

March 9, 2017

Ahmad Sheikholeslami
Chief Business and Operations Officer
MENLO PARK CITY SCHOOL DISTRICT
181 Encinal Avenue
Atherton, CA 94027

Re: Administration Office Area - Heating and Cooling Renovation
Kindergarten Building - Furnace Replacement
Encinal Elementary School
Menlo Park City School District

Dear Ahmad,

The purpose of this letter is to provide fees for mechanical, plumbing and electrical engineering services involved in preparing drawings and specifications and providing construction administration services on the above referenced project.

Our fee for the mechanical, plumbing and electrical engineering services described above is \$22,500.00.

The proposed payment schedule for our total fee of \$22,500.00 is as follows:

- Construction Document Phase: \$ 18,000.00
- Construction Administration Phase: \$ 4,500.00
- Total: \$ 22,500.00

The fee listed above includes our estimated costs associated with expenses including printing, plotting, messengers, copying, mileage, etc.



Administration office area scope of work:

The project area for the administration office area includes the following spaces:

- Teachers Conference (B6)
- Workroom (B5)
- Main Office (B3)
- Offices (B1, B2)
- Health (B3A)
- Principal (B4)

Our work on the mechanical systems includes a new variable refrigerant flow (VRF) system to replace the existing system consisting of furnaces, cooling coils, and condensing units currently serving the project area. Our work on the plumbing systems includes condensate drain piping for the new VRF system indoor units and demolition and capping of existing gas piping. Our work on the electrical systems includes power conduit and wiring for the new mechanical system. The new mechanical systems are to be powered from the existing electrical panels serving the project area.

Kindergarten building scope of work:

The project area for the kindergarten building is in the existing mechanical room only.

Our work on the mechanical systems includes the replacement of five (5) existing gas fired furnaces with five (5) new furnaces of similar type and capacity. Our work on the plumbing systems includes the disconnection of gas piping from the existing furnaces and the modifications required to the gas piping and connection to the new furnaces. Our work on the electrical systems includes disconnection of existing power wiring and conduit from the existing furnaces and modifications required to the wiring and conduit and reconnection to the new furnaces.

Please note the following qualifications/exclusions relating to our proposed scope of work and related fee:

1. Submittal to DSA and/or DSA back check is not included.
2. Fire sprinkler work is not included.
3. Electrical services upgrades are not included. Our fee is based on the existing electrical service and panels serving the project areas being adequately sized to accommodate any new additional loads.
4. Fire alarm work is not included.
5. Construction project management is not included.

Please provide written authorization if we are to proceed with the work on this project. If you have questions or comments, please do not hesitate to call or email. Thank you for allowing us to propose our services on this project.

Best Regards,



Marc A. Woodman, P.E., LEED AP®
MCCRACKEN & WOODMAN, INCORPORATED

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AGREEMENT FOR CONSULTING SERVICES
WITH McCracken and Woodman, Inc.

THIS AGREEMENT, made this ____ day of March 2017, by and between the Menlo Park City School District, a political subdivision of the State of California, hereinafter called "DISTRICT", and McCracken and Woodman, Inc. a duly qualified consultant in the area of Mechanical Engineering, hereinafter called "CONSULTANT".

The DISTRICT and CONSULTANT hereby agree as follows:

1. Description of Services:

CONSULTANT agrees to provide mechanical engineering services to the DISTRICT as set forth in Exhibit A related to upgrades and modification to the HVAC system of the Administration and Kindergarten Buildings at Encinal School located at 195 Encinal Ave in Atherton Ca.

2. Contract Documents:

The contract documents consist of the Agreement for Consulting Services, the General Provisions, all Exhibits to the Agreement, any specifications, drawings, specific and/or general conditions, attachments, and completed insurance forms.

3. Compensation:

As full compensation for all services contemplated by this Agreement, CONSULTANT shall be compensated at the rates set forth in Exhibits B provided however that the maximum total payment authorized under this Agreement shall not exceed \$22,500. Payment shall be made as follows:

- a) CONSULTANT shall submit invoices not less than monthly, setting forth the fees for services, the method by which such fees are calculated and the total expenses incurred by the CONSULTANT in the course of rendering services.
- b) Any items to be reimbursed by DISTRICT shall be approved by the DISTRICT Superintendent or his representative prior to the purchase of such items. Not all expenses incurred during a billing period will be recorded during such month and therefore expenses billed may not be all-inclusive for the applicable billing period.
- c) The DISTRICT shall render payment within thirty (30) days of approval of invoice by DISTRICT'S Superintendent or his representative.

