

AGREEMENT FOR FACILITIES MASTER PLANNING SERVICES

PIEDMONT UNIFIED SCHOOL DISTRICT

WITH

QUATTROCCHI KWOK ARCHITECTS

July 1, 2015

TABLE OF CONTENTS

Article 1	Definitions	1
Article 2	Scope, Responsibilities and Services of Architect	3
Article 3	Architect Staff	5
Article 4	Schedule of Services	6
Article 5	Construction Cost Budget	6
Article 6	Fee and Method of Payment	6
Article 7	Payment for Extra Services or Changes	7
Article 8	Ownership of Data	7
Article 9	Termination of Contract	8
Article 10	Indemnity / Architect Liability	9
Article 11	Fingerprinting	10
Article 12	Responsibilities of the District	10
Article 13	Liability of District	10
Article 14	Nondiscrimination	11
Article 15	Insurance	11
Article 16	Covenant against Contingent Fees	11
Article 17	Entire Agreement/Modification	12
Article 18	Non-Assignment of Agreement	12
Article 19	Law, Venue	12
Article 20	Alternative Dispute Resolution	12
Article 21	Attorneys' Fees	12
Article 22	Severability	13
Article 23	Employment Status	13
Article 24	Certification of Architect	14
Article 25	Cost Disclosure - Documents and Written Reports	14
Article 26	Notice & Communications	14
Article 27	District's Right to Audit	15
Article 28	Confidentiality	15
Article 29	Other Provisions	16
Article 30	Incorporation of Exhibits	16

EXHIBIT "A" – RESPONSIBILITIES AND SERVICES OF ARCHITECT
EXHIBIT "B" – CRITERIA AND BILLING FOR EXTRA SERVICES
EXHIBIT "C" – SCHEDULE OF SERVICES
EXHIBIT "D" – PAYMENT SCHEDULE
EXHIBIT "E" – INSURANCE REQUIREMENTS

A-1
B-1
C-1
D-1
E-1

AGREEMENT FOR FACILITIES MASTER PLANNING SERVICES

This Agreement for Facilities Master Planning Services is made as of July 1, 2015, between the Piedmont Unified School District, a California public school district, ("District") and Quattrocchi Kwok Architects ("Architect") (collectively "Parties") for the following project ("Project"):

Architect agrees to provide the professional services necessary to prepare a Facilities Master Plan to provide a roadmap of the short and long term projects necessary to achieve the following outcomes for all schools in the District:

- Basic upgrades to protect facility investments and to keep schools clean, safe, well maintained, and in good condition.
- Upgrading classrooms and the technology used to improve education in the classrooms and to prepare students for the 21st Century.
- Improving energy efficiency, conserving water, and other capital improvements to save money that can be used to help retain teachers and protect academic programs.

The services include, but are not limited to:

- The scope of services which are set forth in **Exhibit A** to this Agreement.

For and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

Article 1. Definitions

- 1.1. In addition to the definitions above, the following definitions of words or phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1. **Agreement:** The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2. **Architect:** The Architect identified in the first paragraph of this Agreement, including all Consultants to the Architect. The term Architect means the Design Professional in General Responsible Charge on this Project.
 - 1.1.3. **As-Built Drawings ("As-Built"):** Any document prepared and submitted by District Contractor(s) that details on a conforming set, the actual construction performed during the Project, including changes necessitated by Construction Change Directives and change orders, and detailed by the District's construction contractor(s) on a conforming set.
 - 1.1.4. **Bid Set:** The plans, drawings, and specifications at the end of the Construction Documents Phase that the Division of the State Architect ("DSA") has approved and that the

District can use to go out to bid for construction of the Project.

- 1.1.5. **Conforming Set**: The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase. The Architect shall ensure that DSA has approved all revisions to the Bid Set that are incorporated onto the Conforming Set and for which DSA approval is required.
- 1.1.6. **Construction Budget**: The total amount of funds indicated by the District for the entire Project plus all other costs, including design, construction, administration and financing.
- 1.1.7. **Construction Change Documents ("CCD")**: The documentation of changes to the DSA-approved construction documents.
- 1.1.8. **Construction Cost Budget**: The total cost to District of all elements of the Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with this Agreement. The Construction Cost Budget does not include the compensation of the Architect and the Architect's Consultants, or the Program Manager and Project or Construction Manager, the cost of land, rights-of-way, administration, financing or other costs which are the responsibility of the District, including construction management.
- 1.1.9. **Construction Manager**: The District's representative on the Project if the District retains a construction manager, project manager, or owner's representative.
- 1.1.10. **Contractor**: One or more licensed contractors under contract with the District for construction of all or a portion of the Project.
- 1.1.11. **Consultant(s)**: Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Architect.
- 1.1.12. **District**: The Piedmont Unified School District.
- 1.1.13. **DSA**: The Division of the State Architect.
- 1.1.14. **Extra Services**: District-authorized services outside of the scope in **Exhibit "A"** or District-authorized reimbursables not included in Architect's Fee.
- 1.1.15. **Laboratory of Record**: The District-designated laboratory(ies) for testing of concrete, soils, materials, and other required testing.
- 1.1.16. **Project**: Update to District Facilities Master Plan and Educational Specifications.

**AGREEMENT FOR FACILITIES MASTER PLANNING SERVICES
PIEDMONT UNIFIED SCHOOL DISTRICT & QKA**

- 1.1.17. **Record Drawings**: A final set of drawings prepared by the Architect that incorporates all changes from all As-Builts, sketches, details, and clarifications.
- 1.1.18. **Service(s)**: All labor, materials, supervision, services, tasks, and work that the Architect is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.
- 1.1.19. **Visually Verify**: To verify to the fullest extent possible by physical inspection and reasonable investigation and without any destructive action.

