

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, is made and entered into this 31st day of March 2020, by and between **the La Cañada Unified School District**, a public agency ("District") and **American Modular Systems**, ("Consultant"), and

W I T N E S S E T H:

WHEREAS, THE DISTRICT REQUIRES (SCOPE OF WORK):

Consulting services related to engineering and design of new two-story modular building for Palm Crest Elementary School.

WHEREAS, Consultant, is duly licensed as a Consultant in the State of California and is qualified and experienced to provide such services, and

NOW, THEREFORE, the parties agree as follows:

1. Consultant shall provide the consulting, design and engineering services for the proposed two-story modular building at Palm Crest Elementary School. The parties are currently negotiating an agreement pursuant to PCC 20118 for the design, fabrication, and erection of the modular building at Palm Crest Elementary School (Piggyback Contract). This Agreement for Professional Services is an interim agreement to allow American Modular Systems to begin planning, design and engineering work for the new two-story modular building at Palm Crest and shall be in effect until the parties have executed the Piggyback Contract for the new modular building. Any and all payment received under this agreement shall be credited to the contract amount of the Piggyback Contract. The term of this Agreement shall be for one year or Agreement is terminated pursuant to Paragraph 3 below.

2. For its services hereunder, Consultant shall be compensated in accordance with the Attachment A. The payment to the Consultant shall be made for satisfactory completion of the services within 30 days after receipt of an undisputed invoice. Services shall be billed on a Time & Materials basis at the rates listed on Attachment A. The total contract amount shall not exceed One Hundred Fifty Thousand dollars (\$150,000) without prior written authorization and approval.

3. This Agreement shall be terminated upon the execution of the Piggyback Contract by the Parties. This Agreement may be terminated at any time by the District, without cause, upon 30 days written notice to Consultant. Upon receipt of such notice, Consultant shall immediately cease all work. Any final invoice shall be submitted to District within 30 days. Consultant shall submit one (1) invoice monthly to the DISTRICT for actual work performed during the billing period. Invoices must clearly itemize the work performed for which reimbursement is being requested and be accompanied by proper documentation. All charges incurred under this AGREEMENT shall be due and payable not later than forty-five (45) days after approval of the invoice

4. Either party may request changes in the scope of services. Such changes, and any increase or decrease in compensation, must be authorized in advance by the District in writing, and incorporated into this Agreement as an amendment.

5. All materials prepared by Consultant under this Agreement shall become the property of District. Consultant shall have no property interest in any such materials.

6. Consultant warrants that it has the expertise necessary to perform the services in a manner consistent with the generally accepted standards of Consultant's profession. Consultant further warrants that it will perform said services in a legally adequate manner in conformance with all Federal, State and local laws and guidelines.

7. The Consultant, at its own cost, shall obtain and maintain during the term of this Agreement all insurance policies required pursuant to this Article. The District shall be named as an additional insured with respect to all such insurance except professional liability and Workers' Compensation Insurance. The insurance policies required pursuant to this Agreement shall be issued by one or more insurers licensed to do business in this State and having an A.M. Best Company rating of not less than an "A-9." Prior to commencing any work on District property, the Consultant shall provide to the District authorized and executed certificates of insurance evidencing that such insurance policies are in effect ("Certificates of Insurance"). The Certificates of Insurance shall name the District as an additional insured and shall expressly require that the insurer notify the District not less than thirty (30) days prior to any cancellation of any such insurance policy. Language therein to the effect that the insurer shall "endeavor" to provide such notices shall not be acceptable. The District shall review the Certificates of Insurance required pursuant to this Paragraph to determine whether they comply with the requirements of this Agreement. The Consultant shall provide updated Certificates of Insurance to the District for each renewal of an insurance policy required pursuant to this Article. Any failure by Consultant to comply with the provisions of this Article shall be deemed a material breach of this Agreement.

