

MANGINI

ARCHITECTURE
INGENUITY

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Architect's Project No.: 1807

**AGREEMENT BETWEEN
OWNER AND ARCHITECT FOR**

**PAVING AND DRAINAGE
AT THE DISTRICT BUS GARAGE
COALINGA-HURON JOINT UNIFIED SCHOOL DISTRICT**

AGREEMENT made as of February 8, 2018,

BETWEEN the **Owner** (hereafter referred to as Owner):

COALINGA-HURON JOINT UNIFIED SCHOOL DISTRICT
657 Sunset Street
Coalinga, CA 93210

and the **Architect** (hereafter referred to as Architect):

MANGINI ASSOCIATES INC.
4320 W. Mineral King Avenue
Visalia, CA 93291

For the following **Project**:

PAVING AND DRAINAGE AT THE DISTRICT OFFICE BUS GARAGE
1512 Sunset Street
Coalinga, CA 93210

The Owner and the Architect agree as follows:

ARTICLE 1 - INITIAL INFORMATION

1.1 This Agreement is based on the Initial Information set forth in this Article 1.

1.2 THE PROJECT'S PHYSICAL CHARACTERISTICS

1.2.1 Paving and drainage replacement at the District's bus garage facility at 1512 Sunset Street, Coalinga, CA.

1.3 FINANCIAL INFORMATION

1.3.1 The Owner's budget for the Project is unknown at this time.

1.3.2 The Owner will fund the Project.

1.4 SCHEDULE INFORMATION

1.4.1 The Owner desires the work to be completed during the 2018 summer break.

1.5 PROCUREMENT INFORMATION

1.5.1 The Owner intends to procure the project based on a single general contract based on a single lump sum.

1.6 The Owner and the Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services, and the Architect's compensation.

ARTICLE 2 - ARCHITECT'S RESPONSIBILITIES

2.1 The Architect shall provide the professional services as set forth in this Agreement.

2.2 In providing services under this agreement, the Architect shall exercise that degree of professional skill and care ordinarily used by other reputable architects, practicing in the same or similar locality and under similar circumstances. Nothing in this agreement shall be interpreted to require Architect to meet any higher standard or have any obligation in excess of what is required by said standard and this paragraph shall control over any such contrary provision.

ARTICLE 3 - SCOPE OF ARCHITECT'S BASIC SERVICES

3.1 BASIC SERVICES

3.1.1 The Architect's Basic Services shall consist of the services described in this Article 3, including assisting the Owner in bidding and construction administration.

3.1.2 The Architect's provided documents and the Owner's provided drawings and specifications shall comply with the California Building Code.

3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

3.2.1 The Architect shall utilize the Owner provided drawings and specifications describing the extent and nature of work to be performed.

3.2.2 The Architect shall assist the Owner in the preparation of (1) bidding and procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary, and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and specifications that may include bidding requirements and sample forms.

3.3 BIDDING PHASE SERVICES

3.3.1 Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids; (2) confirming responsiveness of bids or proposals; (3) determining successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.

3.3.2 The Architect shall assist the Owner in bidding the Project by (1) procuring the reproduction of Bidding Documents for distribution to prospective bidders; (2) distributing Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders; (3) organizing and conducting a pre-bid conference for prospective bidders; (4) preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and (5) organizing and conducting the opening of the bids, and subsequently documenting and distributing bid results, as directed by the Owner.

3.3.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

3.4 CONSTRUCTION ADMINISTRATION - CONSTRUCTION SITE REVIEW SERVICES

3.4.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as forth below and in the General Conditions of the Contract for Construction. In the event of conflicts between this Agreement and the General Conditions of the Contract for Construction, this Agreement shall govern. Duties, responsibilities and limitations of authority of the Architect shall not be restricted, modified or extended without written agreement of the Owner and Architect.

3.4.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the Contract Documents. The Architect shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor, or of any other persons performing portions of the Work.