Article 2. Scope, Responsibilities, and Services of Architect

- 2.1. Architect shall render the Services described in **Exhibit "A,"** commencing with receipt of a written Notice to Proceed signed by the District representative. Architect's Services will be completed in accordance with the schedule attached as **Exhibit "C."**
- 2.2. Architect shall provide Services that shall comply with professional architectural standards, including the standard of care applicable to architects designing public school facilities and applicable requirements of federal, state, and local law, including, but not limited to, the requirements of the California Business and Professions Code, the California Education Code, and the California Code of Regulations. All persons providing professional services hereunder shall be properly licensed as required by California law.
- 2.3. Architect shall observe and comply with all rules and regulations of the Governing Board of the District and all federal, state, and local laws, ordinances and regulations. If Architect observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Architect shall notify the District in writing and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing.
- 2.4. Architect shall contract for or employ at Architect's expense, Consultant(s) to the extent deemed necessary for completion of the Project including, but not limited to: architects; mechanical, electrical, structural and civil engineers; landscapers; and interior designers, licensed as such by the State of California as part of the Basic Services under this Agreement. The names of Consultant(s) shall be submitted to the District for approval prior to commencement of Services, as indicated below. The District reserves the right to reject Architect's use of any particular Consultant. Nothing in the foregoing procedure shall create any contractual relationship between the District and any Consultant employed by the Architect under terms of the Agreement. Architect shall require each of the Consultants retained by it to execute agreements with standard of care and indemnity provisions commensurate with this Agreement, but Architect shall remain solely

responsible and liable to District for all matters covered by this Agreement.

- 2.5. Architect shall coordinate with District personnel or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work related to the Project
- 2.6. Architect shall identify the regulatory agencies that have jurisdiction over essential building and design elements, on-site and off-site, and coordinate with and implement the requirements of the applicable regulatory agencies, including, without limitation, the California Department of Education, the Office of Public School Construction, the Department of General Services, DSA, including DSA Fire/Life Safety, DSA Access Compliance Section, DSA Structural Safety Section, the State Fire Marshal and any regulatory office or agency that has authority for review and supervision of school district construction projects.
- 2.7. Architect shall give efficient supervision to Services, using its best skill and attention. Architect shall carefully study and compare all contract documents, drawings, specifications, and other instructions ("Contract Documents") and shall at once report to District, Construction Manager, or Consultants any error, inconsistency, or omission that Architect or its employees may discover, in writing. Architect shall have responsibility for discovery of errors, inconsistencies, or omissions.
- 2.8. Architect is responsible for maintaining safety, including but not limited to the safety of its employees and/or its Consultants, during the performance of this Agreement and shall hold the District harmless for any damages or injury occurring out of this Agreement. Architect shall be responsible to ascertain from District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
- 2.9. Architect recognizes that the District may obtain the services of a Program Manager or Construction Manager or Cost Estimator at any time. Any task, including, but not limited to, reviews or approvals that the District may perform pursuant to this Agreement may be performed by the Construction Manager, unless that task indicates it shall be performed by the Governing Board of the District.
- 2.10. Architect shall provide computer-generated pictures downloaded to computer files, updated as requested by the District, that the District may use on its website.
- 2.11. As part of the basic Services pursuant to this Agreement, Architect is not responsible for:
 - 2.11.1. Cost estimating services. These will be provided by District's consulting cost estimator.
 - 2.11.2. Ground contamination or hazardous material analysis.

**AGREEMENT FOR FACILITIES MASTER PLANNING SERVICES
PIEDMONT UNIFIED SCHOOL DISTRICT & QKA**

- 2.11.3. Any asbestos and/or lead testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
- 2.11.4. Compliance with the California Environmental Quality Act ("CEQA"), except that Architect agrees to coordinate its work with that of any CEQA consultants retained by the District, to provide current elevations and schematic drawings for use in CEQA compliance documents, and to incorporate any mitigation measures adopted by the District into the Project design at no additional cost to the District.
- 2.11.5. Historical significance report.
- 2.11.6. Soils investigation.
- 2.11.7. Geotechnical hazard report, except as indicated in **Exhibit "A."**

Article 3. Architect Staff

- 3.1. The Architect has been selected to perform the Services herein because of the skills and expertise of key individuals.
- 3.2. The Architect agrees that the following key people in Architect's firm shall be associated with the Project in the following capacities ***[All blanks below must be filled in by Architect and approved by District]:***

Principal In Charge: Mark Quattrocchi_____

Project Associate: Debra McGuire

Major Consultants:

Electrical: O'Mahnoy & Myer Electrical Engineers

Mechanical: Costs Engineers

Civil: Brelje & Race Civil Engineers_____

- 3.3. Architect shall not change any of the key personnel listed above without prior written approval by the District, unless said personnel cease to be employed by Architect. In either case, the District shall be allowed to interview and approve replacement personnel.
- 3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice Architect shall have five (5) calendar days to remove that person from the Project and replace that person with one acceptable to the District. All lead or key personnel for any Consultant must also be designated by the Consultant and are subject to all conditions stated in this paragraph.

- 3.5. Architect represents that Architect 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 Services required under this Agreement and that no person having any such interest shall be employed by Architect.
- 3.6. Architect shall comply with Education Code section 17302(a) and agrees that any plans and/or specifications included in the Services shall be prepared under the supervision of licensed personnel, and that licensed personnel shall be in "responsible charge" of persons who observe the construction.

Article 4. Schedule of Services

Architect shall commence Services under this Agreement upon receipt of a written Notice to Proceed and shall prosecute the Services diligently as described in **Exhibit "A,"** so as to proceed with and complete the Services in compliance with the schedule in **Exhibit "C."** Time is of the essence and failure of Architect to perform Services on time as specified in this Agreement is a material breach of this Agreement. It shall not be a material breach if a delay is beyond the Architect's or Architect's Consultant(s)' reasonable control.

