONSULTANT shall produce a Conforming Set of PDF plans and specifications incorporating all Addenda issued thus far. In addition to the PDF versions, CONSULTANT shall provide one (1) electronic set of plans in the latest version of AutoCAD and one (1) electronic copy of the conforming specifications in Microsoft Word.

35. Construction Phase

a. The Construction Phase will commence with the award of the Construction Contract to Contractor and terminates upon satisfactory performance and completion of all tasks in this phase and commencement of the Closeout Phase or upon the DISTRICT's terminating the AGREEMENT, whichever is earlier. While CONSULTANT shall work as many hours as necessary to complete Construction Phase services, CONSULTANT agrees that at a minimum it will dedicate two (2) hours per week to the PROJECT through the duration of the Construction.

b. The CONSULTANT shall provide technical direction to a Project Inspector employed by, and responsible to, the DISTRICT, as required by applicable law. The CONSULTANT shall direct and monitor the work of the Laboratory of Record as required by applicable law and provide code required supervision of Special Inspectors not provided by the Laboratory of Record. The CONSULTANT shall verify that the Project Inspector has the appropriate amount of PIC's that are needed for the inspection and completion of the entire PROJECT prior to the commencement of any work by the Contractor on the PROJECT. The CONSULTANT shall provide the Project Inspector, Laboratory of Record and each Special Inspector an electronic copy of the approved Construction Documents including, but not limited to, the approved Statement of Structural Tests and Special Inspections prior to the commencement of any work on the PROJECT.

c. The CONSULTANT shall meet with the Project Inspector, DISTRICT, Contractor, Laboratory of Record and Special Inspectors as needed throughout the completion of the PROJECT to verify, acknowledge and coordinate the testing and special inspection program required by the approved Construction Documents.

d. The CONSULTANT shall prepare Interim Verified Reports and submit such Interim Verified Reports to the Project Inspector and the DISTRICT prior to the Project Inspector's approval and sign off of any of the following sections of the PROJECT's PIC's as applicable:

- (1) Initial Site Work;
- (2) Foundation;
- (3) Vertical Framing;
- (4) Horizontal Framing;
- (5) Appurtenances;
- (6) Non-Building Site Structures;
- (7) Finish Site Work;
- (8) Other Work; or
- (9) Final.

If the CONSULTANT has delegated responsibility for any portion of the PROJECT's design to other engineers, the CONSULTANT shall ensure that such engineers submit the necessary Interim Verified Reports to the Project Inspector and the DISTRICT during the course of construction and prior to the Project Inspector's approval and sign off of the above sections of the PIC's as they relate to the portions of the PROJECT that were delegated to such engineers.

e. The CONSULTANT shall be responsible for reviewing and ensuring, on a monthly basis, that the Contractor is maintaining an up-to-date set of as-built documents which will be furnished to the DISTRICT upon completion. The CONSULTANT shall review the as-built documents prepared by the Contractor on a monthly basis and report whether they appear to be up to date, based upon the CONSULTANT's observations of the PROJECT. If it appears the as-built documents are not being kept up to date by the Contractor, the CONSULTANT shall recommend to the DISTRICT, in writing, an

appropriate withholding from the Contractor's monthly payment application to account for the Contractor's failure to maintain such as-built documents.

f. The CONSULTANT will endeavor to secure compliance by Contractor with the Contract requirements, but does not guarantee the performance of the Contractor's Contract.

g. The CONSULTANT shall provide general administration of the Construction Documents including, but not limited to, the following:

(1) Visiting the PROJECT site to maintain such personal contact with the PROJECT as is necessary to assure the CONSULTANT that the Contractor's work is being completed, in every material respect, in compliance with the approved Construction Documents (in no case shall the number of visits be less than once every week or as necessary to observe work being completed in connection with each block/section of a PIC so the CONSULTANT can verify that the work does or does not comply with the approved Construction Documents, whichever is greater) in order to:

i. Become familiar with, and to keep the DISTRICT informed about, the progress and quality of the portion of the work completed and for the preparation of the weekly written reports the CONSULTANT will prepare and submit to the DISTRICT for its review;

ii. Become familiar with, and to keep Project Inspector informed about, the progress and quality of the portion of the work completed and for the preparation of the necessary Interim Verified Reports the CONSULTANT will prepare and submit to Project Inspector as necessary for the timely inspection of the PROJECT and for the approval and sign off of each block/section of the PIC's during the course of the PROJECT's construction;

iii. Endeavor to guard against nonconforming work and deficiencies in the work;

iv. Determine if the work is being performed in a manner indicating that the work, when fully completed, will be in accordance with the approved Construction Documents;

vi. Examine Contractor applications for payment and to issue certificates for payment in amounts approved by the necessary parties; and

vii. Verify, at least monthly, in coordination with the Project Inspector, that all as-built documents are being updated pursuant to the Contract between the DISTRICT and the Contractor.

(2) Making regular reports as may be required by all governmental agencies or authorities having jurisdiction over the PROJECT;

(3) Reviewing schedules and shop drawings for compliance with design;

(4) Approving substitution of materials, equipment, and the laboratory reports thereof for conformance to the DISTRICT's standards subject to DISTRICT knowledge and approval;

(5) Responding to field trip notes;

(6) Preparing Construction Change Documents;

(7) Preparing Immediate Change Directives as directed by the DISTRICT;

(8) Preparing change orders for written approval by the DISTRICT;

(9) Making Punch List observations when the PROJECT reaches Substantial Completion;

(10) Determining date of Substantial Completion and the date of final completion of the PROJECT;

(11) Providing a color schedule of all materials for the PROJECT for the DISTRICT's review and approval;

(12) Assembling and delivering to the DISTRICT written guarantees, instruction books, diagrams, charts, and as-built documents that will be provided by the Contractor pursuant to the Contract between the DISTRICT and the Contractor;

(13) Issuing the CONSULTANT's Certificate of Substantial Completion, Certificate of Completion and final certificate for payment; and

(14) Providing any other CONSULTANT services to fulfill the requirements of the Construction Documents and this AGREEMENT.

h. The CONSULTANT shall provide the DISTRICT with written reports, as necessary, to inform the DISTRICT of any problems arising during construction, changes contemplated as a result of each problem, and the progress of work.

i. The CONSULTANT, as part of the CONSULTANT's Basic Services, shall advise the DISTRICT of any deficiencies in construction following the acceptance of the work and prior to the expiration of the guarantee period of the PROJECT.

j. The CONSULTANT shall be the interpreter of the requirements of the Construction Documents and advise the DISTRICT as to the performance by the Contractor thereunder.

k. The CONSULTANT shall make recommendations to the DISTRICT on claims relating to the execution and progress of the work and all matters and questions relating thereto. The CONSULTANT's recommendations in matters relating to artistic effect shall be consistent with the intent of the Construction Documents.

l. The CONSULTANT shall advise the DISTRICT to reject work which does not conform to the Construction Documents. The CONSULTANT shall promptly inform the DISTRICT whenever, in the CONSULTANT's opinion, it may be necessary to stop the work to avoid the improper performance of the AGREEMENT. The CONSULTANT has authority to require additional inspection or testing of the work in accordance with the provisions of the Construction Documents, whether work is fabricated, installed, or completed. The CONSULTANT shall have the authority, upon its sole discretion, to reject PROJECT Contractor(s)'s work that presents an immediate risk of injury to persons.

m. The CONSULTANT shall not issue orders to the Contractor that might commit the DISTRICT to extra expenses, or otherwise amend the Construction Documents, without first obtaining the written approval of the DISTRICT.

n. The CONSULTANT shall be the DISTRICT's representative during construction and shall advise and consult with the DISTRICT. The CONSULTANT shall have authority to act on behalf of the DISTRICT only to the extent provided in this AGREEMENT, unless otherwise modified in writing.

o. The CONSULTANT shall prepare all documents and/or drawings made necessary by errors and omissions in the originally approved drawings or specifications, and such modifications therein as may be necessary to meet unanticipated conditions encountered during construction, at no additional cost or expense to the DISTRICT. In addition, the CONSULTANT shall, at no additional cost, provide services made necessary by defect or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the CONSULTANT and promptly reported to the DISTRICT and Contractor, but which CONSULTANT failed to do.

p. In consultation with the DISTRICT and the Construction Manager, the CONSULTANT shall assist in the development and implementation of procedures, forms and documents for the submittal, review, processing and disbursement of progress payments to the Project contractor(s). The CONSULTANT shall examine, verify, and approve the Contractor's applications for payment and issue certificates for payment for the work and materials provided by the Contractor which also reflect the CONSULTANT's recommendation as to any amount which should be retained or deducted from those payments under the terms of the Construction Documents or for any other reason. The CONSULTANT shall review and respond to applications for progress payment in a prompt manner so as to allow the DISTRICT to timely meet its payment obligations to the

PROJECT Contractor(s) under the terms of the Contract Documents and applicable law, rule or regulation. The CONSULTANT's certification for payment shall constitute a representation to the DISTRICT, based on the CONSULTANT's observations and inspections at the site, that the work has progressed to the level certified, that quality of the work is in accordance with the approved Construction Documents, that the as-built documents are up to date, and that the Contractor is entitled to payment in the amount certified.

q. The CONSULTANT shall review and approve, or take other appropriate action, upon the Contractor's submittals of shop drawings, product data, and samples for the purpose of checking for conformance with the Construction Documents. CONSULTANT shall take action upon any submittal within fourteen (14) days of receipt. The CONSULTANT's actions shall not delay the work, but should allow for sufficient time, in the CONSULTANT's professional judgment, to permit adequate review. CONSULTANT shall review Contractor's schedule of submittals and advise the DISTRICT on whether that schedule is complete. The CONSULTANT shall provide the DISTRICT with proposed revisions to this schedule and advise the DISTRICT on whether the DISTRICT should approve this schedule.

r. The CONSULTANT's action upon Contractor's submittals shall be taken as expeditiously as possible so as to cause no unreasonable delay in the construction of the PROJECT or in the work of separate contractors, while allowing sufficient time in the CONSULTANT's professional judgment to permit adequate review. In no case shall the review period associated with a single, particular submittal exceed ten (10) business days from its receipt by the CONSULTANT, unless the complexity of the submittal warrants a longer time period for the review to be mutually agreed upon by both PARTIES. CONSULTANT's response to each submittal shall be a substantive and acceptable response. This ten (10) day time period shall not include time when a submittal is within the DISTRICT's control. In no way does this provision reduce the CONSULTANT's liability if it fails to prepare acceptable documents.