3.4.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

3.4.4 Evaluations of the Work

3.4.4.1 The Architect shall visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed of the progress and quality of the portion of the Work completed, and report to the Owner

(1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

3.4.4.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.

3.4.4.3 The Architect shall interpret and decide matters concerning performance under and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Owner will be the final interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by the Contractor. The Owner shall not disregard the Architect's interpretation without good cause.

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

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

3.4.5 Certificates of Payment to Contractor

3.4.5.1 The Architect shall review and certify the amounts due the Contractor and shall issue certifications in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations at the site as provided in Section 3.3.4 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Notice of Completion, (2) to results of subsequent tests and inspections, (3) to minor deviations from the Contract Documents correctable prior to completion, and (4) to specific qualifications expressed by the Architect.

3.4.5.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

3.4.6 Submittals

3.4.6.1 The Architect shall review and take appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction of the Owner or of separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review.

3.4.6.2 Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of

equipment or systems which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions, or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's review of a specific item shall not indicate approval of an assembly of which the item is a component.

3.4.6.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon such the accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

3.4.6.4 The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that includes the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within the time frames agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

3.4.7 Changes in the Work

3.4.7.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involving an adjustment in the Contract Sum or an extension of the Contract Time.

3.4.7.2 The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

3.4.8 Project Completion

3.4.8.1 The Architect shall conduct inspections to determine the date of Notice of Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

3.4.8.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

3.4.8.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid to the Contract, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

ARTICLE 4 - ADDITIONAL SERVICES

4.1 The Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if authorized or confirmed in writing by the Owner prior to such services being rendered. Compensation for Additional Services shall be as provided in Section 11.3, in addition to compensation for Basic Services.

4.2 Additional Services may be provided after execution of this agreement, without invalidating the Agreement, provided that such Additional Services are approved by Owner prior to such services being rendered. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Article 4 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

4.2.1 Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide Additional Services until the Architect receives the Owner's written authorization.

4.3 Additional Services

4.3.1 Services necessitated by a material change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project, including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method.

4.3.2 Services necessitated by concealed or unknown conditions encountered during the progress of the Work.

4.3.3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws, or regulations or official interpretations subsequent to Owner's approval of the Contract Documents.

4.3.4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner.

4.3.5 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique systems designs, in-depth material research, energy modeling, LEED or CHPS certification, or DSA HPI approved unless such alternatives were requested prior to the effective date of this Agreement.

4.3.6 Providing financial feasibility or other special studies.

4.3.7 Providing special surveys, environmental studies and submissions required for approval of governmental authorities having jurisdiction over the Project, other than those identified in Article 3.

4.3.8 Providing services relative to future facilities, systems or equipment.

4.3.9 Providing services to investigate existing conditions or facilities or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by the Owner.

4.3.10 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

4.3.11 Providing planning surveys, site evaluations or comparative studies of prospective sites.

4.3.12 Providing services for planning tenant or rental spaces.

4.3.13 Providing services in connection with the work of a construction manager or separate consultants retained by the Owner, unless said manager or consultant was engaged prior to the effective date of this Agreement.

4.3.14 Providing detailed estimates (as defined by Section 6.3) of Construction Cost.

4.3.15 Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

- 4.3.16** Providing analyses of owning and operating costs.
- 4.3.17** Providing coordination of Work performed by separate contractors or by the Owner's own forces.
- 4.3.18** Providing on-site project representation during construction beyond Basic Services.
- 4.3.19** Providing building commissioning services, including assistance in the utilization of equipment or systems, such as testing, adjustment and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.
- 4.3.20** Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.
- 4.3.21** Providing detailed quantity surveys or inventories of material, equipment and labor.
- 4.3.22** Attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is a party thereto.
- 4.3.23** Preparing Drawings, Specifications and supporting data and providing other services in connection with change orders unless such change orders are required due to errors or omissions of the Architect.
- 4.3.24** Consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.
- 4.3.25** Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.
- 4.3.26** Providing services after issuance to the Owner of the final Certificate for Payment, or in the absence of a final Certificate for Payment, more than sixty days after the Date of Notice of Completion of the Work.
- 4.3.27** Providing services of consultants for other than the normal architectural, civil, structural, mechanical and electrical engineering services for the Project.
- 4.3.28** Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