Article 5. Construction Cost Budget

- 5.1. Architect hereby accepts the District's preliminary Construction Budget and Project scope.

Article 6. Fee and Method of Payment

- 6.1. The District shall pay Architect for all Services contracted for under this Agreement an amount equal to the following ("Fee"):

An amount equal to one hundred twenty five thousand, nine hundred Dollars (\$125,900) based on the rates set forth in **Exhibit "D"**

- 6.2. In addition to this fee, Architect shall invoice reimbursable expenses such as printing, plotting, mileage and postage at direct cost plus 10%.
- 6.3. Architect shall bill its work under this Agreement in accordance with **Exhibit "D."**
- 6.4. The Architect's Fee set forth in this Agreement shall be full compensation for all of Architect's Services Incurred in the performance hereof as indicated in **Exhibit "D."**
- 6.5. Regardless of the structure of Architect's Fee, the Architect's Fee may be adjusted downward if the Scope of Services of this Agreement is reduced by the District in accordance with this Agreement.

Article 7. Payment for Extra Services or Changes

Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** only upon certification that the claimed Extra Service was authorized as indicated herein and that the Extra Services have been satisfactorily completed. If any service is done by Architect without prior written authorization by the Construction Manager or the District's authorized representative, the District will not be obligated to pay for such service. The foregoing provision notwithstanding, Architect will be paid by the District as described in **Exhibit "B"** for Extra Services that the Construction Manager or the District's authorized representative verbally requests, provided that Architect confirms such request in writing pursuant to the notice requirements of this Agreement, and proceeds with such Extra Services not earlier than two (2) business days after the District receives confirmation of the request from the Architect.

In the event District elects to modify, alter, delete or reduce the scope of work in this Agreement, both parties agree to negotiate changes and to adjust the fee commensurate with the scope change, provided Services have not been rendered prior to the scope change. Appropriate fee credit will be applied to work not yet performed. Architect will notify District if any scope change affects the completion schedule and schedule shall only be modified pursuant to Article 4 and **Exhibit "C"** of this Agreement to the extent scope change causes a delay.

Article 8. Ownership of Data

- 8.1. Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for the District to use, at its discretion, all plans including, but not limited to, record drawings, specifications, estimates and other documents that Architect or its Consultants prepare or cause to be prepared pursuant to this Agreement.
- 8.2. Architect retains all rights to all copyrights over designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that Architect or its Consultants prepare or cause to be prepared pursuant to this Agreement.
- 8.3. Architect shall perform the Services and prepare all documents under this Agreement with the assistance of Computer Aided Design Drafting Technology ("CADD") (e.g., AutoCAD). Architect shall deliver to District, on request, the tape and/or compact disc format and the name of the supplier of the software/hardware necessary to use the design file.
- 8.4. In order to document exactly what CADD information was given to the District, Architect and District shall each date and sign a "hard" copy of reproducible documents that depict the information at the time Architect produces the CADD information.

8.5. Following the termination of this Agreement, for any reason whatsoever, Architect shall promptly deliver to the District upon written request and at no cost to the District the following items (hereinafter "Instruments of Service"), which the District shall have the right to utilize in any way permitted by statute:

8.5.1. All finished or unfinished documents, studies, reports, calculations, drawings, maps, models, photographs, technology data and reports prepared by the Architect under this Agreement.

8.5.2. The obligation of Section 8.5 of this Agreement shall survive the termination of this Agreement for any reason whatsoever.

Article 9. Termination of Contract

9.1. If Architect fails to perform Architect's duties to the satisfaction of the District, or if Architect fails to fulfill in a timely and professional manner Architect's material obligations under this Agreement, or if Architect shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement, in whole or in part, effective immediately upon the District giving written notice thereof to the Architect. In the event of a termination pursuant to this subdivision, Architect may invoice the District for all Services performed until the notice of termination, but the District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of Architect's actions, errors, or omissions that caused the District to terminate the Agreement.

9.2. District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, Architect may invoice District and District shall pay all undisputed invoice(s) for Services performed until the District's notice of termination.

9.3. Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.

9.4. Architect has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement. Such termination shall be effective thirty (30) days after receipt of written notice from Architect to the District. Architect may invoice the District and the District shall pay all undisputed invoice(s) for Services performed until Architect's notice of termination.

9.5. If, at any time in the progress of the Project, the Governing Board of the District determines that the Project should be terminated, Architect, upon written notice from the District of such termination, shall immediately cease Services on the Project. The District shall pay Architect only the fee associated with the Services provided since the last invoice that has been paid and up to the notice of termination.

- 9.6. If the District suspends the Project for more than one hundred twenty (120) consecutive days, Architect shall be compensated for Services performed prior to notice of that suspension. When the Project is resumed, the schedule shall be adjusted and Architect's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Architect's Services. If the District suspends the Project for more than two (2) years, Architect may terminate this Agreement by giving written notice.

