

Vista Unified School District

**CONTRACT FOR ARCHITECTURAL SERVICES
Contract #**

This agreement ("Agreement") is entered into ___, **2018**, between the **Vista Unified School District**, of San Diego County, California, hereinafter referred to as the "District," and ___, an architect licensed to practice in the State of California, hereinafter called the "Architect."

WHEREAS, the District intends to construct the Project ("Project") described as follows:

***Architect Services for ___
at ___ School as depicted in Attachment A.***

WHEREAS, Architect represents that it is fully licensed, qualified and willing perform the services required by this Agreement.

NOW, THEREFORE, the parties hereto mutually agree as follows:

Article 1. Employment of Architect. The District hereby employs the Architect pursuant to the fair and competitive procurement procedures described at Government Code section 4525 et seq. to perform the necessary professional services, including but not limited to those hereinafter set forth in connection with the above-described Project. Architect shall name a specific person as Project Architect, subject to approval of District. The Project Architect shall maintain personal oversight of the Project, and act as principal contact with the District, the contractor, Architect's consultants, engineers and inspectors on the Project. Any change by Architect of the Project Architect shall be subject to approval by District.

Article 2. Architect's Services. The Architect hereby accepts said employment and agrees to perform all the necessary professional architectural, engineering and construction administration services in a professional manner, consistent with the standards of the industry, including but not limited to the following:

- (a) Communication with District. Participation in all consultations and conferences with authorized representatives of the District and/or other local, regional, or state agencies concerned with the Project necessary for the development of the drawings, specifications, and documents in accordance with the applicable standards and requirements of law and the District. Such consultations and conferences shall continue through the planning and construction of the Project and the contractor's warranty period. Architect shall only take direction from staff specifically designated by District (the "District Representative"). The District Representative for the Project shall be Steve Presley, Facilities Planner. The District hereby certifies that the District Representative has been duly authorized by the District Board of Education ("Board") to represent the District on Project.
- (b) Hiring of Consultants and Personnel.

(i) Architect shall have the option, unless given written objection of the District, to employ at his expense architects, engineers, or other persons, qualified and licensed, to render services in connection with the planning and/or administration of the Project, and to delegate to them such duties as he may delegate without relieving himself from administrative or other responsibility under this Agreement. Architect shall be responsible for the coordination and cooperation of Architect's consultants. Architect shall notify District of the identity of all consultants prior to their commencement of work.

(ii) All engineers, experts and consultants retained by Architect in performance of this Agreement shall be licensed to practice in their respective professions, where required by law.

(iii) Engineers and consultants hired by Architect shall be required to show evidence of a policy of professional liability or project insurance, if applicable, in such amounts as set forth on Exhibit A attached hereto and incorporated herein by reference, and meeting the same requirements set forth in Article 12 hereof. All insurance required herein shall be with an insurance carrier satisfactory to District. This insurance requirement may be waived at the discretion of the parties in such cases in which the contractor's work does not justify high premiums. Any such waiver shall be indicated on Exhibit A.

(iv) Architect shall promptly obtain written District approval of assignment and/or reassignment or replacement of such engineers or consultants or of other staff changes of key personnel working on the Project. Any changes in Architect's consultants and staff shall be subject to approval by District.

(v) Draftsmen and other clerical personnel shall be retained by Architect at Architect's sole expense.

(c) Initial Planning Phase of Project.

(i) Perform on-site evaluation for all existing sites for the establishment of existing conditions and proposed design criteria for the modernization project, including the identification of building ADA accessibility issues that will need to be addressed.

(ii) Meet with required District personnel and/or committees as required to establish design parameters and district standards and priorities related to the modernization of the schools.

(iii) Review District's current technology plan and implement this plan into the modernization of the schools to the extent possible, and/or help District establish minimum requirements for the implementation of technology into the schools through the modernization projects.