ARTICLE 5 - OWNER'S RESPONSIBILITIES

- 5.1** Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project.
- 5.2** The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and Architect shall thereafter agree to a corresponding change in the Project's scope and quality.
- 5.3** The Owner shall identify a representative authorized to act in the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

- 5.4** The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.
- 5.5** The Owner shall furnish all legal, insurance, and accounting services, including auditing services that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.
- 5.6** The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.
- 5.7** The Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and of the Work.
- 5.8** The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

ARTICLE 6 - COST OF THE WORK

- 6.1** For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct of all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.
- 6.2** The Owner's budget for the Cost of the Work is provided in the Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary statement of the Probable Cost of the Work, and updated Statements of Probable Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget for the Cost of the Work or from any Statement of Probable Cost of the Work prepared by the Architect.
- 6.3** In preparing Statements of Probable Cost of the Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project; and to include in the Contract Documents alternate bids to adjust the Probable Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's opinion of the Probable Cost of the Work shall be based on current area, volume, or similar conceptual estimating techniques.
- 6.4** If the Bidding Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

ARTICLE 7 - OWNERSHIP AND USE OF DOCUMENTS

- 7.1** Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project, except as otherwise provided in Section 7.2 below. The Architect's Instruments of Service shall be the property of the Owner as provided by Education Code Section 17316, provided that the Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement.
- 7.2** This Agreement creates a non-exclusive and perpetual license for Owner to copy, use, modify, reuse, or sub-license any and all copyrights, designs, and other intellectual property embodied in the Architect's Instruments of

Service, including drawings, specifications, studies, estimates, and other documents, or any other works of authorship fixed in any tangible medium of expression, including, but not limited to, physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by Architect pursuant to this Agreement. This transfer of rights pertains not only to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project under Education Code Section 17316. This Agreement is an express transfer of rights as specified in Education Code Section 17316(b).

7.3 Architect represents and warrants that Architect has the legal right to license any and all copyrights, designs and other intellectual property embodied in the Architect's Instruments of Service that Architect or its consultant's prepares or causes to be prepared pursuant to this Agreement. The Architect shall indemnify and hold the Owner harmless pursuant to Section 7.2 of this Agreement for any breach of this Article 7. The Architect makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates, or other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Architect and provided to Architect by the Owner.

7.4 The parties acknowledge the Architect's Instruments of Service are not represented to be appropriate for reuse without modification. Any reuse by Owner of documents prepared under this Agreement, without employing the services of Architect, shall be at Owner's own risk. In the event the Owner reuses or modifies the Architect's Instruments of Service developed by the Architect pursuant to this Contract for purposes other than that for which they are contemplated, the Owner shall indemnify, defend, and hold harmless the Architect, its employees and consultants for damages and expenses caused by the Owner's use or modification of the Architect's Instruments of Service, and the parties agree that the provisions of this Article shall be the terms and conditions for the reuse as authorized by Education Code Section 17316(c).

7.5 The Architect will provide the Owner with a customary set of reproducible designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Architect pursuant to this Agreement, and will retain, on the Owner's behalf, the original documents or reproducible copies of all such original documents, however stored, in the Architect's files for a period of no less than fifteen (15) years. The Architect shall promptly make available to Owner any original documents it has retained pursuant to this Agreement upon reasonable request by the Owner.

ARTICLE 8 - CLAIMS AND DISPUTES

8.1 GENERAL

8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or relating to this Agreement within the period specified by applicable law.

8.1.2 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, with limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Article 9.