Article 10. Indemnity/Architect Liability

- 10.1. To the furthest extent permitted by California law, Architect shall indemnify, and hold free and harmless the District, its agents, representatives, officers, employees and trustees, ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim or Claims"), to property or persons, including personal injury or death or both, to the extent that any of the above arise out of, pertain to, or relate to, in whole or in part, the willful misconduct, recklessness, or negligent acts, errors, or omissions of Architect, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement, including without limitation the payment of all consequential damages.
- 10.2. Architect's indemnity obligations as set forth in section 10.1 of this Agreement do not include the obligation to defend Claims brought against Indemnified Parties for claims based upon professional errors or omissions; however, they do include the obligation to reimburse the Indemnified Parties as damages for any and all legal expenses and costs, including expert witness fees and consultant fees, incurred by each of them in connection with defending such Claims based upon professional errors or omissions brought against Indemnified Parties but only to the extent of Architect's pro rata share of fault for the damages.
- 10.3. Architect agrees that if the District asserts that the Architect is liable for a portion of the Claim, in addition to providing the assistance with preparation for mediation specified in Exhibit A of this Agreement, section (B) (9), Architect will use its best efforts to have an authorized settlement representative of Architect's insurer attend the mediation with sufficient settlement authority to participate in good faith in the resolution of the Claim.
- 10.4. In the event a Claim is resolved by settlement where there is no finding made as to the Architect's pro rata share of fault for the Claim and Architect and District are unable to informally reach an agreement as to the Architect's share of fault, Architect agrees to submit the issue of Architect's share of fault to mediation and if the matter cannot be mediated, to binding arbitration, subject to an agreement as between the Parties at the time of the dispute and agreement as to the Alternative Dispute Resolution neutral and agency.

- 10.5. In addition to the indemnity obligations set forth in this section, Architect shall also reimburse the Indemnified Parties for any and all legal expenses and costs, including expert witness fees and consultant fees incurred in successfully enforcing the indemnity herein provided. Architect's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Indemnified Parties.
- 10.6. District may withhold any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect from amounts owed to Architect.

Article 11. Fingerprinting

Pursuant to Education Code section 45125.2, the District has determined on the basis of scope of Services in this Agreement, that Architect, its Consultants and their employees will have only limited contact with pupils at most. Architect shall promptly notify the District in writing of any facts or circumstances which might reasonably lead the District to determine that contact will be more than limited as defined by Education Code section 45125.1(d).

Article 12. Responsibilities of the District

- 12.1. The District shall provide any available requested Geotechnical and Survey information, records of prior planning and make drawings of the existing buildings available to Architect.
- 12.2. The District shall examine the documents submitted by the Architect and shall render decisions so as to avoid unreasonable delay in the process of the Architect's Services.
- 12.3. The District shall verbally or in writing advise Architect if the District becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's documents. Failure to provide such notice shall not relieve Architect of its responsibility therefore, if any.
- 12.4. Unless the District and Architect agree that a hazardous materials consultant shall be a Consultant of the Architect, the District shall furnish the services of a hazardous material consultant or other consultants when such services are requested in writing by Architect and deemed necessary by the District or are requested by the District. These services shall include: asbestos and lead paint survey; abatement documentation; and specifications related to said matters, which are to be incorporated into bid documents prepared by Architect. If the hazardous materials consultant is furnished by the District and is not a Consultant of the Architect, Architect shall have no liability and responsibility for documentation prepared by said hazardous material consultant.

Article 13. Liability of District

- 13.1. Other than as provided in this Agreement, 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 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 or the Services performed in connection with this Agreement.

- 13.2. 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 Architect, or by its employees, even though such equipment be furnished or loaned to Architect by District.

Article 14. Nondiscrimination

- 14.1. Architect agrees that no discrimination shall be made in the employment of persons under this Agreement because of the race, national origin, ancestry, religion, age, physical or mental disability, sex, or sexual orientation of such person.
- 14.2. Architect shall comply with any and all applicable California and Federal regulations and laws governing nondiscrimination in employment, including but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. Architect agrees to require like compliance by all its Consultants.

Article 15. Insurance

- 15.1. Architect shall comply with the insurance requirements for this Agreement, set forth in **Exhibit "E."**
- 15.2. Architect shall provide certificates of insurance and endorsements to District prior to commencement of the work of this Agreement as required in **Exhibit "E."**

Article 16. Covenant against Contingent Fees

Architect warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Architect, 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 working solely for the Architect, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the contract price or consideration or to recover the full amount of such fee, commission, percentage fee, gift, or contingency.

Article 17. Entire Agreement/Modification

This Agreement, including the Exhibits attached hereto, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. Architect shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. Architect specifically acknowledges that in entering this Agreement, Architect relies solely upon the provisions contained in this Agreement and no others.

Article 18. Non-Assignment of Agreement

In as much as this Agreement is intended to secure the specialized Services of the Architect, Architect may not assign, transfer, delegate or sublet any interest therein without the prior written consent of District and any such assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void. Likewise, District may not assign, transfer, delegate or sublet any interest therein without the prior written consent of Architect and any such assignment, transfer, delegation or sublease without Architect's prior written consent shall be considered null and void.

Article 19. Law, Venue

- 19.1. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.
- 19.2. To the fullest extent permitted by California law, the county in which the District administration office is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

Article 20. Alternative Dispute Resolution

All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. If this method proves unsuccessful, then all claims, disputes or controversies as stated above may be decided through arbitration, if agreed to in writing by all Parties.

Article 21. Attorneys' Fees

In the event either party shall bring any action or legal proceeding for damages for any alleged breach of any provision of or performance under this Agreement, to terminate this Agreement, or to enforce, protect or establish any term or covenant of this Agreement or right or remedy of either party, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.

Article 22. Severability

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Article 23. Employment Status

- 23.1. Architect shall, during the entire term of Agreement, be an independent contractor and nothing in this Agreement is intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the District to exercise discretion or control over the professional manner in which Architect performs the Services that are the subject matter of this Agreement; provided always, however, that the Services to be provided by Architect shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 23.2. Architect understands and agrees that Architect's personnel are not and will not be eligible for membership in or any benefits from any District group plan for hospital, surgical or medical insurance or for membership in any District retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee.
- 23.3. Should the District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Architect, or any employee or Consultant of Architect, is an employee of the District for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Architect which can be applied against this liability). The District shall then forward those amounts to the relevant taxing authority.
- 23.4. Should a relevant taxing authority determine a liability for past services performed by Architect for the District, upon notification of such fact by the District, Architect shall promptly remit such amount due or arrange with the District to have the amount due withheld from future payments to Architect under this Agreement (again, offsetting any amounts already paid by Architect which can be applied as a credit against such liability).
- 23.5. A determination of employment status pursuant to the preceding two (2) paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Architect shall not be considered an employee of the District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Architect is an employee for any other purpose, then Architect agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the

foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Architect or its employees of Consultants was not an employee.