s. After the PROJECT has been let, all changes to the approved Construction Documents shall be made by means of a Construction Change Document ("CCD") unless otherwise approved by the DISTRICT in writing. The CONSULTANT shall be responsible for preparing each CCD related to the PROJECT and shall determine which changes affect the Structural, Access or Fire & Life Safety (collectively "SAFLS") portions of the PROJECT and ensure that such changes are documented.

t. The CONSULTANT shall prepare and issue Immediate Change Directives ("ICD") to the Contractor when directed by the DISTRICT to complete the work that is necessary due to the Contractor's failure to complete the PROJECT in accordance with the approved Construction Documents. The CONSULTANT shall provide the Project Inspector with a copy of the ICD and direct the Project Inspector to inspect the work as it is completed in accordance with the ICD.

u. CONSULTANT shall review all of Contractor's change order requests to determine if those requests are valid and appropriate. CONSULTANT shall provide a recommendation to DISTRICT as to whether the change should be approved, partially approved, returned to the Contractor for clarification, or rejected.

v. The CONSULTANT shall furnish all necessary additional drawings for supplementing, clarifying, and/or correcting purposes and for change orders. The DISTRICT shall request these drawings from the CONSULTANT and shall be at no additional cost unless designated as Extra Services by the DISTRICT. The original tracing(s) and/or drawings and contract wording for change orders shall be submitted to the DISTRICT for duplication and distribution.

w. All changes to the approved Construction Documents, whether set forth in a CCD, ICD or any other document approved by the DISTRICT, shall be incorporated into change orders by the CONSULTANT for the DISTRICT's approval. Each change order shall identify: (1) the description of the change in the work; (2) the amount of the adjustment to the Contractor's Contract sum, if any; and (3) the extent of the adjustment in the Contractor's Contract Time, if any. The CONSULTANT shall prepare change orders, with supporting documentation and data, for the DISTRICT's review in accordance with the Construction Documents, and may authorize minor changes in the work not involving an adjustment in the contract sum or an extension of time.

x. During the course of construction, all Requests for Information ("RFI") must be responded to as expeditiously as possible so as not to impact and delay the construction progress. In no case shall the review period associated with an RFI exceed **five (5) calendar days** from the receipt by the CONSULTANT. CONSULTANT's response to each RFI shall be a substantive and acceptable response. This **five (5)** day time period shall not include time when a submittal is within the DISTRICT's control. In no way does this provision reduce the CONSULTANT's liability if it fails to prepare acceptable documents.

y. The CONSULTANT shall, at the CONSULTANT's expense, prepare a set of reproducible record drawings showing significant changes in the work made during construction based on the marked-up prints, drawings and other data furnished by the Contractor to the CONSULTANT.

z. The CONSULTANT shall inspect the PROJECT to determine the date or dates of Substantial Completion and final completion. The CONSULTANT shall receive and forward to the DISTRICT for the DISTRICT's review all written warranties and related documents required by the Construction Documents, and issue a final certificate for payment upon Contractor compliance with the requirements of the Construction Documents. In the event the approved schedule for the PROJECT has been exceeded due to the fault of the Contractor, the CONSULTANT shall issue a written notice to the DISTRICT and the Contractor evaluating the cause of the delay(s) and shall advise the DISTRICT and the Contractor of the commencement of liquidated damages under the Contract between the DISTRICT and Contractor.

aa. The CONSULTANT shall provide written evaluation of the Contractor's performance under the requirements of the Construction Documents when requested in writing by the DISTRICT. When the CONSULTANT has actual knowledge of any defects, errors, or deficiencies with respect to the Contractor's performance on the PROJECT, the CONSULTANT shall provide the DISTRICT and the Contractor with written notification of such defects, errors, or deficiencies.

bb. The CONSULTANT shall:

(1) Review all requests for information ("RFI"), submittals, and substitution requests that are submitted by the Contractor in connection with the PROJECT;

(2) Determine the data criteria required to evaluate requests for substitutions; and

cc. The CONSULTANT shall be responsible for gathering information and processing forms required by any applicable governing agencies and/or authorities having jurisdiction over the PROJECT including, but not limited to, the County Health Department, the local building departments, local fire departments, and the State Chancellor, in a timely manner and ensure proper close-out of the PROJECT.

dd. The CONSULTANT shall obtain the DISTRICT's approval of all CCD immediately following the request for such changes by the Contractor or upon any other circumstances necessitating a change. Furthermore, the CONSULTANT shall maintain a log of all CCD's, ICD's, change orders or any other DISTRICT approved form documenting changes to the approved Construction Documents (the "Changes Log"), including status, for the DISTRICT's review and approval. The CONSULTANT shall submit the Changes Log to the DISTRICT with its monthly invoice. Submission of the Changes Log is a requirement for payments to the CONSULTANT during the course of construction.

ee. The CONSULTANT shall evaluate and render written recommendations within a reasonable time on all claims, disputes, or other matters at issue between the DISTRICT and Contractor relating to the execution or progress of the work as provided in the Contract between the DISTRICT and the Contractor. Under no circumstances should this evaluation take longer than 20 calendar days from the date the claim is received by the CONSULTANT.

ff. The CONSULTANT shall provide assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation. CONSULTANT shall review equipment, operation and maintenance manuals, and a complete set of warranty documents for all equipment and installed systems, to ensure that they meet the requirements of the plans and specifications. CONSULTANT shall also provide, at the DISTRICT's request,

CONSULTANT/engineering advice to the DISTRICT on start-up, break-in, and debugging of facility systems and equipment, and apparent deficiencies in construction following the acceptance of the Contractor's work.

gg. The CONSULTANT shall review the list of minor defects, deficiencies, and/or incomplete items (hereinafter the "Punch List") that are submitted to the DISTRICT by the Contractor when the Contractor considers the PROJECT to be Substantially Complete. The CONSULTANT shall inspect the PROJECT, in conjunction with the Contractor, in order to visually verify the Contractor's Punch List, add any and all other items to the Punch List and to confirm that Substantial Completion has been reached on the PROJECT. In the event the Contractor does not submit a fully executed Verified Report with its proposed Punch List, the CONSULTANT shall reject the Contractor's Punch List, in writing, as premature. If Substantial Completion of the PROJECT is verified by the CONSULTANT and the required Verified Report has been submitted to the DISTRICT for review, the CONSULTANT shall finalize the Punch List and notify the Contractor in writing that all Punch List items must be corrected prior to acceptance of the PROJECT and final payment, and that all Punch List items must be completed within the duration set forth in the Contract between the DISTRICT and the Contractor. The DISTRICT shall also be notified in writing of all Punch List items identified by the CONSULTANT and the Contractor. The CONSULTANT shall notify the DISTRICT when all Punch List items have been corrected by the Contractor for the DISTRICT's final acceptance of the PROJECT and final payment. In the event the Contractor fails to correct any Punch List item(s) within the duration set forth in the Contract between the DISTRICT and the Contractor, the CONSULTANT shall inform the DISTRICT of such default and provide the DISTRICT with a reasonable valuation of the cost to correct each outstanding Punch List item for deduction from the Contractor's final payment and/or retention. The CONSULTANT shall review, evaluate and certify for payment the PROJECT Contractor(s)'s application for final payment. The CONSULTANT shall review and respond to the PROJECT Contractor(s)'s application for final payment in a prompt manner so as to allow the DISTRICT to timely meet its obligation to make payment of the final payment under applicable law, rule or regulation. For purposes of this AGREEMENT, "Substantial Completion" shall mean the following four (4) conditions have been met: (1) all contractually required items have been installed with the exception of only minor and incomplete items on the Punch List; (2) All Fire/Life Safety Systems have been installed, and are working and signed off on the Inspection Card; (3) all building systems including mechanical, electrical and plumbing are functioning; and (4) the PROJECT is fit for occupancy and its intended use.

hh. Once the CONSULTANT has verified the Substantial Completion of the PROJECT, the CONSULTANT shall issue a Certificate of Substantial Completion to the Contractor and the DISTRICT. Upon the issuance of the Certificate of Substantial Completion, the CONSULTANT shall prepare and submit to Project Inspector and the DISTRICT a written Verified Report pursuant to Section 4-336 of Title 24 of the California Code of Regulations. The CONSULTANT shall also submit a signed Verified Report to Project Inspector and the DISTRICT upon any of the following events:

(1) Work on the PROJECT is suspended for a period of more than one month;

(2) The services of the CONSULTANT are terminated for any reason prior to the completion of the PROJECT;

ii. The CONSULTANT and its consultants shall verify that all defective, deficient, or incomplete work identified in any Notice(s) of Deviation or similar notice(s) issued by the CONSULTANT, Project Inspector, Special Inspector(s), Laboratory of Record and/or any governmental agency or authority, is fully corrected and closed before the CONSULTANT approves any final Punch List by the Contractor. As part of the CONSULTANT's Basic Services under this Section, the CONSULTANT shall direct the applicable Inspectors, Special Inspectors, and/or engineers on the PROJECT to visually verify that each defective, deficient and/or incomplete item of work referenced in each Notice of Deviation have been rectified and closed prior to the approval of the final Punch List and the issuance of any Certificate of Substantial Completion by the CONSULTANT. In the event the CONSULTANT and/or its consultants fail to verify that such work has been corrected by the Contractor before the CONSULTANT approves the final Punch-List and such work has in fact not been corrected, the CONSULTANT shall be responsible for performing all the CONSULTANT and/or engineering services necessary, at no additional cost to the DISTRICT, to ensure such open and outstanding items in the Notice(s) of Deviation are addressed accordingly and that all work related to such notices is corrected in a manner acceptable to the DISTRICT.

jj. The CONSULTANT shall provide to the DISTRICT a hard copy of the following items produced in this phase, together with one copy of each item in electronic format:

- (1) Two (2) copies of meeting report/minutes from kick-off meeting;
- (2) Two (2) copies of observation reports;
- (3) Two (2) copies of weekly meeting reports.

kk. CONSULTANT acknowledges that the DISTRICT and/or the Inspector of Record may require CONSULTANT to submit changes or clarifications to the Construction Drawings and other documentation to DISTRICT for its consideration and approval during the Construction Administration Phase.