8.2 MEDIATION

8.2.1 If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by

lot from among two nominations provided by each party. All costs and fees required by the mediator shall be shared equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 60 days, either party may pursue litigation to resolve the dispute.

8.2.2 Demand for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for mediation shall be made within reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such a claim, dispute or other matter in question would be barred by California statutes of limitations.

ARTICLE 9 - TERMINATION OR SUSPENSION

9.1 The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under the Agreement.

9.2 TERMINATION WITHOUT CAUSE

9.2.1 The Owner may terminate this Agreement upon not less than 7 days' written notice to the Architect for Owner's convenience and without cause. Upon the Owner's request and authorization, the Architect shall perform any and all Basic Services and Additional Services reasonably necessary to wind up the work performed to the date of termination.

9.3 SUSPENSION OF THE PROJECT

9.3.1 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. If and when the Project is resumed, the Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

9.3.2 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect or the Architect's consultants, the Architect may terminate this Agreement by giving not less than 7 days' written notice.

9.4 TERMINATION WITH CAUSE

9.4.1 Either party may terminate this Agreement upon not less than 7 days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

9.4.2 Failure of the Owner to make payments to the Architect in accordance with this Agreement shall be considered substantial nonperformance and cause for termination.

9.4.3 If the Owner fails to make payments to the Architect in accordance with this Agreement, other than those payments withheld pursuant to Section 11.7.1, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give 7 days' written notice to the Owner before suspending services. Before resuming services, the Architect shall be paid all sums due prior to suspension services and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fee for the remaining services and the time schedules shall be equitably adjusted.

9.5 EFFECTS OF TERMINATION

9.5.1 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

9.5.2 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7.

ARTICLE 10 - MISCELLANEOUS PROVISIONS

10.1 This Agreement shall be governed by the law of the State of California.

10.2 The Owner and the Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to this Agreement. Neither the Owner nor Architect shall assign this Agreement without the written consent of the other.

10.3 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

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

10.5 Unless otherwise provided in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

10.6 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

ARTICLE 11 - COMPENSATION

11.1 BASIC SERVICES

11.1.1 Hourly Basis: For the Architect's Basic Services described in Article 3, the Owner shall compensate the Architect on an **hourly basis not to exceed \$15,000.00, plus reimbursable expenses**, unless authorized by the Owner in writing, using the Standard Hourly Billing Rates identified in Paragraph 11.3.1 below. Compensation for services rendered by professional consultants provided by the Architect in the interest of the Owner will be computed at a rate of 1.10 times the amount billed to the Architect for such services.

11.2 ADDITIONAL SERVICES

11.2.1 For approved Additional Services that may arise during the course of the Project, the Owner shall compensate the Architect on the basis of a stipulated sum agreed to by the parties in advance of the services being performed, or on an hourly basis, plus compensation for reimbursable expenses.

11.2.2 When compensation for Additional Services is on an hourly basis, compensation for Additional Services of the Architect's consultants will be computed at a rate of 1.10 times the amount billed to the Architect for such services.

11.2.3 For Reimbursable Expenses incurred in the furnishing of Additional Services, compensation will be computed at a rate of 1.10 times the amount of expenses incurred by the Architect and the Architect's Consultants.

11.3 HOURLY BILLING RATES

11.3.1 The hourly billing rates for services of the Architect are set forth below:

Standard Hourly Billing Rates Schedule:

Principal Architect	\$	205.00
Architect III		165.00
Architect II		145.00
Architect I		130.00
Construction Administrator III		145.00
Construction Administrator II		120.00
Construction Administrator I		110.00
Business Manager		155.00
Project Manager		150.00
Interior Designer II		90.00
Interior Designer I		70.00
Drafting Technician IV		110.00
Drafting Technician III		100.00
Drafting Technician II		90.00
Drafting Technician I		70.00
Administrative Asst. II		90.00
Administrative Asst. I		50.00
Expert Witness		350.00

The above rates are effective through December 31, 2018. Work continuing beyond December 31, 2018, shall be subject to increases in the above noted schedule based on Engineering News Record's, "Cost of Living Index Adjustment", until this agreement is modified.