- 23.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

Article 24. Certification of Architect

- 24.1. Architect certifies that the Architect is properly certified or licensed under the laws and regulations of the State of California to provide the professional services that it has herein agreed to perform.
- 24.2. Architect certifies that it is aware of the provisions of the California Labor Code that require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with those provisions before commencing the performance of the Services of this Agreement.
- 24.3. Architect certifies that it is aware of the provisions of California Labor Code and California Code of Regulations that require the payment of prevailing wage rates and the performance of other requirements on certain "public works" contracts exceeding one thousand dollars (\$1,000), public works contractor registration, and labor compliance monitoring and enforcement by the Department of Industrial Relations ("Prevailing Wage Laws"). To the extent applicable, the Architect agrees to fully comply with, and to require its Consultant(s) to fully comply with, all requirements of the Prevailing Wage Laws.

Article 25. Cost Disclosure - Documents and Written Reports

Architect shall be responsible for compliance with California Government Code section 7550, if the total cost of the Contract is over five thousand dollars (\$5,000).

Article 26. Notice & Communications

Notices and communications between the Parties to this Agreement may be sent to the following addresses:

District:

Piedmont Unified School District
760 Magnolia Street
Piedmont, CA 94611
ATTN: Song Chin-Bendib

Architect:

Quattrocchi Kwok Architects
636 5th Street
Santa Rosa, CA 95404
ATTN: Mark Quattrocchi

Any notice personally given shall be effective upon receipt. Any notice sent by facsimile shall be effective the day after transmission. Any notice sent by

overnight delivery service shall be effective the day after delivery. Any notice given by mail shall be effective five (5) days after deposit in the United States mail.

Article 27. District's Right to Audit

- 27.1. District retains the right to review and audit, and the reasonable right of access to Architect's and any Consultant's premises to review and audit the Architect's compliance with the provisions of this Agreement ("District's Right"). The District's Right includes the right to inspect, photocopy, and to retain copies, outside of Architect's premises, of any and all Project-related records 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.
- 27.2. The District's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines is necessary to discover and verify whether Architect is in compliance with all requirements of this Agreement.
- 27.3. If there is a claim for additional compensation or for Extra Services, the District's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the District determines is 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.
- 27.4. Architect shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. Architect 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, Architect shall submit exact duplicates of originals of all requested records to the District.
- 27.5. Architect shall include audit provisions in any and all of its subcontracts, and shall ensure that these sections are binding upon all Consultants.
- 27.6. Architect shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Architect's Project-related records and information.

Article 28. Confidentiality

Architect and all Architect's agents, personnel, employee(s), and/or Consultants shall maintain the confidentiality of all information received in the course of performing the Services under this Agreement. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

Article 29. Other Provisions

- 29.1. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 29.2. Neither the District's review, approval of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Architect shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Architect's failure to perform any of the Services furnished under this Agreement to the standard of care of the Architect for its Services, which shall be, at a minimum, the standard of care of architects performing similar work for California school districts in or around the same geographic area as the District.
- 29.3. Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.

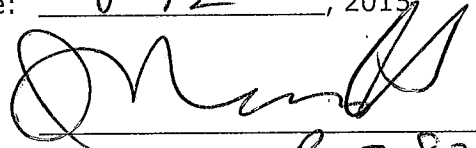
Article 30. Incorporation of Exhibits

[Exhibits "A" through "E" are applicable] attached hereto are hereby incorporated by this reference and made a part of this Agreement.

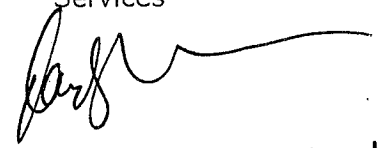
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

PIEDMONT UNIFIED SCHOOL DISTRICT

Date: 8-12, 2015

By: 
Song Chin-Bendib *BoE 8-26-15*

Title: Assistant Superintendent, Business Services


Randall Baker, Superintendent
8/12/15

QUATTROCCHI KWOK ARCHITECTS

Date: 8/10, 2015

By: 
Mark Quattrocchi

Title: Principal

AGREEMENT FOR FACILITIES MASTER PLANNING SERVICES
PIEDMONT UNIFIED SCHOOL DISTRICT & QKA

EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF ARCHITECT

TABLE OF CONTENTS

A.	SCOPE OF PROJECT	1
B.	BASIC SERVICES.....	1
C.	DEVELOPMENT OF FACILITIES MASTER PLAN SERVICES	4
D.	MEETINGS / SITE VISITS / WORKSHOPS	6

EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF ARCHITECT

Architect shall provide all professional services necessary for completing the following:

A. SCOPE OF PROJECT

1. Project Name: Piedmont Unified School District Facilities Master Plan

B. BASIC SERVICES

Architect agrees to provide the Services described below:

1. Architect shall be responsible for the professional quality and technical accuracy of the updated facilities master plan as well as all studies, reports, projections, master plans, designs, drawings, specifications and other services furnished by Architect under the Agreement as well as coordination with all master plans, studies, reports and other information provided by District. Architect shall, without additional compensation, correct or revise any errors or omissions in its studies, reports, projections, master plans, design, drawings, specifications and other Services.
2. Architect will use all due care and diligence to confirm that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and publishes any potentially relevant information that could, in any way, have an impact on a Contractor's cost of performance. Architect shall advise the District of the most effective methods of identifying and securing such information as part of each stage of design. Architect shall track for District's benefit all such suggested and disclosed information.