36. Project Close-Out

a. Within **thirty (30)** days after the completion of the PROJECT's construction and the CONSULTANT's receipt of as-built documents from the Contractor, CONSULTANT will review the as-built documents prepared by the Contractor and revise the record drawings and specifications so that they include all material changes made

necessary by CCD's, ICD's, change orders, RFI's, change order requests ("COR's"), Bulletins, clarifications as noted by the Contractor in its as-built documents and/or any other DISTRICT approved document which details the changes that were made to the approved Construction Documents. The CONSULTANT shall incorporate such changes into a complete AutoCAD as-built file, in the original, executable, software format, and PDF files, and provide all such documents, including five (5) hard copies, to the DISTRICT at no additional cost. In the event the Contractor fails to provide its as-built documents within **thirty (30)** days of the PROJECT's completion, the CONSULTANT shall notify the DISTRICT, in writing, of the Contractor's failure and recommend the appropriate withholding from the Contractor's final payment under the Contract with the DISTRICT.

b. The CONSULTANT shall assist the DISTRICT in securing all applicable documents described in Sections c and d below, to DISTRICT for review prior to issuance of a "Certificate of Completion." The CONSULTANT shall submit all documents prepared by, or in control of, the CONSULTANT to DISTRICT without delay.

c. Upon the completion of all construction, including all Punch List items, the CONSULTANT shall assist the DISTRICT in securing the following documents:

(1) Copy of the Notice of Completion.

(2) Final Verified Report certifying all work is 100% complete from the CONSULTANT, structural engineer, mechanical engineer, and electrical engineer.

(3) Final Verified Report certifying all work is 100% complete from the Contractor or Contractors, Project Inspector, and Special Inspector(s).

(4) Verified Reports of Testing and Inspections as specified on the approved drawings and specifications, i.e., Final Laboratory Report, Welding, Glued-Laminated Timber, etc.

The CONSULTANT shall notify the DISTRICT, in writing, if any of the above items are not promptly submitted to the CONSULTANT and/or the DISTRICT by the responsible parties. If necessary, the CONSULTANT shall assist the DISTRICT in obtaining the above documents.

ARTICLE III - ADDITIONAL CONSULTANT'S SERVICES

1. The CONSULTANT shall notify the DISTRICT in writing of the need for additional services required due to circumstances beyond the CONSULTANT's control ("Additional Services"). The CONSULTANT shall obtain written authorization from the DISTRICT before rendering Additional Services. Compensation for all valid Additional Services shall be negotiated and approved in writing by the DISTRICT before such Additional Services are performed by the CONSULTANT. No compensation shall be paid to the CONSULTANT for any Additional Services that are not previously approved by the DISTRICT in writing. Additional Services may include:

- a. Making material revisions in drawings, specifications, or other documents when such revisions are required by the enactment or revision of laws, rules, or regulations subsequent to Agency approval;
- b. Making material revisions in drawings, specifications or other documents when such revisions are required to comply with direction from the DISTRICT that is substantively different than approvals or instructions previously given by the DISTRICT;
- c. Providing consultation concerning the replacement of work damaged by fire and furnishing services required in connection with the replacement of such work;
- d. Providing services made necessary by the default of the Contractor, which does not arise directly or indirectly from negligence, errors, or omissions of CONSULTANT;
- e. If the DISTRICT requests the PROJECT be let on a segregated basis after the completion of Design Development Phase where segregation does not arise from CONSULTANT exceeding the estimated Budget constraint, then plan preparation and/or contract administration work to prepare the segregated plans is an Additional Service subject to prior negotiation and written approval by the DISTRICT;
- f. Providing contract administration services after the construction Contract time (including any Governmental Delay Float as addressed in the General Conditions of the Construction Contract with Contractor) has been exceeded through no fault of the CONSULTANT, where it is determined that the fault is that of the Contractor, and liquidated damages are collected therefor. The CONSULTANT's compensation is expressly conditioned on the lack of fault of the CONSULTANT and payment will be made upon collection of liquidated damages from the Contractor. Payment of the CONSULTANT shall be made from collected liquidated damages;
- g. Providing documents that exceeds LOD 300; and
- h. Providing any other services not otherwise included in this AGREEMENT or not customarily furnished in accordance with generally accepted CONSULTANT practice and as approved by the DISTRICT in writing.

2. If authorized in writing by the DISTRICT, the CONSULTANT shall provide one or more PROJECT representatives to assist in carrying out more extensive representation at the site than is described in Article II. The PROJECT representative(s) shall be selected, employed, and directed by the CONSULTANT, and the CONSULTANT shall be compensated therefor as agreed by the DISTRICT and CONSULTANT. Through the observations of such PROJECT representative(s), the CONSULTANT shall endeavor to provide further protection for the DISTRICT against defects and deficiencies in the work, but the furnishing of such PROJECT representation shall not modify the rights, responsibilities, or obligations of the CONSULTANT as described elsewhere in this AGREEMENT. Such services shall be negotiated and approved in writing by the DISTRICT.

ARTICLE IV - DISTRICT'S RESPONSIBILITIES

1. The DISTRICT shall provide to the CONSULTANT information regarding requirements for the PROJECT, including information regarding the DISTRICT's objectives, schedule, and budget constraints, as well as any other criteria provided by the DISTRICT.

2. Prior to the Schematic Design Phase, the CONSULTANT shall prepare a current overall budget for the PROJECT which shall include the Construction Cost for the PROJECT ("Budget"). The Budget shall be based upon the DISTRICT's objectives, schedule, budget constraints, and any other criteria that are provided to the CONSULTANT by the DISTRICT pursuant to Article IV, Section 1, above, and shall be consistent with EXHIBIT "E". The DISTRICT shall approve the Budget prepared by the CONSULTANT pursuant to this Section and this shall be the Budget for the PROJECT as set forth in this AGREEMENT.

3. The DISTRICT shall notify the CONSULTANT of administrative procedures required and name a representative authorized to act on its behalf. The DISTRICT shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the PROJECT. The DISTRICT shall observe the procedure of issuing any orders to Contractors only through the CONSULTANT.

4. The DISTRICT shall give prompt written notice to the CONSULTANT if the DISTRICT becomes aware of any fault or defect in the PROJECT or nonconformance with the Construction Documents. However, the DISTRICT's failure or omission to do so shall not relieve the CONSULTANT of the CONSULTANT's responsibilities under Title 21, Title 24, and the Field Act hereunder, nor shall it waive any remedy DISTRICT may have against CONSULTANT. The DISTRICT shall have no duty to observe, inspect, or investigate the PROJECT.

5. The proposed language of certifications requested of the CONSULTANT or CONSULTANT's consultants shall be submitted to the CONSULTANT for review and approval at least fourteen (14) days prior to execution.

6. The DISTRICT shall provide a topographical survey to the CONSULTANT upon request.

ARTICLE V - COST OF CONSTRUCTION

1. During the Schematic Design, Design Development, and Construction Document Phases, the CONSULTANT's estimates of Construction Cost shall be reconciled against the Budget approved by the DISTRICT pursuant to Article IV, Section 2.

2. The PROJECT's "Construction Cost," as used in this AGREEMENT and further defined in Exhibit "E", means the total cost to the DISTRICT of all work designed or specified by the CONSULTANT, which includes the total award from the initial construction Contract(s) plus the work covered by approved change orders and/or any alternates approved by the DISTRICT. The Construction Cost shall not include any costs that are not specifically referenced in this Article V, Section 2, as approved costs. Costs excluded from the Construction Cost include, but are not

limited to, payments to the CONSULTANT or other DISTRICT consultants, costs of inspections, surveys, tests, furniture and equipment not fixed to the building, and landscaping not included in PROJECT.

3. When labor or material is furnished by the DISTRICT below its market cost, the Construction Cost shall be based upon current market cost of labor and new material.

4. The Construction Cost shall be the acceptable estimate of Construction Costs to the DISTRICT as submitted by the CONSULTANT until such time as bids have been received, whereupon it shall be the bid amount of the lowest responsible responsive bidder.

5. Any Budget or fixed limit of Construction Cost shall be adjusted if the bidding has not commenced within ninety (90) days after the CONSULTANT submits the approved documents to the DISTRICT to reflect changes in the general level of prices in the construction industry between the date of submission of the approved documents to the DISTRICT and the date on which bids are sought for the PROJECT.

6. The DISTRICT is relying on the CONSULTANT's expertise regarding the cost of construction. If the lowest bid received exceeds the Budget:

a. The DISTRICT may give written approval of an increase of such fixed limit and proceed with the construction of the PROJECT;

b. The DISTRICT may authorize renegotiation, when appropriate, or rebidding of the PROJECT within a reasonable time at no additional cost to the DISTRICT;

c. If the PROJECT is abandoned, the DISTRICT may terminate this AGREEMENT in accordance with Article VIII, Section 2;

d. The DISTRICT may request the CONSULTANT prepare, at no additional cost, deductive change packages that will bring the PROJECT within the Budget; or

e. The DISTRICT may request the CONSULTANT cooperate in revising the PROJECT scope and quality as required to reduce the Construction Cost.

7. If the DISTRICT chooses to proceed under Article V, Section 6(e), the CONSULTANT, without additional charge, agrees to redesign the PROJECT until the PROJECT is brought within the Budget set forth in this AGREEMENT. Redesign does not mean phasing or removal of parts of the PROJECT unless agreed to in writing by the DISTRICT. Redesign means the redesign of the PROJECT, with all its component parts, to meet the Budget set forth in this AGREEMENT. If the DISTRICT chooses to proceed under Article V, Section 6(e) CONSULTANT's remaining obligations under this AGREEMENT shall not be affected.

ARTICLE VI - ESTIMATE OF PROJECT CONSTRUCTION COSTS

1. Estimates referred to in Article II shall be prepared on a square foot/unit cost basis, or more detailed computation if deemed necessary by the DISTRICT, considering prevailing construction costs and including all work for which bids or proposals will be received. It is understood that the PROJECT Construction Cost is affected by the labor and/or material market as well as other conditions beyond the control of the CONSULTANT or DISTRICT.

2. The CONSULTANT shall prepare and review the CONSULTANT's estimates of Construction Cost at each phase of the CONSULTANT's services. The CONSULTANT shall provide the DISTRICT with a written evaluation of the estimates at each phase of the CONSULTANT's services. The CONSULTANT's written evaluations shall, among other things, evaluate how the estimates compare to the Budget. If such estimates are in excess of the Budget, the CONSULTANT shall revise the type or quality of construction to come within the Budget at no additional cost to the DISTRICT. The CONSULTANT's initial budget and scope limitations shall be realistic and be reviewed with the DISTRICT prior to formalization.