(iv) Provide advice and assistance to District in determining the feasibility of the Project, the type and quality of materials and construction to be selected, the site location and other initial planning matters.

(v) Architect shall notify District in writing of potential complications, cost overruns, unusual conditions, and general needs that potentially impact the Project budget and timeline.

(vi) Architect shall assist and advise District in securing easements, encroachment permits, coordination with utilities, rights of way, dedications, coordination with adjacent property owners, infrastructure, and road improvements.

(vii) If so required by the District, Architect shall assist in the conducting of the "initial study" and any other documents necessary for compliance with the provisions of the California Environmental Quality Act.

(d) Schematic Plan Phase of Project.

(i) On specific written approval by the District of the plans described in subdivision (c) of this Article, the Architect shall provide a site plan and other Project related information necessary and required for an application by the District to any local, regional, State, or Federal agency for funds to finance the Project.

(ii) In cooperation with District planners and educational committees, the Architect shall prepare preliminary plans and studies, schematic drawings and site utilization plans, showing the scale and relationship of the components of the Project and the plot plan development at the site and the proposed architectural concept of the buildings, incorporating the educational, program, and functional requirements of the District. Such drawings and plans shall meet the requirements of the California Department of Education ("CDE") Regulations (Title 5 California Code of Regulations section 14000 et seq.) and guidelines and shall be prepared in such form as may be submitted to CDE for approval. Such drawings and plans shall show in single line drawings all rooms incorporated in each building in the Project, and shall include all revisions required by the District or by any State, federal, local, or regional agency having jurisdiction over the Project. All architectural representation drawings for the Project shall be suitable for reproduction.

(iii) The Architect shall prepare a detailed written statement of estimated probable construction costs which shall comply with requirements of school construction funding aid agencies identified by District and a written time schedule for the performance of work on the Project. The purpose of the cost estimate is to show probable cost in relation to the District's budget. If Architect perceives site considerations which render the Project expensive or cost prohibitive, Architect shall disclose such conditions in writing to District immediately.

(iv) The Architect shall provide five (5) complete sets of the schematic plans described in section (d)(ii) for District review and approval. Additionally, at District expense, the Architect shall provide copies of such documents as

required by any State, federal, local, or regional agencies concerned with the Project, including, but not limited to CDE, the Division of the State Architect ("DSA"), the Department of General Services and any other appropriate federal, State, local, or regional regulatory bodies. Any additional copies required shall be provided at cost to District.

(e) Design Development Phase of Project.

(i) On specific written approval by the District of the plans described in subdivision (d) of this Article, the Architect shall prepare design development documents consisting of site and floor plans, elevations and any other drawings and documents sufficient to fix and describe the size and character of the Project's structural, mechanical and electrical systems, types and makeup of materials and outline specifications for presentation to the Board for approval.

(ii) The Architect shall provide five (5) complete sets of the design development documents described in section (e)(i) for District review and approval. Additionally, at District expense, the Architect shall provide copies of such documents as required by any State, federal, local, or regional agencies concerned with the Project, including, but not limited to CDE, DSA, the Department of General Services and any other appropriate federal, State, local, or regional regulatory bodies. Any additional copies required may be provided at cost to District.

(iii) The Architect shall provide District with an updated estimate of probable construction costs, containing detail consistent with the design development documents as set forth in section (e)(i) of this Article and containing a breakdown based on types of materials and specifications identified in section (e)(i) of this Article;

(iv) Architect shall provide a timetable of Project to District;

(v) The Architect shall assist District in applying for and obtaining required approvals from all applicable governmental agencies and shall furnish and process all architectural and engineering information required to prepare and process applications to applicable utilities and governmental agencies for the securing of priorities, materials, or funds as an aid in the construction of the Project and obtain final Project approval and acceptance by said agencies as required.

(vi) The Architect shall provide a color schedule of all materials and selections of texture, finishes, and other matters involving an aesthetic decision in the Project for District's review and approval.