3. The District shall provide information available to it to that relates to Architect's scope of work. This information shall include, if available,
 - a. Physical characteristics;
 - b. Legal limitations and utility locations for the Project site(s);
 - c. Written legal description(s) of the Project site(s);
 - d. Grades and lines of streets, alleys, pavements, and adjoining property and structures;
 - e. Adjacent drainage;
 - f. Rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries and contours of the Project site(s);
 - g. Locations, dimensions and necessary data with respect to existing buildings, other improvements and trees;
 - h. Information concerning available utility services and lines, mechanical and other services, both public and private, above and below grade, including inverts and depths;
 - i. Surveys, reports, as-built drawings, record drawings; and
 - j. Subsoil data, chemical data, and other data logs of borings.
 - k. A cost estimating consultant to provide construction cost estimates for Architect's master plan facility assessments and proposed campus improvements.

Architect shall visually verify this information and all existing Project utilities, including capacity, and document the location of existing utility lines, telephone, water, sewage, storm drains and other lines on or around the Project to the extent determinable by the documents provided by the District.

If Architect determines that the information or documentation the District provides is insufficient for purposes of design or if Architect requires a topographical survey; geotechnical report; structural, mechanical, and/or chemical tests; tests for air and/or water pollution; test borings; test pits; determinations of soil bearing values; percolation tests; ground corrosion tests; resistivity tests; tests for hazardous materials; tests for anticipating subsoil conditions; and/or other information that the District has not provided, the Architect shall request that the District acquire that information at the soonest possible time after Architect becomes aware that this additional information is needed. If the Parties mutually agree, this additional information and service shall be procured through the Architect, who may invoice the District for those services as Extra Services.

4. **Assessment of Needs.** As further described in section C of this Exhibit, Architect shall perform a master plan level assessment of the project site(s) and all District facilities and identify deficiencies in existing buildings, program and service areas,

utility systems and infrastructure, telecommunications and health and safety conditions. Architect shall identify and address needs for additional or renovated facilities to accomplish the District's educational initiatives.

5. **Technology Backbone.** Architect shall be responsible for the planning and of the design and the layout of the technology backbone system. In creating the proposed plan of the technology backbone system, the Architect shall work with the District to appropriately address its technology needs and concerns. The coordination effort shall include the location and routing of raceways, conduits and outlets and the required spaces to accommodate electrical, data and communication wiring. Architect and Consultant(s) shall prepare and be responsible for documents prepared by the Architect based on information provided by the District's technology consultant if any as appropriate to the level of design completion.
6. **District Standards.** Architect shall incorporate into its work and the work of all Consultants the adopted District standards for facilities and construction.
7. **High Performance Schools.** Architect will incorporate a high-performance schools element in the master plan. If the District adheres to the Collaborative for High Performance School ("CHPS") Best Practice Standards, the Services provided by the Architect shall incorporate the CHPS Best Practice Standards and criteria to the extent feasible.
8. **Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the District's request, the Architect, its agents, officers, and employees agree to assist in resolving the dispute or litigation. Architect's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation ("Mandatory Assistance").

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

C. DEVELOPMENT OF FACILITIES MASTER PLAN SERVICES

1. Project Initiation

Upon final execution of the Agreement with the District, Architect shall:

- a. Within the first week following execution of the Agreement, review the proposed Schedule of Services set forth in **Exhibit "C"** to the Agreement and prepare a detailed scope of work list and work plan for documentation in a computer-generated Project schedule to the District's satisfaction. This scope of work list and work plan will identify specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, planning, architectural programming, concepts and schematic design preparation and estimating as well as master plan level opinion of cost (in conjunction with the District's cost estimator) that are part of the work of the Project. Architect shall also identify milestone activities or dates, specific task responsibilities, required completion times necessary for review and approval by the District and by all regulatory agencies and additional definition of deliverables.
- b. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.

2. Master Plan Development Tasks

- a. Diagrammatic Evaluation of Current School District Facilities
 - (i) Architect shall perform pre-design investigations to establish appropriate guidelines around which and within which the Updated Facilities Master Plan is to be designed. Identify design issues relating to functional needs, directives and constraints imposed by regulatory codes. Review all data pertinent to the Project including survey, site maps, geotechnical reports and recommendations, soil testing results reports, and pertinent historical data, and other relevant information provided by District.
 - (ii) Architect shall perform a master plan level assessment of the District's existing sites and all District facilities and identify any deficiencies in existing buildings, program and service areas, utility systems and infrastructure, telecommunications and health and safety conditions. Architect shall identify and address needs for additional or renovated facilities to accomplish the District's educational initiatives.
 - (iii) Architect will evaluate) each District site (in compliance with all applicable laws and codes to determine:
 - (A) areas for possible growth/expansion/consolidation as based upon the direction of the curriculum as defined in the educational specifications;
 - (B) the context of the schools; and
 - (C) the visual definition of the campus and how the outdoor spaces function together;

b. Development of Schematic Level Facilities Master Plan

Once the diagrammatic evaluation of the existing facilities has been completed, Architect shall begin development of the schematic level Facilities Master Plan. In addition to the diagrammatic evaluation, Architect will utilize statistical data and curriculum direction provided by the District in order to prepare a schematic level master plan based upon the needs of each campus.

c. Develop Future Facilities Needs and Alternatives

Architect shall assist with prioritizing the needs of the District, exploring community and joint use needs, preparing individual site Facilities Master Plans, providing general recommendations for energy savings (a detailed energy analysis is not included in the Architect's scope of services), incorporating deferred maintenance needs into each campus, and facilitating and documenting input from the Facilities Master Planning Committee and assembling all materials for the Committee.