3. The CONSULTANT, upon request of the DISTRICT, shall prepare a detailed estimate of Construction Costs at no additional cost.

ARTICLE VII - CONSULTANT'S DRAWINGS AND SPECIFICATIONS

1. All documents including, but not limited to, plans, drawings, specifications, record drawings, models, mock-ups, renderings and other documents (including all computer files, BIM files and/or AutoCAD files) prepared by the CONSULTANT or the CONSULTANT's consultants for this PROJECT, shall be and remain the property of the DISTRICT.

2. If DISTRICT intends to reuse CONSULTANT's plans, specifications, or other documents for a project or projects other than that which is the subject of this AGREEMENT, or otherwise modify those documents for reuse, the DISTRICT agrees to indemnify, defend, and hold the CONSULTANT harmless from and against any and all claims, liabilities, suits, demands, losses, costs, and expenses, including, but not limited to, reasonable attorneys' fees accruing to, or resulting from, any and all persons, firms, or any other legal entity, on account of any damage or loss to property or persons including, but not limited to, death arising out of such unauthorized use, reuse or modification of the CONSULTANT's drawings, specifications, or other documents. The DISTRICT further agrees to remove the names and seals of the CONSULTANT and the CONSULTANT's consultants from the title block and signature pages. The DISTRICT, however, may use the CONSULTANT's plans and documents as enumerated in this Article as reference documents for the purposes of additions, alignments, or other development on the PROJECT site.

ARTICLE VIII – TERMINATION: SUSPENSION

1. DISTRICT's Termination for Default. The DISTRICT may terminate this Agreement upon seven (7) days advance written notice to the CONSULTANT if there is a default by the CONSULTANT in its performance of a material obligation hereunder and such default in performance is not caused by the DISTRICT. Such termination shall be deemed effective the seventh (7th) day following the date of the written termination notice, unless during such seven (7) day period, the CONSULTANT shall commence to cure its default(s) and diligently thereafter

prosecute such cure to completion. In addition to the DISTRICT's right to terminate this Agreement pursuant to the foregoing, the DISTRICT may terminate this Agreement upon written notice to CONSULTANT if: (i) CONSULTANT becomes bankrupt or insolvent, which shall include without limitation, a general assignment for the benefit of creditors or the filing by CONSULTANT or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for CONSULTANT or any of CONSULTANT's property on account of CONSULTANT's insolvency; or (ii) if CONSULTANT disregards applicable laws, codes, ordinances, rules or regulations. If DISTRICT exercises the right of termination hereunder, the Contract Price due the CONSULTANT, if any, shall be based upon Basic Services, authorized Additional Services, and allowable expenses incurred or provided prior the effective date of the DISTRICT's termination of this Agreement, reduced by the DISTRICT's prior payments of the Contract Price and losses, damages, or other costs sustained by the DISTRICT arising out of the termination of this Agreement or the cause(s) for termination of this Agreement. Payment of the amount due the CONSULTANT, if any, shall be made by DISTRICT only after completion of the Post-Construction Phase of the Project. CONSULTANT shall remain responsible and liable to DISTRICT for all losses, damages, or other costs sustained by DISTRICT arising out of termination pursuant to the foregoing or otherwise arising out of CONSULTANT's default hereunder, to the extent that such losses, damages or other costs exceed any amount due CONSULTANT hereunder for Basic Services, authorized Additional Services, and Expenses.

2. CONSULTANT's Termination for Cause. The CONSULTANT has the right to terminate this AGREEMENT if the DISTRICT fails to make payment of undisputed amounts due to CONSULTANT hereunder. That termination shall be effective on the date DISTRICT receives written notice of the termination from CONSULTANT. CONSULTANT may invoice District for Basic Services and any approved Additional Services as of the date of termination and District shall pay all undisputed invoice(s) for services performed until the CONSULTANT's notice of termination, not to exceed the CONSULTANT's fee.

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

4. CONSULTANT Obligations upon Termination. Upon the DISTRICT's exercise of the right of termination under Article III, Paragraph 1 or 2 of this Agreement, the CONSULTANT shall take action as directed by the DISTRICT relative to its on-going administration of geotechnical construction services of the Project. If requested by the DISTRICT, the CONSULTANT shall within ten (10) days of such request, assemble and deliver to the DISTRICT all Geotechnical Documents, work product, instruments of service, and other items of a tangible nature (whether in the form of documents, drawings, samples or electronic files) prepared by or on behalf of the CONSULTANT under this Agreement. The CONSULTANT shall

deliver the originals of all Geotechnical Documents, work product, instruments of service, and other items of a tangible nature requested by the DISTRICT pursuant to the preceding sentence; provided, however, that the CONSULTANT may, at its sole cost and expense, make reproductions of the originals delivered to the DISTRICT.

5. DISTRICT's Right to Suspend. The DISTRICT may, in its discretion, suspend all or any part of the construction of the Project or the CONSULTANT's services under this Agreement; provided, however, that if the DISTRICT shall suspend construction of the Project or CONSULTANT's services under this Agreement for a period of one-hundred and twenty (120) consecutive days or more and such suspension is not caused by the CONSULTANT's default or the acts or omissions of CONSULTANT or its CONSULTANTS, upon lifting of such suspension, the Contract Price may be adjusted to reflect actual costs and expenses incurred by CONSULTANT, if any, as a direct result of the suspension and resumption of the Project construction or CONSULTANT's services under this Agreement.

ARTICLE IX – DISPUTES

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

2. Mandatory Mediation.

a. The PARTIES hereto agree prior to commencing any legal action relating to any Claim, as defined herein, to submit the Claim to a mandatory good-faith mediation process ("Mediation"). The PARTIES' expectations are that if the Claim is made by a third party (e.g., a contractor), that the third party will be a participant in that Mediation. The PARTIES agree that any statute of limitations applicable to any Claim shall be tolled for the period from the date a PARTY requests Mediation through fourteen (14) days after termination of the Mediation, unless otherwise agreed to by the Parties.

b. Except as set forth below, the PARTIES agree to refrain from filing, maintaining or prosecuting any action related to the Claim during the pendency of the Mediation provided that the Mediation must commence within thirty (30) days after a PARTY makes written demand to the other for Mediation.

c. The PARTIES shall participate in a minimum of one full-day mediation session before the Mediation may be declared unsuccessful and terminated by either PARTY. The Mediation shall be conducted in accordance with the rules as the PARTIES agree upon, or in the absence of agreement, in accordance with the Commercial Mediation Rules of JAMS/Endispute. Evidence of anything said, any admissions made, and any documents prepared in the course of the Mediation shall not be admissible in evidence or subject to discovery in any court action pursuant to Evidence Code Section 1152.5.

d. The PARTIES shall mutually agree to the selection of a mediator who is an attorney that is experienced in public works construction claims. If the PARTIES are unable to agree upon a mediator, then the mediator shall be appointed by JAMS/Endispute.

e. The Mediation shall take place at a location within twenty (20) miles of the DISTRICT's administrative office. The mediator's fees and administrative fees, if any, shall be split equally between the PARTIES, but, unless otherwise agreed to in writing, each PARTY shall bear its own attorney's fees.

f. If any PARTY commences a legal action without first attempting to resolve the Claim as required by this Article IX, that PARTY shall be in breach of this AGREEMENT and shall not be entitled to recover attorney's fees that might have otherwise been recoverable.

g. This mandatory mediation process shall only apply to Claims pursuant to the Article XIII, Section 5 herein and shall not apply to any disputes to be resolved pursuant to the Alternative Dispute Resolution provision herein.

3. Compliance with Government Code §900 et seq. The foregoing provisions relating to dispute resolution procedures notwithstanding, neither this Agreement nor such provisions shall be deemed to waive, limit or modify any requirements under Government Code §900 et seq. relating to the CONSULTANT's submission of claims to the DISTRICT as a express condition precedent and prerequisite to filing a Demand for Arbitration, which shall be deemed a "claim" for money or damages under Government Code §900 et seq. The CONSULTANT's strict compliance with all applicable provisions of Government Code §900 et seq. in connection with any claim, dispute or other disagreement arising hereunder shall be an express condition precedent to the CONSULTANT's initiation of the binding arbitration procedures under Article IV, Paragraph 3, above.

4. THE PARTIES UNDERSTAND AND AGREE THAT ARTICLE VIII OF THIS AGREEMENT SHALL GOVERN ALL TERMINATION RIGHTS AND PROCEDURES BETWEEN THE PARTIES. ANY TERMINATION PROVISION THAT IS ATTACHED TO THIS AGREEMENT AS AN EXHIBIT SHALL BE VOID AND UNENFORCEABLE BETWEEN THE PARTIES.

ARTICLE X – ACCOUNTING RECORDS OF THE CONSULTANT & AUDITING RIGHTS OF DISTRICT

1. Records of the CONSULTANT's direct personnel and reimbursable expenses pertaining to the services performed on this PROJECT and records of accounts between the DISTRICT and Contractor shall be kept on a generally recognized accounting basis and shall be available to the DISTRICT or his authorized representative at mutually convenient times.

2. The DISTRICT retains the right to review and audit, and the reasonable right of access to CONSULTANT's and any consultant's premises to review and audit the

CONSULTANT's compliance with the provisions of this AGREEMENT ("District's Audit Right"). The DISTRICT's Audit Right includes the right to inspect, photocopy, and to retain copies, outside of the CONSULTANT's premises, of any and all PROJECT-related records, documents and other information with appropriate safeguards, if such retention is deemed necessary by the DISTRICT in its sole discretion. The DISTRICT shall keep this information confidential, as allowed by applicable law.

3. The DISTRICT's Audit Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the DISTRICT determines are necessary to discover and verify that the CONSULTANT is in compliance with the requirements of this AGREEMENT.

4. If there is a claim for additional compensation or for Additional Services, the DISTRICT's Audit Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the DISTRICT determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

5. The CONSULTANT shall maintain complete and accurate records for a minimum of seven (7) years and in accordance with generally accepted accounting practices in the industry. The CONSULTANT shall make available to the DISTRICT for review and audit, all PROJECT related accounting records and documents, and any other financial data. Upon DISTRICT's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to the DISTRICT.

6. The CONSULTANT shall include audit provisions in any and all of its subcontracts and shall ensure that this Article is binding upon all consultants.