4. Term of Agreement:

The term of this Contract shall be from March 20, 2017 to March 20, 2018 inclusive, subject to the provisions of Section 7 of the General Provisions. The term of the Agreement may be extended by mutual agreement of the parties in writing. All

work shall be completed in a diligent and expeditious manner as described further in the Attachments to Exhibit "A."

5. Exhibits and Attachments

The following exhibits are included and incorporated by this reference to this Agreement:

Exhibit A – McCracken and Woodman, Inc. Proposal dated 3.9.17

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

Menlo Park City School District

McCracken and Woodman, Inc.

By: _____

By: _____

Maurice Ghysels, Superintendent

_____(Print Name)

Note: Federal Internal Revenue regulations require this office to report all payments to individuals for consultant services.

GENERAL PROVISIONS

(AGREEMENT FOR CONSULTING SERVICES)

1. ASSIGNMENT/DELEGATION: Neither party hereto shall assign, sublet or transfer any interest in this Agreement or any duty hereunder without written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party shall have so consented.
2. STATUS OF CONSULTANT: The parties intend that CONSULTANT, in performing the services herein specified, shall act as an independent contractor and shall have control of the work and the manner in which it is performed provided that all work shall be performed in accordance with professional or industry standards and to the reasonable satisfaction of the DISTRICT. CONSULTANT is not an agent or employee of DISTRICT and is not entitled to participate in any pension plans, insurance, bonus or similar benefits DISTRICT provides its employees.
3. INDEMNIFICATION:
 - (a) To the extent permitted by law, CONSULTANT shall indemnify and save harmless the DISTRICT, its officers, consultants, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including CONSULTANT, its officers, agents, employees and servants, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties or claims of damages resulting from CONSULTANT'S failure to comply with applicable laws, or (D) any other loss or cost to the extent resulting from the CONSULTANT'S negligent or reckless acts or omissions or willful misconduct in connection with the performance of any work required of CONSULTANT or payments made pursuant to this Agreement.
 - (b) The duty of CONSULTANT to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.
 - (c) The obligations set forth in this section shall continue beyond the term of this Agreement as to any act or omission which occurred during or under this Agreement.
4. INSURANCE: With respect to the performance of work under this Agreement, CONSULTANT shall maintain and shall require all of its subcontractors to maintain insurance as described below:
 - (a) Worker's compensation insurance with statutory limits as required by the Labor Code or the State of California. Said policy shall be endorsed with the

following specific language: "This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to the DISTRICT".

- (b) Commercial or Comprehensive General Liability insurance covering bodily injury and property damage utilizing an occurrence policy form, in an amount no less than \$1,000,000 combined single limit for each occurrence. Said insurance shall include, but not be limited to: premises and operations liability, independent contractors liability, and personal injury liability.
- (c) Automobile liability insurance covering bodily injury and property damage in an amount no less than \$1,000,000 combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles.
- (d) Each said comprehensive or commercial general liability and automobile liability insurance policy shall be endorsed with the following specific language:
 - (1) DISTRICT, its officers and employees, architect and construction manager, are named as additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement.
 - (2) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.
 - (3) The insurance provided herein is primary coverage to DISTRICT with respect to any insurance or self-insurance programs maintained by DISTRICT and no insurance held or owned by DISTRICT shall be called upon to contribute to a loss.
 - (4) This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to DISTRICT.
- (e) Professional Liability (Errors and Omissions) Insurance for all activities of the CONSULTANT arising out of or in connection with this Agreement is an amount no less than \$1,000,000 combined single limit for each occurrence endorsed with the following specific language: *"This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to DISTRICT, except for non-payment which will be ten (10) days."*

(g) Documentation:

The following documentation shall be submitted to the DISTRICT:

- (1) Properly executed Certificates of Insurance clearly evidencing all coverages, limits, and endorsements required above. Said certificates shall be submitted prior to the execution of this Agreement.
- (2) Signed copies of the specified endorsements for each policy. Said endorsement copies shall be submitted within thirty (30) days of execution of this Agreement.
- (3) Upon DISTRICT's written request, certified copies of insurance policies. Said policy copies shall be submitted within thirty (30) days of DISTRICT's request.

(h) Policy Obligations:

CONSULTANT's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

(i) Material Breach:

If CONSULTANT, for any reason, fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. DISTRICT, at its sole option, may terminate this Agreement and obtain damages from the CONSULTANT resulting from said breach. Alternatively, DISTRICT may purchase such required insurance coverage, and without further notice to CONSULTANT, DISTRICT may deduct from sums due to CONSULTANT any premium costs advanced by DISTRICT for such insurance. These remedies shall be in addition to any other remedies available to DISTRICT.

5. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS AND MAKING PAYMENTS: All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notice, bills and payments sent by mail shall be addressed as follows:

DISTRICT: Menlo Park City School District
ATTN: Ahmad Sheikholeslami
181 Encinal Avenue
Atherton, Ca 94027

CONSULTANT: McCracken and Woodman, Inc.
ATTN: Marc Woodman
3470 Mt. Diablo Blvd, Suite A305
Lafayette CA 94549

and when so addressed, shall be deemed given upon deposit in the United States Mail, postage prepaid, provided it is forwarded "certified", or "registered" with proof of receipt. In all other instances, notices, bills, and payments shall be deemed given at the time of actual personal delivery to the person(s) designated above. Changes may be made in names and addresses of the person to whom notices, bills and payments are to be given by giving notice pursuant to this paragraph.

6. MERGER: This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. Any prior agreement, promises, negotiations, or representations between the parties are not binding unless expressly stated in this document. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.
7. TERMINATION:
- (a) If either party fails to perform any of its obligations hereunder, within the time and in the manner hereunder provided or otherwise violates any of the terms of the Agreement, either party may terminate this Agreement by giving written notice of such termination, stating the reason for such termination. In such event, CONSULTANT shall be entitled to receive payment for all services satisfactorily rendered provided, however, that there shall be deducted from such amount the amount of liquidated damage, if any, sustained by DISTRICT by virtue of any breach of the Agreement by CONSULTANT.
 - (b) DISTRICT shall also have the right in its sole discretion to terminate the Agreement for its own convenience by giving thirty (30) calendar days written notice to CONSULTANT. In the event DISTRICT elects to terminate the Agreement without cause, it shall pay CONSULTANT for services satisfactorily rendered to such date.
 - (c) Termination of the Agreement 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.
8. TRANSFER OF RIGHTS: CONSULTANT assigns to DISTRICT all rights throughout the work in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications including electronic data bases now or later prepared by CONSULTANT in connection with the project, if any.
- CONSULTANT agrees to take such actions as are necessary to protect the rights assigned to DISTRICT in this Agreement, and to refrain from taking any action which would impair those rights. CONSULTANT's responsibilities under this contract include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as CONSULTANT may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of DISTRICT.
9. NONDISCRIMINATION: CONSULTANT shall comply with all applicable federal, state and local laws, rules and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, handicap or other prohibited basis. All

nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated by this reference.

10. EXTRA OR CHANGED WORK: Only the Superintendent may authorize extra and/or changed work provided that any authorization for extra or changed work shall be in writing signed by the District Superintendent and any compensation for the extra or changed work does not exceed the contract maximum amount stated in Section 2 above without the approval by the DISTRICT'S governing board. The parties expressly recognize that DISTRICT and School personnel are without authorization to either order extra (and/or changed) work or waive contract requirements. Failure of the CONSULTANT to secure proper authorization for extra work shall constitute a waiver of any and all right to adjustment in the contract price or contract time due to such unauthorized extra work and the CONSULTANT thereafter shall be entitled to no compensation whatsoever for the performance of such work.
11. CONFLICT OF INTEREST: CONSULTANT represents that it presently has no interest which would conflict in any manner or degree with the performance of services contemplated by this Agreement. CONSULTANT further represents that in the performance of this Agreement, no person having such interest will be employed.
12. OWNERSHIP OF WORK PRODUCT: DISTRICT shall be the owner of and shall be entitled to immediate possession of accurate reproducible copies of any design computations, plans, correspondence, including electronic files, or other pertinent data and information gathered or computed by CONSULTANT prior to termination of this Agreement by DISTRICT or upon completion of the work pursuant to this Agreement. After completion of the services under this Agreement or after termination of this Agreement, CONSULTANT shall deliver to DISTRICT a complete set of records for the PROJECT on which services were provided, including without limitation all documents generated by CONSULTANT, copies of all documents exchanged with or copied to or from all other PROJECT participant, and all other documents related to the services provided by CONSULTANT on the project under this Agreement. Said records for the Project shall be indexed and appropriately organized for easy use by DISTRICT personnel.
13. ATTORNEY'S FEES: In the event either party brings an action or proceeding for damages arising out of the other's performance or to establish the right or remedy of either party under this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs as part of such action or proceeding, including non-reimbursable litigation expenses such as expert witness fees and investigation expenses. No lawsuit pertaining to any matter arising out of or under this Agreement shall be instituted in any state other than California.
14. CONSULTANT'S WARRANTY: DISTRICT has relied upon the professional ability and training of CONSULTANT as a material inducement to enter into this Agreement. CONSULTANT hereby warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood

that acceptance of CONSULTANT's work by DISTRICT shall not operate as a waiver or release.