- a. Workers Compensation Insurance. The Consultant shall obtain and maintain Workers' Compensation Insurance as required by the Labor Code and Employer's Liability Insurance with coverage in an amount not less than the statutory limit.
- b. Professional Liability Insurance. The Consultant shall obtain, and shall maintain until at least five (5) years after filing of the Notice of Completion, Professional Liability Insurance with coverage in an amount of not less than one million dollars (\$1,000,000.00).
- c. General Liability Insurance. (Applies when work is done on District Property). The Consultant shall obtain and maintain during the term of the Agreement a policy of commercial general liability insurance, written on an "occurrence" basis, providing coverage with a combined single limit of not less than one million dollars (\$1,000,000) for all activities conducted by Consultant on District property pursuant to this Agreement ("Liability Policy"). The Liability Policy shall contain a cross-liability endorsement and a waiver of the insurer's rights of subrogation. The Liability Policy shall include limited coverage for the contractual liability assumed by the Consultant pursuant to this Agreement. The Liability Policy shall be primary with respect to any insurance or self-insurance programs covering the District, its Board members, officers, employees, agents and consultants.
- d. Automobile Liability Insurance. (Applies when work is done on District Property). The Consultant shall obtain and maintain during the term of this Agreement policies of business automobile liability insurance with a combined single limit of not less than one million dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles while on District's property.

8. Consultant shall defend, indemnify, and save and hold harmless District, its officers, agents and employees from any claims, suits or actions of every name, kind and description brought forth, or on account of, personal injury or bodily injury (including death) of any person, including (but not limited to) workers and the public, or damage to property, resulting from or arising out of Consultant's negligence or willful misconduct in the performance of this Agreement, save and except those matters arising from District's sole, active negligence or willful misconduct. The parties intend that this provision shall be broadly construed to effectuate its purpose.

9. Time is of the essence of this Agreement. The Consultant shall work diligently to perform the services under the Agreement within the schedule agreed upon by the District.

10. Consultant will comply with all Federal, State and local laws and ordinances as may be applicable to the performance of work under this Agreement.

11. This is an integrated Agreement, and contains all of the terms, considerations, understanding and promises of the parties. It shall be read as a whole.

12. Consultant agrees that it has the time, ability and professional expertise to perform the services required under this Agreement. Consultant shall obtain approval/ authorization from the District prior to performing the services contemplated in this Agreement.

13. INTENTIONALLY LEFT BLANK.

14. Consultant is employed to perform unique personal services. There shall be no assignment of this Agreement by Consultant without prior written consent of District.

15. Any notices to parties required by this Agreement shall be delivered or mailed, United States first class, postage pre-paid, addressed as follows:

LA CAÑADA UNIFIED SCHOOL DISTRICT

Associate Superintendent of Business & Administrative Services
La Cañada Unified School District
4490 Cornishon Avenue
La Cañada, CA 91355

CONSULTANT

Dan Sarich
American Modular Systems
787 Spreckels Avenue
Manteca, CA 95336

Either party may amend its address for notice by notifying the other party in writing.

16. In any action brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees.

17. Any action arising out of this Agreement shall be brought in Los Angeles County, California, regardless of where else venue may lie.

18. Consultant shall act as an independent contractor, and covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be an officer or employee of District by reason of this Agreement.

19. Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift of any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, District shall have right to annul this Agreement without liability, or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

20. This Agreement shall be binding upon the heirs, successors, executors, administrators and assigns of the respective parties hereto.

21. Consultant shall not engage in unlawful employment discrimination, including but not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, disability or medical condition, marital status, citizenship, gender, or sexual orientation.

22. Consultant shall maintain and make available for inspection and audit by District or its agents, accurate records of all costs, disbursements and receipts with respect to work performed under this Agreement.

23. Consultant shall make all disclosures required by District's conflict of interest code in accordance with the category designated by District.

IN WITNESS WHEREOF, the District and the Consultant have executed this agreement the day and year first above written.

AMERICAN MODULAR SYSTEMS

LA CAÑADA UNIFIED SCHOOL DISTRICT

By _____

By _____

Mark Evans
Associate Superintendent of Business
& Administrative Services