7. The CONSULTANT shall comply with these provisions within fifteen (15) days of the DISTRICT's written request to review and audit any or all of CONSULTANT's Project-related documents, records and information.

8. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of more than Ten Thousand Dollars (\$10,000), the AGREEMENT shall be subject to the examination and audit of the State Auditor, at the request of the DISTRICT, or as part of any audit of the DISTRICT, for a period of three (3) years after final payment under the AGREEMENT.

ARTICLE XI – COMPENSATION TO THE CONSULTANT

1. DISTRICT agrees to pay CONSULTANT in accordance with the rate and price schedule information set forth in EXHIBIT "B" for the services performed pursuant to this AGREEMENT.

2. The CONSULTANT's fees for performing Additional Services related to change orders are paid as approved by the DISTRICT's Board. If a change order is approved without

CONSULTANT fee, no fee will be paid to the CONSULTANT unless negotiated and approved prior to commencing the change order-related services.

3. The CONSULTANT's compensation for performing all the Basic Services required by this AGREEMENT shall be as follows:

- Survey and As-Built Phase: No more than 65% of the estimated CONSULTANT Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion
- Construction Docs Phase: No more than 18% of the estimated CONSULTANT Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion
- Bid and Award Phase: No more than 2% of the estimated CONSULTANT Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion
- Construction Admin. Phase: No more than 10% of the actual CONSULTANT Fee, as determined under Exhibit "A" to this AGREEMENT and the accepted bid, to be paid monthly based on actual level of completion
- Project Close-Out Phase: Balance of actual CONSULTANT Fee to be paid after the all the requirements set forth in Article II, "Project Close-Out" have been completed and the Notice of Completion has been recorded (if applicable).

4. The CONSULTANT and its consultants shall maintain time sheets detailing information including, but not limited to, the name of the employee, date, a description of the task performed in sufficient detail to allow the DISTRICT to determine the services provided, and the time spent for each task. The DISTRICT and CONSULTANT may otherwise mutually agree, in writing, on alternative types of information and levels of detail that may be provided by the CONSULTANT and its consultants pursuant to this Article XI.

5. The CONSULTANT shall invoice all fees and/or costs monthly for the Basic Services that are provided in accordance with this AGREEMENT from the time the CONSULTANT begins work on the PROJECT. The CONSULTANT shall submit one (1) invoice monthly to the DISTRICT detailing all the fees associated with the applicable progress to completion percentage, reimbursable expenses (if any), and Additional Services (if any) incurred for the monthly billing period. Invoices requesting reimbursement for expenses incurred during the billing period must clearly list items for which reimbursement is being requested and be accompanied by proper documentation (e.g., receipts, invoices), including a copy of the DISTRICT's authorization notice for the invoiced item(s), if applicable. The DISTRICT reserves the right to return unsubstantiated Invoices to the CONSULTANT for clarification without payment. Invoices requesting payment for Additional Services must reflect the negotiated compensation previously approved by the

DISTRICT and include a copy of the DISTRICT's written authorization notice approving the Additional Services and the additional compensation approved by the DISTRICT. No payments will be made by the DISTRICT to the CONSULTANT for monthly invoices requesting reimbursable expenses or Additional Services absent the prior written authorization of the DISTRICT. The DISTRICT's prior written authorization is an express condition precedent to any payment by the DISTRICT for Additional Services or reimbursable expenses and no claim by the CONSULTANT for additional compensation related to Additional Services or reimbursable expenses shall be valid absent such prior written approval by the DISTRICT.

6. To the extent that the time initially established for the completion of CONSULTANT's services is exceeded or extended through no fault of the CONSULTANT, compensation for any services rendered during the additional period of time shall be negotiated and subject to the prior written approval of the DISTRICT. Assessment and collection of liquidated damages from the Contractor is a condition precedent to payment for extra services arising from Contractor-caused delays.

7. Reimbursable expenses, if included in EXHIBIT "B", are in addition to compensation for basic and extra services, and shall be paid to CONSULTANT at **one and five-hundredths (1.05)** times the expenses incurred by CONSULTANT, CONSULTANT's employees and consultants. Reimbursable expenses shall not be exceeded without the prior written approval of DISTRICT. Provided that CONSULTANT obtains DISTRICT's prior written approval, costs and expenses will be reimbursed to CONSULTANT in accordance with EXHIBIT "B" and this Article XI. DISTRICT's prior written authorization is an express condition precedent to any reimbursement to CONSULTANT of such costs and expenses, and no claim for any additional compensation or reimbursement shall be valid absent such prior written approval by DISTRICT. CONSULTANT's mileage and travel time shall **not** be considered as an allowable reimbursable expense. Items that may be considered for reimbursement, if requested by DISTRICT, are as follows:

- a. Approved reproduction of drawings and specifications in excess of the copies provided by this AGREEMENT; and
- b. Approved agency fees.
- c. Items requested/approved by the DISTRICT in writing.

8. Reimbursable Expenses shall not include the following specified items or any other item not specifically identified in Article XI, Section 7 above:

- a. Travel expenses;
- b. Check prints;
- c. Prints or plans or specifications made for CONSULTANT's consultants and all progress prints;
- d. Plans and specifications that are required per Article II;
- e. CONSULTANT's consultants' reimbursables;
- f. Models or mock-ups; and
- g. Meetings with Cities, planning officials, fire departments, State Chancellor or other public agencies.

9. **Errors and Omissions:** In addition to the standards and requirements set forth elsewhere in this Agreement, this Article XI, Paragraph 9 and subsequent subsections establish the standards and requirements that specifically govern the CONSULTANT'S and DISTRICT'S apportionment of the risks associated with errors and omissions in the Construction Documents and/or for other failure on the part of the CONSULTANT to perform competently and completely the services and/or work under this Agreement.

- a. **Errors:** An error is where incorrect and/or conflicting information, specifications, or drawings are provided by the CONSULTANT.
- b. **Omissions:** An omission is where the CONSULTANT has failed to include information, specifications, or drawings that are required to build and complete the intended Project that should have been included at the time of the Construction Documents are approved by District.
- c. **Responsibility for Errors and Omissions:** The CONSULTANT shall be solely responsible for and pay all of the DISTRICT'S costs, expenses, fees and damages, of any and all kind, either due to or arising from errors by the CONSULTANT and/or one or more of the CONSULTANT'S consultants and/or sub-consultants as stated herein or that violate the standard of care set forth in Article XI, Paragraph 9 and subsequent subsections. The CONSULTANT shall be responsible for and pay all of the DISTRICT'S costs, expenses, fees and damages, of all kind, arising from the omissions of the CONSULTANT and/or one or more of the CONSULTANT'S consultants and/or sub-consultants that are greater than what the DISTRICT would have paid had the work been correctly shown in the approved Contract Documents. Notwithstanding the foregoing, the DISTRICT will pay for the costs, expenses, fees and/or damages arising from such errors and/or omissions up to a maximum aggregate amount of four percent (4%) of the Contractor's Contract sum. The CONSULTANT shall be solely responsible for and pay for all of the DISTRICT'S costs, expenses, fees and/or damages arising from such errors and/or omissions in excess of four percent (4%) of the Contractor's Contract sum.

ARTICLE XII - EMPLOYEES AND CONSULTANTS

1. The CONSULTANT, as part of the CONSULTANT's basic professional services, shall furnish the consultant services necessary to complete the PROJECT including, but not limited to: landscape CONSULTANTS; theater and acoustical consultants; structural, mechanical, electrical and civil engineers; and any other necessary design professionals and/or consultants as determined by the CONSULTANT and acceptable to the DISTRICT. All consultant services shall be provided at the CONSULTANT's sole expense. The CONSULTANT shall be responsible for the coordination and cooperation of all CONSULTANTS, engineers, experts or other consultants employed by the CONSULTANT. The CONSULTANT shall ensure that its engineers and/or

other consultants file the required Interim Verified Reports, Verified Report and other documents that are necessary for the PROJECT's timely inspection and close-out as required by the applicable governmental agencies and/or authorities having jurisdiction over the PROJECT including, but not limited to, DSA. The CONSULTANT shall ensure that its engineers and consultants observe the construction of the PROJECT during the course of construction, at no additional cost to the DISTRICT, to maintain such personal contact with the PROJECT as is necessary to assure such engineers and consultants that the Contractor's work is being completed, in every material respect, in compliance with the approved Construction Documents (in no case shall the number of visits be less than once every week or as necessary to observe work being completed in connection with each block/section of a PIC so such engineers and consultants can verify that the work does or does not comply with the approved Construction Documents, whichever is greater).

2. The CONSULTANT has been selected to perform the services herein because of the skills and expertise of key individuals.

3. The CONSULTANT agrees that personnel identified in EXHIBIT "C" shall be assigned to the PROJECT. CONSULTANT shall not change any of the key personnel listed in EXHIBIT "C" without prior written notice to, and written approval by, District, unless said personnel cease to be employed by CONSULTANT. In either case, DISTRICT shall be allowed to interview and approve replacement personnel.

4. The CONSULTANT shall submit, for written approval by the DISTRICT, the names of the consultants and/or consultant firms proposed for the PROJECT. The CONSULTANT shall notify the DISTRICT of the identity of all design professionals and/or consultants in sufficient time prior to their commencement of services to allow the DISTRICT a reasonable opportunity to review their qualifications and object to their participation on the PROJECT if necessary. The CONSULTANT shall not assign or permit the assignment of any design professionals, engineers, or other consultants to the PROJECT to which DISTRICT has a reasonable objection. Approved design professionals and/or consultants shall not be changed without the prior written consent of the DISTRICT. Nothing in this AGREEMENT shall create any contractual relation between the DISTRICT and any consultants employed by the CONSULTANTS under the terms of this AGREEMENT.

5. CONSULTANT shall promptly obtain written DISTRICT approval of any assignment, reassignment or replacement of such CONSULTANTS, engineers, experts and consultants, or of other staff changes of key personnel working on the project. As provided in this Agreement, any changes in CONSULTANT's consultants and staff shall be subject to the DISTRICT's approval.

6. If any personnel fail to perform to the satisfaction of the DISTRICT or fully comply with the terms of this AGREEMENT, then upon written notice by the DISTRICT the CONSULTANT shall remove that person from the project and replace that person with personnel acceptable to the DISTRICT with five (5) business days of said notice. All lead or key personnel for CONSULTANT must also be designated by the CONSULTANT and shall be subject to the DISTRICT's right to interview and approve replacement personnel. In either case, the DISTRICT shall be allowed to interview and approve replacement personnel.