15. TAXES: CONSULTANT agrees to file federal and state tax returns and pay all applicable state and federal taxes on amounts paid pursuant to this Agreement. In case DISTRICT is audited for compliance regarding any applicable taxes, CONSULTANT agrees to furnish DISTRICT with proof of payment of taxes on those earnings.
16. DUE PERFORMANCE: Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may, in writing, demand adequate assurance of due performance and until such written assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received.
17. NO THIRD-PARTY BENEFICIARIES: There are no intended third-party beneficiaries of this Agreement.
18. NO WAIVER OF BREACH: The waiver by either party of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.
19. FINGERPRINTING: By execution of the Agreement/Contract, the CONSULTANT acknowledges that Education Code Section 45125.1 applies to contracts for the provision of school and classroom janitorial, school site administrative, school site grounds and landscape maintenance, pupil transportation and school site food-related services. Section 45125.1 requires that employees of entities providing such services to school districts must be fingerprinted by the California Department of Justice for a criminal records check, unless the DISTRICT determines that the CONSULTANT and CONSULTANT's employees will have limited contact with pupils. In making this determination, the DISTRICT will consider the totality of the circumstances, including factors such as the length of time the CONSULTANT and CONSULTANT's employees will be on school grounds, whether pupils will be in proximity with the site where the CONSULTANT and CONSULTANT's employees will be working, and whether the CONSULTANT and CONSULTANT's employees will be alone or with others. The DISTRICT further reserves the right to determine, on a case-by-case basis, to require any entity providing schoolsite services to comply with the requirements of this paragraph.

(a) DISTRICT Determination of Fingerprinting Requirement Application

The DISTRICT has considered the totality of the circumstances concerning the Project and has determined that the CONSULTANT and CONSULTANT's employees:

_____ are subject to the fingerprinting requirements of Education Code Sections 45125.1 and Paragraph (b) below, is applicable.

X are not subject to the fingerprinting requirements of Education Code Section 45125.1 and Paragraph (c) below, is applicable.

- (b) If the DISTRICT has determined that fingerprinting is required, the CONSULTANT expressly acknowledges that: (1) CONSULTANT and all of CONSULTANT's employees working on the school site must submit or have submitted fingerprints in a manner authorized by the Department of Justice, together with the requisite fee as set forth in Education Code Section 45125.1; (2) CONSULTANT shall not permit any employee to come in contact with students until the Department of Justice has ascertained that the employee has not been convicted of a serious or violent felony; (3) CONSULTANT shall certify in writing to the Governing Board of the DISTRICT that none of its employees who may come in contacts with students have been convicted of a serious or violent felony; and (4) CONSULTANT shall provide to the Governing Board of the DISTRICT a list of names of its employees who may come in contact with students. The CONSULTANT is required to fulfill these requirements at its own expense.
- (c) Even if the DISTRICT has determined that fingerprinting is not required, the CONSULTANT expressly acknowledges that the following conditions shall apply to any work performed by the CONSULTANT and/or CONSULTANT's employees on a school site: (1) CONSULTANT and CONSULTANT's employees shall check in with the school office each day immediately upon arriving at the school site; (2) CONSULTANT and CONSULTANT's employees shall inform school office staff of their proposed activities and location at the school site; (3) Once at such location, CONSULTANT and CONSULTANT's employees shall not change locations without contacting the school office; (4) CONSULTANT and CONSULTANT's employees shall not use student restroom facilities; and (5) If CONSULTANT and/or CONSULTANT's employees find themselves alone with a student, CONSULTANT and CONSULTANT's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

20. DISABLED VETERANS PARTICIPATION GOALS: In accordance with Education Code section 17076.11, this DISTRICT has a participation goal for disabled veteran business enterprises ("DVBE") of at least 3 percent per year of the overall dollar amount of funds allocated to the DISTRICT by the State

Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization and expended each year by the DISTRICT. Prior to, and as a condition precedent for final payment under any contract for such project, the CONSULTANT shall provide appropriate documentation to the DISTRICT identifying the amount paid to disabled veteran business enterprises in conjunction with the contract, so that the DISTRICT can assess its success at meeting this goal.

The CONSULTANT agrees that, for all contracts subject to DVBE participation goals, the State and the DISTRICT have the right to review, obtain and copy all records pertaining to performance of the contract in accordance with DVBE requirements. The CONSULTANT agrees to provide the State or the DISTRICT with any relevant information requested and shall permit the State or Owner access to its premises upon reasonable notice for purposes of interviewing employees and inspecting records. The CONSULTANT agrees to maintain such records for a period of three years after final payment under the contract.

21. APPLICABLE LAW: The laws of the State of California govern this Contract. Each and every provision of law and clause required by law to be included in the Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.
22. REPORTS TO IRS: The parties understand that Federal Internal Revenue regulations require this office to report all payments to CONSULTANT for services.