11.4 COMPENSATION FOR REIMBURSABLE EXPENSES

11.4.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include reasonable expenses incurred by the Architect and Architect's consultants directly related to the Project, as follows:

- .1 Transportation in connection with the project shall be compensated at the yearly established rate as permitted and published by the Internal Revenue Service for compensated mileage.
- .2 Expense of out of region meals and lodging in connection with the Project.
- .3 If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates for non-exempt employees.
- .4 Expense of renderings, models and mock-ups requested by the Owner.
- .5 Expense of additional insurance coverage or limits, including professional liability insurance, requested by the Owner in excess of that required by Article 12.
- .6 Expense of reproductions, postage and handling of Drawings, Specifications, and other documents required for approval, bidding, and construction of the Project in the Owner's interest, excluding reproductions for the office use of the Architect and the Architect's consultants.

11.4.2 For Reimbursable Expenses, compensation will be computed at a rate of 1.10 times the amount of expenses incurred by the Architect and the Architect's Consultants.

11.5 PAYMENTS TO THE ARCHITECT

11.5.1 Payments for services and reimbursable expenses shall be made monthly and, where applicable, shall be in proportion to services performed.

11.5.2 Payments are due and payable upon presentation of the Architect's invoice.

11.5.3 Amounts unpaid 30 calendar days after the 5th of the month shall bear interest at the rate of 1-1/2%.

11.6 PAYMENTS WITHHELD

11.6.1 The Owner shall not withhold amounts from the Architect's compensation to impose penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

ARTICLE 12 - INSURANCE PROVISIONS

12.1 General Liability Insurance: Without limiting Architect's indemnification, Architect shall secure and maintain, at its sole cost and expense during the term of this Agreement, a comprehensive general liability insurance policy with combined single limits of \$2,000,000.00 per occurrence, with an General Aggregate limit of \$4,000,000.00.

12.1.2 Upon request, the Owner shall be named as an additional insured on the policy by endorsement. A certificate of insurance will be provided. Written notification from the carrier will be provided to the Owner, at least 30 days prior to cancellation, for failure to renew or cancellation of coverage.

12.2 Worker's Compensation Insurance: Prior to the commencement of services under this Agreement, the Architect shall furnish to the Owner satisfactory proof that the Architect, for the period of this Agreement, is providing workers' compensation insurance with \$1,000,000.00 coverage for all persons whom they may employ in carrying out the Work contemplated under this Agreement in accordance with the Workers' Compensation Laws of the State of California.

12.3 Professional Liability Insurance: Prior to commencement of services under this Agreement, the Architect shall furnish to the Owner satisfactory proof that the Architect has Professional Liability Insurance (errors and omissions) with limits of \$1,000,000.00 per claim/\$2,000,000.00 annual aggregate. This insurance shall be maintained in force during the entire period of time the Architect renders service to the Owner under this Agreement.

ARTICLE 13 - SPECIAL PROVISIONS

13.1 INDEMNIFICATION

13.1.1 The Architect agrees, to the extent permitted by law, to hold harmless and indemnify but not defend the Owner, its Governing Board, each member of the Board, and their officers and employees harmless from any liability for damages to the extent actually caused by the Architect's negligent acts, errors, omissions, or recklessness, or willful misconduct in the performance of professional services arising out of this Agreement and those of his or her officers, employees, consultants or sub-consultants or anyone for whom the Architect is legally responsible (collectively, the "Architect's Parties"). The Architect shall be required to pay the Owner's attorney's fees to the extent the Owner is found to be the prevailing party by a court of competent jurisdiction. The Architect is not obligated to indemnify the Owner and employees or any other third party in any manner whatsoever for their own negligence.