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

8. The construction administrator or field representative assigned to the PROJECT by the CONSULTANT shall be licensed as a California CONSULTANT and able to make critical PROJECT decisions in a timely manner and shall be readily available and provide by phone, facsimile, and through correspondence, design direction and decisions when the construction administrator is not at the site.

ARTICLE XIII – MISCELLANEOUS

1. CONSULTANT represent that the CONSULTANT has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of the Services and that no person having any such interest shall be employed by CONSULTANT. In the event a conflict arises during the performance of this Agreement, said person shall be immediately removed from the Project and replaced with personnel acceptable to the District.

2. CONSULTANT shall execute the Roofing Contract Financial Interest Certification and Iran Contracting Certification attached to this AGREEMENT.

3. The CONSULTANT shall make a written record of all meetings, conferences, discussions, and decisions made between or among the DISTRICT, CONSULTANT, and Contractor during all phases of the PROJECT and concerning any material condition in the requirements, scope, performance and/or sequence of the work. The CONSULTANT shall provide a copy of such record to the DISTRICT.

4. **CONSULTANT's Indemnity.**

a. To the fullest extent permitted by California law and in accordance with California Civil Code section 2782.8, CONSULTANT shall indemnify, protect, defend and hold free and harmless the DISTRICT, its agents, representatives, officers, consultants, employees, trustees and members ("Indemnified Parties") from any and all actions, assessments, counts, citations, claims, costs, damages, demands, judgments, liabilities (legal, administrative or otherwise), losses, notices, expenses, fines, penalties, proceedings, responsibilities, violations, attorney's and consultants' fees and causes of action to property or persons, including, without any limitation whatsoever, personal injury and/or death ("Claim(s)"), to the extent that the Claim(s) arises out of, pertains to, or relates to the negligence (active or passive, ordinary or gross), recklessness (ordinary or gross), or willful misconduct of the CONSULTANT, its directors, officials, officers, employees, contractors, subcontractors, consultants or agents arising out of, connected with, or resulting from the performance of CONSULTANT's services, the PROJECT, or this AGREEMENT. This indemnity excludes CONSULTANT liability as to the active or sole negligence or willful misconduct of the District.

b. The following shall be Claims, to the extent they satisfy the definition of Claims herein:

(1) Without limiting CONSULTANT's liability for indirect cost impacts due to PROJECT delays, the direct costs for which the CONSULTANT shall be liable shall be proportionate to the amount the DISTRICT is liable to the PROJECT Contractor(s), subcontractor(s), suppliers, inspector(s), construction manager(s) for the PROJECT delays, including the proportionate cost of interim housing necessitated by PROJECT delays, to the extent that the PROJECT delays arise out of, pertain to, relate to or result from the negligent errors or omissions, recklessness, or willful misconduct of CONSULTANT in the performance of any services that falls below the standard of care or fail to conform with CONSULTANT's responsibilities under this AGREEMENT.

(2) Without limiting CONSULTANT's liability for indirect cost impacts, the direct costs for which the CONSULTANT shall be liable shall equal the difference between the cost of the change order(s) and the reasonable cost of the work had that work been a part of the originally prepared construction documents, to the extent that the change order(s) arise out of, pertain to, relate to or result from the negligent errors or omissions, recklessness, or willful misconduct of CONSULTANT in the performance of any services that falls below the standard of care or fail to conform with CONSULTANT's responsibilities under this AGREEMENT.

(3) These amounts may be paid by CONSULTANT to DISTRICT or the DISTRICT may in reasonable good faith withhold those costs from amounts owing to CONSULTANT, pending resolution of the dispute.

c. The CONSULTANT's duty to indemnify and defend under this AGREEMENT shall apply during the term of this AGREEMENT and shall survive any expiration or termination of this AGREEMENT until any such Claim(s) are barred by the applicable statute of limitations and is in addition to any other rights or remedies that the DISTRICT may have under the law or under this AGREEMENT.

d. The CONSULTANT's duty to defend shall begin upon the DISTRICT's notification to the CONSULTANT of a Claim. At that time, the CONSULTANT shall pay for that defense at its sole cost. At the resolution of a Claim, either by dispute resolution, settlement, litigation, arbitration or otherwise, the DISTRICT and CONSULTANT shall base their proportionate percentage of fault for the Claim either upon (1) the determination of a third-party neutral that adjudicated or settled the claim (e.g., a mediator, an arbitrator, a judge, etc.) or (2) if no determination was made, based on a good faith determination of the DISTRICT and the CONSULTANT. At that time, the PARTIES shall determine the cost to defend that is chargeable to the CONSULTANT and a payment from one PARTY to the other PARTY shall be made within sixty (60) days to satisfy that reconciliation.

e. The PARTIES understand and agree that Article XIII, Section 5, of this AGREEMENT shall be the sole indemnity, as defined by California Civil Code § 2772, between the DISTRICT and the CONSULTANT related to the PROJECT. Any other indemnity that is attached to this AGREEMENT as part of any EXHIBIT shall be void and unenforceable between the PARTIES.

f. Any attempt to limit the CONSULTANT's liability to the DISTRICT in any of the exhibits or attachments to this AGREEMENT shall be void and unenforceable between the PARTIES.

5. Other than as provided in this AGREEMENT, the DISTRICT's financial obligations under this AGREEMENT shall be limited to the payment of the compensation provided in this AGREEMENT. Notwithstanding any other provision of this AGREEMENT, in no event shall the DISTRICT be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this AGREEMENT for the CONSULTANT's services performed hereunder. District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by CONSULTANT, or by its employees and consultants, even though the equipment may be furnished or loaned to CONSULTANT by DISTRICT.

6. The CONSULTANT shall be solely responsible for and pay all of the DISTRICT'S costs, expenses, fees and damages, of any and all kind, either due to or arising from errors by the CONSULTANT and/or one or more of the CONSULTANT'S consultants and/or sub-consultants as stated in the AGREEMENT. The CONSULTANT shall be responsible for and pay all of the DISTRICT'S costs, expenses, fees and damages, of all kind, arising from the omissions of the CONSULTANT and/or one or more of the CONSULTANT'S consultants and/or sub-consultants that are greater than what the DISTRICT would have paid had the work been correctly shown in the approved Contract Documents. Notwithstanding the foregoing, the DISTRICT will pay for the costs, expenses, fees and/or damages arising from such errors and/or omissions up to a maximum aggregate amount of three percent (3%) of the value of the awarded construction contract at the time of execution of the contract with the Contractor. The CONSULTANT shall be solely responsible for and pay for all of the DISTRICT'S costs, expenses, fees and/or damages arising from such errors and/or omissions in excess of three percent (3%) of the value of the awarded construction contract at the time of execution of the contract with the Contractor.

7. CONSULTANT shall purchase and maintain policies of insurance with an insurer or insurers qualified to do business in the State of California and acceptable to DISTRICT, which will protect CONSULTANT and DISTRICT from claims which may arise out of, or result from, CONSULTANT's actions or inactions relating to the AGREEMENT, whether such actions or inactions be by themselves or by any subconsultant, subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

a. The CONSULTANT shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California. However, such amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).

b. Commercial general and auto liability insurance, with limits of not less than TWO MILLION DOLLARS (\$2,000,000.00) combined single limit, bodily injury and property damage liability per occurrence, including:

1. Owned, non-owned, and hired vehicles;
2. Blanket contractual;
3. Broad form property damage;
4. Products/completed operations; and
5. Personal injury.

c. Professional liability insurance, including contractual liability, with limits of TWO MILLION DOLLARS (\$2,000,000.00) per claim, to continue through completion of construction plus "tail" coverage for two (2) years thereafter. Rates for insurance shall be consistent with the rates at the time of execution of this AGREEMENT adjusted for inflation. In the event that CONSULTANT subcontracts any portion of CONSULTANT's duties, CONSULTANT shall require any such subcontractor to purchase and maintain insurance coverage as provided in this Section. Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

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

e. Each policy of insurance required under Article XIII, Section 6 (b), above, shall name the DISTRICT and its officers, agents, and employees as additional insureds; shall be occurrence based policies, except for professional liability insurance which shall be claims made; shall state that, with respect to the operations of CONSULTANT hereunder, such policy is primary and any insurance carried by DISTRICT is excess and non-contributory with such primary insurance; shall state that not less than thirty (30) days' written notice shall be given to DISTRICT prior to cancellation; and, shall waive all rights of subrogation. CONSULTANT shall notify DISTRICT in the event of material change in, or failure to renew, each policy. Prior to commencing work, the CONSULTANT shall deliver to DISTRICT certificates of insurance as evidence of compliance with the requirements herein. In the event the CONSULTANT fails to secure or maintain any policy of insurance required hereby, the DISTRICT may, at its sole discretion, secure such policy of insurance in the name of, and for the account of, CONSULTANT, and in such event CONSULTANT shall reimburse DISTRICT upon demand for the cost thereof.

f. In the event that the CONSULTANT subcontracts any portion of the CONSULTANT's duties, the CONSULTANT shall require any such subcontractor to purchase and maintain insurance coverage for the types of insurance referenced in Article XIII, Sections (a), (b), (c) and (d), in amounts which are appropriate with respect to that subcontractor's part of work which shall in no event be less than \$500,000 per occurrence. The CONSULTANT shall not subcontract any portion of the CONSULTANT's duties under this AGREEMENT without the DISTRICT's prior written approval. Specification processing consultants are the only subcontractors exempt from maintaining professional liability insurance.

g. All insurance coverage amounts specified hereinabove shall cover only risks relating to, or arising out of, the PROJECT governed by this particular AGREEMENT. The insurance and required amounts of insurance specified above shall not be reduced or encumbered on account of any other projects of the CONSULTANT.

h. Furthermore, and to the coverage and limits specified herein shall be the greater of:

(1) The minimum coverage and limits specified in this AGREEMENT; or

(2) The broader coverage and maximum limits of coverage, if any, of any existing insurance policy required of the CONSULTANT to be kept pursuant to this AGREEMENT.