d. Educational Specifications

Architect shall assist with updating and/or establishing new educational specifications to reflect the District's facilities standards and educational goals. Architect shall also assist the District with updates to the Strategic Plan (as needed), develop equalization standards, sustainable construction guidelines, and general information technology standards. Educational Specifications will address the following: project descriptions, design factors (campus styles, joint ventures with other agencies), building systems (including support spaces), activity-area requirements, a summary of area relationships, and a summary of space requirements (meeting California State School Building Program Requirements).

e. Preparation of a Final Digital Facilities Master Plan

Architect shall assist with the preparation of a final digital Facilities Master Plan (in Adobe PDF format) that can be uploaded to the District's website and can be easily accessed by the District's constituents. The master plan will consist of site plan drawings and accompanying written narratives for each of the elementary schools, one middle school and one high school.

3. Presentation

Architect, along with any involved Consultant(s), shall present and review with the District, at two community presentations, and, if directed, with the District's Governing Board, the detailed facilities master plan.

4. Deliverables and Numbers of Copies

Architect, as part of Architect's reimbursable expenses, shall provide to the District ten (10) hard copies of the Updated Facilities Master Plan, together with one (1) copy in electronic PDF format;

5. Meetings

During the development of the Updated Facilities Master Plan, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below in Section D.

D. MEETINGS / SITE VISITS / WORKSHOPS

1. Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below. Architect shall chair, conduct and take minutes of all coordination meetings with its Consultant(s) during the entire design phase. Architect shall invite the District and/or its representative to participate in these meetings. Architect shall keep a separate log to document design/coordination comments generated in these meetings.

2. General Meeting, Site Visit, and Workshop Requirements

- a. Architect shall always be prepared to answer questions and issues from District staff and site staff as applicable.
- b. Architect shall maintain a log of all meetings, site visits or site observations held in conjunction with the design of the Project, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Project documentation.
- c. As required, Architect shall provide copies of all documents or other information needed for each meeting, site visit, and workshop.
- d. Each meeting's length will be as long as required to complete the required tasks) and shall be held at the District office or at the Project site(s), unless otherwise indicated.

3. Meetings During Project Initiation Phase

- a. Within the first week following execution of the Agreement, Architect shall participate in one (1) Project kick-off meeting with the District to determine the Project intent, scope, budget and timetable, which shall encompass the following:
 - (i) Architect, its appropriate consultant(s), and District staff, shall attend the meeting.
 - (ii) The Project kick-off meeting will introduce key team members from the District and the Architect to each other, defining roles and responsibilities relative to the Project.
 - (iii) During this meeting, Architect shall:
 - (A) Identify and review pertinent information and/or documentation necessary from the District for the completion of the Project.

- (B) Review and explain the overall Project goals, general approach, tasks, work plan and procedures and deliverable products of the Project.
 - (C) Review and explain the scope of work and Project work plan for all parties present; determine any adjustments or fine tuning that needs to be made to the work plan.
 - (D) Review documentation of the Project kick-off meeting prepared by the District's representative and comment prior to distribution.
- b. Architect shall participate in meetings with the Facilities Master Planning Committee to obtain critical information on the existing facilities and conditions assessment.

4. Community Outreach

Architect shall assist with Community Input Forums as required, allowing the community to weigh in on the Facilities Master Planning Process.

5. Initial Site Visits

- a. Architect shall visit the District sites to complete a visual inventory and documentation of the existing conditions.

6. Meetings During Development of Updated Facilities Master Plan

- a. Architect shall participate in one (1) Community Input Forum meeting to receive input from the community regarding its wishes and expectations regarding the Updated Facilities Master Plan.
- b. Architect shall conduct one (1) site visit/meeting at each elementary school site, (2) site visits/meetings at the middle school, (2) site visits/meetings at the comprehensive high school, and (1) site visit/meeting at the alternative high school, with the District's facilities team to gather information from District facilities team and site personnel and to make a visual presentation regarding the updated facilities master plan.
- c. Electrical, civil, mechanical, and District provided estimating consultant(s) shall participate in these meetings as appropriate and shall provide input and feedback into the development of the Updated Facilities Master Plan.
- d. Architect shall participate in four (4) Master-Plan steering committee meetings to develop Education Specifications.
- e. Architect shall participate in two (2) Modernization Steering Committee meetings to present updates and receive Committee input.

7. Governing Board Meetings

- a. Architect shall assist with the facilitation of FMPC presentation/discussion of findings and recommendations to the Governing Board in a Board workshop setting.
- b. After receiving feedback from the FMPC presentation, Architect will assist with presentation of the draft Facilities Master Plan (including estimates, schedules, and possible funding scenarios) to the Governing Board for feedback prior to finalization and approval by the Board.

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to the Agreement shall be performed by Architect if needed and if authorized or requested by the District:

- A. Providing deliverables or other items in excess of the number indicated in **Exhibit "A."** Before preparing, providing, sending, or invoicing for extra deliverables, Architect shall inform the District that expected deliverables may be in excess of the number indicated in **Exhibit "A,"** so that the District can procure the additional deliverables itself or direct Architect to procure the deliverables at the District's expense or on the District's account at a specific vendor.
- B. Providing services as directed by the District that are not part of the Basic Services of this Agreement.
- C. Providing services as an expert and/or witness for the District in any mediation, arbitration, and/or trial in which the Architect is (1) not a party, and (2) did not in any way cause the dispute that is being adjudicated.
- D. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement.