13.1.2 This indemnification specifically includes any claims that may be made against Owner or against Architect by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement. The Architect specifically agrees to hold harmless and indemnify the Owner for any and all claims arising out of any injury, disability, or death of the Architect's employees or agents to the extent that the above are caused by the negligent acts, errors, or omissions of the Architect. This indemnification obligation shall continue beyond the term of this Agreement as to any negligent acts or omissions occurring under this Agreement or any extension of this Agreement, subject to the applicable statute of limitations.

13.2 FINGERPRINTING

13.2.1 Pursuant to California Education Code Section 45125.1, before any agents or employees of Architect may enter school grounds where they may have any contact with pupils, Architect shall submit fingerprints of its agents and employees in a manner authorized by the California Department of Justice, together with a fee determined by the Department of Justice. Architect shall not permit any of its agents or employees to come in contact with pupils of the Owner until the Department of Justice has ascertained that the Architect's agents or employees have not been convicted of a felony as defined in Education Code Section 45122.1.

13.2.2 Architect shall provide Owner with a written list of the names of its agents or employees who may come in contact with pupils before commencement of work. Architect shall certify, in a form provided by Owner, under penalty of perjury, that it has complied with the requirements of Education Code Section 45125.1, and that none of its agents or employees who may come in contact with pupils have been convicted of a felony as defined in Education Code Section 45122.1, based upon the information Architect has received from the Department of Justice.

13.2.3 If Architect believes that its agents or employees will have only limited contact with pupils and should therefore be exempted from these requirements, Architect must contact the Owner with its request for exemption within 15 days prior to the commencement of work. The request for exemption must specify the grounds for such proposed exemption, considering the totality of circumstances, including but not limited to the length of time Architect will be on school grounds, whether pupils will be in proximity to the site where the Architect's employees are working, and whether the Architect's employees will be working by themselves or with others. Whether to grant or deny the exemption is within the sole discretion of the Owner's governing board.

13.3 ASSURANCES OF NON-DISCRIMINATION

13.3.1 Architect expressly agrees that it will not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

13.4 INDEPENDENT CONTRACTOR STATUS

13.4.1 This Agreement is entered into by both parties with the express understanding that Architect will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the Architect or any of its agents, employees or officers as an agent, employee or officer of Owner. Architect agrees to advise everyone it assigns or hires to perform any duty under this Agreement that they are not employees of Owner. Subject to any performance criteria contained in this Agreement, Architect shall be solely responsible for determining the means and methods of performing the specified services and Owner, except to the extent stated otherwise in this Agreement, shall have no right to control or exercise any supervision over Architect as to how the services will be performed. As Architect is not Owner's employee, Architect is responsible for paying all required state and federal taxes. In particular, Owner will not (1) withhold FICA (Social Security) from Architect payments, (2) make state or federal unemployment insurance contributions on Architect's behalf, (3) withhold state or federal income tax from payments to Architect, (4) make disability insurance contributions on behalf of Architect, (5) obtain unemployment compensation insurance on behalf of Architect. Notwithstanding this independent contractor relationship, Owner shall have the right to monitor and evaluate the performance of Architect to assure compliance with this Agreement.

13.5 MANUFACTURER'S PRODUCT DATA

13.5.1 To the extent the Architect collects product manufacturer materials disclosing product contents; the Owner acknowledges that it is not relying on the Architect for any analysis of material composition or the human or environmental health impacts of specific material selections. Any assessments or evaluations of this kind should be conducted by a toxicologist or other trained professionals retained by the Owner.

ARTICLE 14 - SCOPE OF THE AGREEMENT

14.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the terms set and agreed upon as of the day and year first written above.

OWNER
COALINGA-HURON JOINT UNIFIED SCHOOL DISTRICT

ARCHITECT
MANGINI ASSOCIATES INC.

By: _____
Lori Villanueva, Superintendent

By: _____
Christopher D. McLain, President, C29566