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

9. Notices. All notices or demands to be given under this AGREEMENT by either party to the other shall be in writing and given either by: (a) personal service; or (b) U.S. Mail, mailed either by registered, overnight, or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this Section. At the date of this AGREEMENT, the addresses of the PARTIES are as follows:

DISTRICT:

Rancho Santiago Community College District
2323 N. Broadway, Suite 112
Santa Ana, CA 92706
Attn: Carri M. Matsumoto
Telephone: (714) 480-7510
Facsimile: (714) 796-3910

CONSULTANT:

IDS Group, Inc.
1 Peters Canyon Road, Suite 130
Irvine, CA 92606
Attn: Said Hilmy
Telephone: (949) 378-8500

10. The CONSULTANT, or any person, firm, or corporation employed by the CONSULTANT, either directly or by independent contract, shall be prohibited from using tobacco products (smoking, chewing, etc.) on DISTRICT property at all times.

11. Effective April 25, 2016, the Board of Trustees adopted Board Policy 3821 Gift Ban Policy. The CONSULTANT shall adhere to Board Policy 3821 as there are strict prohibitions outlined in the policy. For further reference and information please read BP 3821 located found on the RSCCD website at <http://www.rsccd.edu/Trustees/Pages/BP-3821.aspx>.

12. The CONSULTANT, or any person, firm, or corporation employed by the CONSULTANT, either directly or by independent contract, shall be prohibited from using profanity on DISTRICT property including, but not limited to, all DISTRICT sites and this prohibition shall include, but is not limited to, all racial, ethnic and/or sexual slurs or comments which could be considered harassment.

13. Appropriate dress by the CONSULTANT, or any person, firm, or corporation employed by the CONSULTANT, either directly or by independent contract, is mandatory. Therefore, tank tops, cut-offs and shorts shall not be allowed. Additionally, what is written or pictured on clothing must comply with the requirements of acceptable language as set forth above in Section above.

14. Nothing contained in this AGREEMENT shall create a contractual relationship with, or a cause of action in favor of, any third party against either the DISTRICT or CONSULTANT.

15. The DISTRICT and CONSULTANT, respectively, bind themselves, their partners, officers, successors, assigns, and legal representatives to the other party to this AGREEMENT with respect to the terms of this AGREEMENT. CONSULTANT shall not assign this AGREEMENT.

16. This AGREEMENT shall be governed by the laws of the State of California. Venue for any action arising from this AGREEMENT or CONSULTANT's services hereunder shall be in the county in which the DISTRICT's administrative offices are located.

17. This AGREEMENT represents the entire AGREEMENT between the DISTRICT and CONSULTANT and supersedes all prior negotiations, representations, or agreements, either

written or oral. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the DISTRICT and the CONSULTANT.

18. If either PARTY becomes involved in litigation arising out of this AGREEMENT or the performance thereof, each PARTY shall bear its own litigation costs and expenses, including reasonable attorneys' fees.

19. This AGREEMENT shall be liberally construed to effectuate the intention of the PARTIES with respect to the transaction described herein. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase, or provision of this AGREEMENT, neither this AGREEMENT nor any uncertainty or ambiguity herein will be construed or resolved against either party (including the PARTY primarily responsible for drafting and preparation of this AGREEMENT), under any rule of construction or otherwise, it being expressly understood and agreed that the PARTIES have participated equally or have had equal opportunity to participate in the drafting hereof.

20. The CONSULTANT is prohibited from capturing on any visual medium images of any property, logo, student, or employee of the DISTRICT, or any image that represents the DISTRICT without express written consent from the DISTRICT.

21. This AGREEMENT is not valid, binding, or an enforceable obligation against the DISTRICT until approved or ratified by motion of the Governing Board, duly passed and adopted.

22. COVID-19. Consultant shall at all times comply with all federal, state, and local directives, ordinances, laws, health orders and regulations and District guidelines including, but not limited to, OSHA and Cal-OSHA concerning COVID-19. This may require scheduling site visits by appointment only, the ability to conduct business meetings via online or the internet, wearing required face mask protection and maintain social distancing guidelines if attendance on site is necessary to conduct essential business related to services described herein.

23. This AGREEMENT may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. Any such counterpart containing an electronic, digital or facsimile signature shall be deemed an original. Execution of this AGREEMENT, signifies the parties mutual consent to conduct transactions electronically. Pursuant to the California Uniform Electronic Transactions act ("UETA") (Cal. Civic Code § 1633.1 et seq.) and California Government Code §16.5, the DISTRICT reserves the right to conduct business electronically, unless otherwise communicated by the DISTRICT to stop such electronic transactions, including without limitation to the use of electronic or digital signatures.

24. The PARTIES, through their authorized representatives, have executed this AGREEMENT as of the day and year first written above.

CONSULTANT:
IDS Group, Inc.

DISTRICT:
RANCHO SANTIAGO COMMUNITY
COLLEGE DISTRICT

By: _____

By: _____

Print Name:

Adam M. O'Connor, Interim Vice
Chancellor Business Operations and Fiscal
Services

Its: _____

Date: _____

Date: _____

Address: _____

Phone: _____

Tax ID: _____

E-mail: _____

COPIES TO:

GENERATING OFFICE
Rancho Santiago Community College District
2323 N. Broadway, Suite 112
Santa Ana, CA 92706
Carri Matsumoto, Assistant Vice Chancellor
Facility Planning, District Construction and
Support Services

PURCHASING DEPARTMENT
Rancho Santiago Community College District
2323 N. Broadway, Suite 109
Santa Ana, CA 92706
Linda Melendez, Director of Purchasing Services

EXHIBIT “A”

PROJECT DESCRIPTION

The project is located at Building K in Santa Ana College, located at 1530 W. 17th St., Santa Ana, CA 92706.

The Welding Technology Department at Santa Ana College requested and desires to add new exterior lighting and electrical upgrades for class welding equipment, power tools, and other instructional equipment to improve the safety of the students and improve the welding technology program electrical infrastructure. This is the second phase of a multi-phase project. The first phase consisted of a CMU wall extension to be able to accommodate the expansion for new receptacles along the wall. The increase of the wall height has allowed the exterior welding stations to move further away from the building closer to the wall, as the current stations are too close to the existing building and have insufficient walking space around the stations which is a trip hazard to students. As part of the second phase of the project, additional lighting and appropriately sized electrical receptacles will also be added to the CMU wall to facilitate further exterior instructional use providing a safer instructional environment and improving the electrical infrastructure for the welding technology program. This project will address the second phase of this request.

The scope of work for the project is as following outlined in RFP#1920-270.

Task 1 – Electrical Load Survey with as-built

1. Provide a detailed survey of existing equipment/panels and a 30-day load test to verify the loads on each of the distribution panels.
2. Provide electrical as-built for the existing condition.

Task 2 – Construction Documents

1. Provide seven (7) new 120v GFCI quad outlets along the East CMU wall next to existing 220v outlets from Branch Panel “W”.
2. Provide seven (7) new lighting fixtures along the East CMU wall at nine (9) feet high from Branch Panel “W”.
3. Provide required electricity and grounding for existing Torchmate CNC Plasma Cutting Machine in K103-A.

In addition, the electrical scope of services for the project is as following outlined in IDS Proposal revised on March 22, 2021.

1. Two (2) one day site visits to survey existing electrical panels and scope site areas.

2. Conference call design meetings and or email correspondence as required with the project team throughout the design phase
3. Prepare Construction Documents including plans, details (in AutoCad) and specifications and submit documents to client for their review and comments.
4. Electrical CD's to include site and floor plans, schedules, single line diagram, load calculations and details.
5. Incorporate owner's comments into final construction document drawings and specifications.
6. Prepare plans for District to review.
7. Provide Construction Administration (CA) support services:
 - a. Review and provide written responses to the contractor's requests for information.
 - b. Review and process shop drawings and submittals.
 - c. Provide three (3) site visits during construction; one kick-off, one interim and one final punch walk.

Note: Site meetings during construction, if required or requested, will be provided at a rate of \$1,000 per meeting

EXHIBIT “B”

CONSULTANT’S FEE

The total not-to-exceed fee is **Thirty Nine Thousand Nine Hundred and 0/100 DOLLARS (\$39,900)**. Included in this not-to-exceed fee is the following:

Compensation for Basic Services: The DISTRICT shall compensate the CONSULTANT a fixed fee of THIRTY-NINE THOUSAND NINE HUNDRED DOLLARS (\$39,900) for performing the Basic Services as described in this AGREEMENT and billed in accordance with Article XI.

The CONSULTANT and their subconsultant’s hourly rates for additional services are included in EXHIBIT “F”. Rates are valid for the entire duration of the AGREEMENT and shall not be adjusted except as agreed upon by the PARTIES in writing.

EXHIBIT "C"
CONSULTANTS AND THEIR KEY PERSONNEL

{RESERVED}

EXHIBIT “D”

PROJECT SCHEDULE

The CONSULTANT shall complete the Services required under this Agreement in accordance with the following Milestone Activities, as required by the scope of work: The anticipated project schedule indicated below is subject to change.

<u>Task</u>	<u>Duration</u>
CONSULTANT conduct/prepare electrical load survey and as-built survey.	8 weeks
DISTRICT/Third Party Review of Survey and As-built.	1 weeks
CONSULTANT prepares 60% Construction Documents	2 weeks
DISTRICT/Third Party Review of 60% Construction Documents	1 weeks
CONSULTANT prepares 100% Construction Documents	2 weeks
DISTRICT/Third Party Review of 100% Construction Documents	1 weeks
Bid Phase	6 weeks
Construction Phase:	
Submittal/Procurement Phase	2 weeks
Construction Phase	4 weeks
Substantial Completion (Anticipated Date to Be)	December 7, 2021
Project Closeout	January 7, 2022

EXHIBIT “E”

CONSTRUCTION BUDGET

The construction budget for the project shall not exceed **\$85,000.00**.

EXHIBIT “F”

CONSULTANT AND SUB-CONSULTANT’S HOURLY RATES

The rates set forth in this Schedule “F” shall be valid and not increased during the life of this Agreement.