Job Title	Hourly Rate
Principal In Charge:	\$205
Project Associate:	\$190
Project Manager/Architect(s):	\$185
Job Captain(s):	\$175
Construction Admin Mgr	\$175
Specifications Writer	\$175
CADD/Drafting	\$160
Construction Admin Tech	\$150
Clerical	\$100

- E. The mark-up on any approved reimbursable item of Extra Services shall not exceed five percent (5%).

EXHIBIT "C"

SCHEDULE OF SERVICES

- A. Promptly after the execution of this Agreement, Architect shall prepare and submit for approval to the District a Schedule of Services showing the order in which Architect proposes to carry out Architect's Services ("Schedule of Services"). The Schedule of Services shall apply to the completion of all Services listed hereunder within the times established by this Agreement. The Schedule of Services shall be in the form of a progress chart clearly delineating all important increments and review dates. Architect shall update the Schedule of Services on a monthly basis and deliver two (2) copies to the District along with the monthly billing.
- B. Architect shall complete all Services required under the Development of Facilities Master Plan section within **270 calendar days** after written authorization from the District to proceed.
- C. The durations stated above include the review periods required by the District and all other regulatory agencies.
- D. All times to complete tasks set forth in this Exhibit are of the essence, as indicated in the Agreement. If delays in the Schedule of Services are incurred as a result of the District's inability to comply with requested meeting schedules, Architect may request an adjustment in the Schedule of Services if deemed necessary to meet the deadlines set forth in this Exhibit. If approved, those extensions shall be authorized in writing by the District.

EXHIBIT "D"

PAYMENT SCHEDULE

A. Compensation

1. The payment of consideration to Architect as provided herein shall be full compensation for all of Architect's Services incurred in the performance hereof, including, without limitation, all costs for personnel, travel within two hundred (200) miles of a Project location, offices, per diem expenses, printing and shipping of deliverables in the quantities set forth in **Exhibit "A,"** or any other direct or indirect expenses incident to providing the Services. Except as expressly set forth in the Agreement and **Exhibit "B,"** there shall be no payment for extra costs or expenses.
2. The total compensation to Architect shall be as stated in Article 6 of the Agreement.
3. District shall approve and pay Architect based on the percentage of completion of the Services contracted for under this Agreement.

B. Method of Payment

1. Invoices shall be on a form approved by the District and are to be submitted in triplicate to the District via the District's authorized representative.
2. Architect shall submit to District on a monthly basis documentation showing proof that payments were made to its Consultant(s).
3. Architect shall submit to the District for approval a copy of the Architect's monthly pay request format.
4. Upon receipt and approval of Architect's invoices, the District agrees to make payments of undisputed amounts within thirty (30) days of approval of the invoice.

C. Format and Content of Invoices:

Architect acknowledges that the District requires Architect's invoices to include detailed explanations of the Services performed. For example, a six hour charge for "RFIs and CORs" is unacceptable and will not be payable. A more detailed explanation, with specificity, is required. This includes a separate entry for each RFI, PCO, CCD and change order. For example, the following descriptions, in addition to complying with all other terms of this Agreement, would be payable. The times indicated below are just placeholders:

Review RFI 23; review plans and specifications for response to same; prepare responses to same and forward to contractor, district, construction manager, and project inspector.	.8 hours
Review COR 8; review scope of same and plans and specifications for appropriateness of same; prepare draft change order and language for same.	.7 hours
Review COR 11; review scope of same and plans and specifications for appropriateness of same; prepare rejection of COR 11 for review by district, CM, IOR.	1.2 hours

EXHIBIT "E"

INSURANCE REQUIREMENTS

- A. Architect shall procure prior to commencement of the Services of this Agreement and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services hereunder by the Architect, its agents, representatives, employees and Consultant(s). Architect's liabilities, including but not limited to Architect's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Architect's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement, as required or when requested, may be treated by the District as a material breach of contract.
- B. **Minimum Scope and Limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:
1. **Commercial General Liability.** one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to each project/location or the general aggregate limit shall be twice the required occurrence limit.
 2. **Commercial Automobile Liability, Any Auto.** one million dollars (\$1,000,000) per accident for bodily injury and property damage.
 3. **Workers' Compensation Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, Architect shall keep in full force and effect, a Workers' Compensation policy. Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 4. **Employment Practices Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, Architect shall keep in full force and effect, an Employment Practices Liability policy. That policy shall provide employers' liability coverage with minimum liability coverage of one million dollars (\$1,000,000) per occurrence. Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 5. **Professional Liability.** This insurance shall cover the prime design professional and his/her consultant(s) on a Claims Made basis for \$2 million dollars (\$2,000,000) aggregate limit subject to no more than seventy five thousand dollars (\$75,000) per claim deductible, coverage to continue through the completion of the updated facilities master plan plus two (2) years thereafter.

- C. The District reserves the right to modify the limits and coverages described herein.

D. **Deductibles and Self-Insured Retention:** Architect shall inform the District in writing if any deductibles or self-insured retention exceeds seventy five thousand dollars (\$75,000). At the option of the District, either:

1. The District can accept the higher deductible;
2. Architect's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or
3. Architect shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. **Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The District, its representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Architect; Instruments of Service and completed operations of the Architect; premises owned, occupied or used by the Architect; or automobiles owned, leased, hired or borrowed by the Architect. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
2. For any claims related to the projects, Architect's insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of Architect's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
4. Architect's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.

F. **Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. Architect shall inform the District in writing if any of its insurer(s) have an A.M. Best's rating less than A:VII. At the option of the District, the District may either:

1. Accept the lower rating; or
2. Require Architect to procure insurance from another insurer.

G. Verification of Coverage: Architect shall furnish District with:

1. Certificates of insurance showing maintenance of the required insurance coverages; and
2. Original endorsements affecting general liability and automobile liability coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverages on its behalf. All endorsements are to be received and approved by the District before Services commence.