CONSULTANT’S Hourly rates

IDS Group, Inc.		
Position:	Name of Personnel:	Hourly Rate:
Principal in Charge	Said Hilmy	\$210
Associate Principal	Rob O’Neil	\$196
Senior Project Manager/Associate	John Silber, RA	\$185
Project Manager	Mat Waller	\$173
Senior Architect, RA	Maxwell Sinclair, RA	\$161
Senior Civil Engineer, PE	Peter Gambino, PE	\$161
Senior Structural Engineer, SE	Jaime Rosenbach	\$161
Senior Mechanical Engineer	Darren Smith, PE	\$161
Senior Electrical Engineer	Joseph Petrossian, PE	\$161
Senior Cost Estimator	Faisal Dakhil	\$149
Senior Plumbing Engineer	Khurram Hayat	\$149
Project Engineer	Stuart McKnight	\$149
Designer Engineer	Joy Dufitumukiza	\$132
Engineering Designer – BIM	Darin McKee	\$116
Two Man Survey Crew	Sam Wheeler PE., Jason Wetterich	\$276
Architectural Job Captain/Designer	Song Brandner	\$110
CAD Drafting Engineer / Architect	Marilou Francisco	\$99
Office Administration	Jewel Zambrano	\$61

EXHIBIT “G” – LOCAL HIRE AND LOCAL BUSINESS INFORMATION

The Rancho Santiago Community College District is interested in furthering opportunities for Local Hires and Local Businesses and the Board of Trustees has established a goal of 50% participation of “Local Hires” and 25% participation of “Local Businesses” for various capital construction projects. It is the intent of the District to not only meet these goals, but to exceed them. As used in this Exhibit, “Local Hire” and “Local Business” is defined as follows:

“Local Hire” means an individual who is “domiciled”, as defined in Elections Code section 349(b), in the following zip codes at least seven days prior to commencing work on the Project: 92602, 92606, 92610, 92612, 92614, 92618, 92620, 92626, 92627, 92660, 92675, 92676, 92679, 92688, 92701, 92703, 92704, 92705, 92706, 92707, 92708, 92780, 92782, 92802, 92805, 92806, 92807, 92808, 92840, 92843, 92861, 92862, 92865, 92866, 92867, 92868, 92869, 92883, or 92887. Local Hire shall also mean a “veteran” as defined in Military and Veterans Code section 980, who possesses a current and valid DD Form 214 card, and will provide work on the Project. Local Hire shall also mean any current or former student that the District determines is or was enrolled as a student at one of the District’s colleges, and will provide work on the Project.

“Local Business” means a business serving as a vendor as defined in Business and Professions Code section 7026 or a business supplying construction-related materials that has its principal headquarters or permanently staffed regional office and that has held a business license within the zip codes listed above for Local Hire for a minimum of three months prior to the date the entity submits a bid, contract, or proposal for the Project. A Local Business vendor must also be properly registered with the Department of Industrial Relations in accordance with Labor Code section 1725.5. Local Business shall also mean any business supplying services or supplies for the Project that has its principal headquarters or permanently staffed regional office and that has held a business license within the zip codes listed above for Local Hire for a minimum of three months prior to the date the entity signs a contract or proposal for the Project. Local Business shall also mean any state or nationally certified minority-owned, women-owned, or disabled veteran business that has performed work for the District or other public agency within the zip codes listed above for Local Hire during the past four years. Certification for a minority-owned, women-owned, or disabled veteran business must be provided to the District. Local Business shall also mean a business that participates in an internship program that is currently approved or recognized by the District. The entity may also apply to obtain District approval of its internship program. The internship program must be approved by the District and must be completed by the end of the Project or by the next semester immediately after completion of the Project. Local Business shall also mean any entity that uses apprentices from a District approved apprenticeship program.

The Consultant agrees it will use Local Hires and Local Businesses to the extent possible or if the opportunity arises at any time. The District may request information or documents to confirm participation by a Local Hire or Business and Consultant agrees to comply with any reasonable requests.

Please complete questions below, including additional sheet for each Subconsultant (if applicable):

Company: _____

1. Firm is a Minority Business Enterprise (MBE) ☐ Yes ☐ No
2. Firm is a Women Business Enterprise (WBE) ☐ Yes ☐ No
3. Firm is a Disabled Veteran Business Enterprise (DVBE) ☐ Yes ☐ No

If "yes" for items 1-3 above, provide a copy of certification.

4. Firm is a Veteran Owned Business ☐ Yes ☐ No

If "yes" to 4, provide DD214 Form/Card

5. This business participates in or provides opportunities for internship programs:

☐ Yes ☐ No

If "yes", state type of internship program(s) offered: _____

6. List ALL Team Members who are considered a Local Hire. Check the applicable box(es), if any, pertaining to each individual.

	Team Member (First and Last Name)	Zip Code (for Local Residents Only)	Local Resident*	RSCCD Student**	Veteran	Intern
1						
2						
3						
4						
5						
6						
7						

** A RSCCD student is an individual who is or was enrolled in one or more classes at any of these campuses (Santa Ana College, Centennial Education Center, Digital Media Center, Orange County Sheriff's Regional Training Academy, Santiago Canyon College or Orange Education Center).

In submitting this form, the Consultant certifies that it has independently verified that all Local Hires and Local Businesses noted in this agreement meet the definitions for Local Hires and Local Businesses as set forth in Board Policy 6610 and Administrative Regulation 6610. The District may request Consultant to provide additional information or documents to support the numbers listed above. Consultant agrees to provide all additional information or documents requested by the District. Failure to provide any requested information may result in the District delaying Final Payment to the Consultant and Consultant agrees that it shall have no claim for additional costs or days resulting from or in any way related to providing the information in this form.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Name: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT “H”

STATEMENT OF INTENT TO MEET DVBE PARTICIPATION GOALS

The Rancho Santiago Community College District has a participation goal for disabled veteran business enterprises (“DVBE”) of 3 percent per year. Although it is not specifically required, you are encouraged to include DVBE a enterprises as part of the Services under this AGREEMENT. The undersigned, on behalf of _____ (“Consultant”), certifies the following:

- ☐ Consultant **is** a certified Disabled Veteran Business Enterprise
- ☐ Consultant is **not** a certified Disabled Veteran Business Enterprise
- ☐ Consultant will include a certified Disabled Veteran Business Enterprise as part of its Services to the District.
- ☐ Consultant will not include a Certified Disabled Business Enterprise as part of its Services to the District. If this box is checked, please explain why:

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

EXHIBIT “I”

REQUIREMENTS OF DRAWINGS AND SPECIFICATIONS

CONSULTANT’s deliverables for each phase of design shall include and conform with, at a minimum, the following:

1. Construction Documents – 60%

- a. Architectural
 - i. Site plan developed to show building location, and major site elements.
 - ii. Elevations (exterior and interior), sections and floor plans corrected to reflect design development review comments.
 - iii. Architectural details and large blow-ups started.
 - iv. Well-developed finish, door, and hardware schedules.
 - v. Fixed equipment details and identification started.
 - vi. Reflected ceiling plans coordinated with floor plans and mechanical and electrical systems.
- b. Electrical
 - i. Lighting, power, signal and communication plans showing all switching and controls. Fixture schedule and lighting details development started.
 - ii. Distribution information on all power consuming equipment; lighting and device branch wiring development well started.
 - iii. All electrical equipment schedules started.
 - iv. Special system components approximately located on plans.
 - v. Complete design of low voltage system. Low voltage system includes fire alarm system, security system, clock and public address system, voice data system, and telecom/technology system.
- c. Specifications
 - i. More than fifty percent (50%) complete development and preparation of technical specifications describing materials, systems and equipment,

workmanship, quality and performance criteria required for the construction of the PROJECT.

ii. No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless:

1. The specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service, as required by Public Contract Code, section 3400, or

2. The designation is allowable by a specific allowable exemption or exception pursuant to Public Contract Code, section 3400

iii. Specifications shall not contain restrictions that will limit competitive bids other than those required for maintenance convenience by the DISTRICT and only with DISTRICT's prior approval.

iv. Specifications shall be in 6-digit CSI format.

2. Construction Documents – 100%

a. Architectural

- i. Completed site plan.
- ii. Completed floor plans, elevations, and sections.
- iii. Architectural details and large blow-ups completed.
- iv. Finish, door, and hardware schedules completed, including all details.
- v. Fixed equipment details and identification completed.
- vi. Reflected ceiling plans completed.

b. Electrical

- i. Lighting and power plan showing all switching and controls. Fixture schedule and lighting details completed.
- ii. Distribution information on all power consuming equipment, including lighting, power, signal and communication device(s) branch wiring completed.
- iii. All electrical equipment schedules completed.

iv. Special system components plans completed.

v. Electrical load calculations completed.

c. Specifications

i. Complete development and preparation of technical specifications describing materials, systems and equipment, workmanship, quality and performance criteria required for the construction of the PROJECT.

ii. No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless:

1. The specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service, as required by Public Contract Code, section 3400; or

2. The designation is allowable by specific allowable exemptions or exceptions pursuant to Public Contract Code, section 3400.

iii. Specifications shall not contain restrictions that will limit competitive bids other those required for maintenance convenience by the DISTRICT and only with DISTRICT's prior approval.

iv. At one hundred percent (100%) review, DISTRICT shall review the specifications and shall direct CONSULTANT to make corrections at no cost to the DISTRICT.

v. Coordination of the Specifications with specifications developed by other disciplines.

vi. Specifications shall be in 6-digit CSI format.

Constructability Review. The DISTRICT and/or its designee shall conduct a construction review of the Construction Documents. A report shall be given to the CONSULTANT who shall make necessary changes along with providing written comments for each item listed in the report.

IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code § 2204)

PROJECT NO. FMR19-450 BUILDING K WELDING ELECTRICAL LOAD between RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT (“DISTRICT”) and **IDS GROUP, INC.** (“CONSULTANT / ENGINEER”) (“CONTRACT” or “PROJECT”).

Pursuant to Public Contract Code (PCC) section 2204, an Iran Contracting Act certification is required for solicitations of goods or services of one million dollars (\$1,000,000) or more.

CONSULTANT / ENGINEER shall complete **ONLY ONE** of the following two paragraphs.

- ☐ 1. CONSULTANT / ENGINEER’s total Fee is less than one million dollars (\$1,000,000).

OR

- ☐ 2. CONSULTANT / ENGINEER’s total Fee is one million dollars (\$1,000,000) or more, but CONSULTANT / ENGINEER is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (“DGS”) pursuant to Public Contract Code § 2203(b), and CONSULTANT / ENGINEER is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

OR

- ☐ 3. CONSULTANT / ENGINEER’s total Fee is one million dollars (\$1,000,000) or more, but the DISTRICT has given prior written permission to CONSULTANT / ENGINEER to submit a proposal pursuant to PCC 2203(c) or (d). **A copy of the written permission from the DISTRICT is included with this CONTRACT.**

I certify that I am duly authorized to legally bind the CONSULTANT / ENGINEER to this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

Date: _____

Proper Name of CONSULTANT / ENGINEER: _____

Signature: _____

Print Name: _____

Title: _____