(f) Building Permits and Conformity To Legal Requirements.

(i) The Architect shall identify applicable governmental agencies having jurisdiction over Project. The Architect shall cause drawings and specifications to conform to applicable requirements of law, local, regional, and State, and to requirements of public authorities and bodies formed under local, regional, State, or federal law, including, but not limited to, DSA, CDE, local or regional planning agencies, Cal Trans, and the U.S. Fish and Wildlife Service, whose approval of the drawings and specifications must be obtained, and shall cause

the necessary copies of such drawings and specifications to be filed with these bodies for approval in accordance with paragraph (e)(ii) of this Article.

(ii) Architect will use its best professional efforts to interpret applicable ADA requirements and California accessibility regulations as they apply to the Project and to inform District of any inconsistencies between federal and state accessibility regulations and of requirements which are subject to conflicting interpretations of the law. Interpretation of inconsistencies and areas subject to conflicting interpretations shall be the responsibility of District.

(g) Final Working Drawings and Specifications.

(i) On specific written approval by the District of the plans described in subdivision (e) of this Article, the Architect shall prepare such complete working drawings and specifications as are necessary for obtaining complete bids and for efficient and thorough execution of work. Such working drawings shall be developed from the preliminary drawings approved by the District. The final working drawings and specifications shall set forth in detail the work to be done, the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, electrical system and utility service connection equipment and site work. It shall be District's responsibility to supply Architect with the necessary information to determine the proper location of all improvements on existing sites, including record drawings ("as-built drawings") in the District's possession. Architect will make a good faith effort to verify the accuracy of such information and as-built drawings by means of a thorough interior and exterior visual survey of site conditions. District shall also make a good faith effort to verify the accuracy of the as-built drawings and provide any supplemental information to Architect which may not be shown on the as-built drawings. The District shall furnish, at District's expense, all information, requirements, reports, data, surveys and instructions required by this agreement. The Architect may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof.

The final working drawings and specifications must be in such form as will enable the Architect and the District to secure the required permits and approvals by public authorities and for the District to obtain by competitive bidding a responsible bid that does not exceed the District's established budget. The final working drawings shall be clear and legible so that uniform copies may be obtained from them. The final specifications shall be typed on letter size paper properly indexed and numbered and shall be capable of being clearly copied and assembled in a professional manner by Architect.

(ii) District shall review, study and check the final working drawings and specifications presented to it by Architect and make any necessary revisions or obtain approval of such final plans by the Board, subject to the approval of DSA. Architect shall, at no additional cost, make all District-requested changes, additions, deletions, and corrections in the final working drawings and specifications so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, inconsistent with earlier District direction, or inconsistent with Architect's professional judgment. The parties hereto agree that the Architect and not the District possesses the requisite expertise to determine the constructability of the final working drawings and

specifications. The District's review and approval of the final working drawings shall not be conclusive of the constructability of the plans and shall not in any way limit Architect's liability if any portion of the final working drawings and specifications is defective.

(iii) It is understood by the Architect that should final working drawings and specifications be ordered by the District, the District shall specify the sum of money set aside to cover the total cost of the construction of the work exclusive of Architect's fees, and the Architect agrees to develop the plans so that the total construction cost to the District will not exceed the specified sum. Architect shall endeavor in so doing, to keep the actual cost of the work as low as may be consistent with the purpose of the buildings and with proper workmanship and material. Should it become evident that the total construction cost will exceed the specified sum, the Architect shall at once present a statement in writing to the District Representative setting forth this fact and giving a full statement of the cost estimates on which the conclusion is based. In the event that such statement is not filed and bids received by the District from contractors for the construction of the work indicate that they cannot be constructed in accordance with the plans and specifications furnished by the Architect for the specified sum, in accordance with Article 2 (g), the Architect shall, if requested by the District, and without extra compensation therefor, so revise the plans and specifications for the work that the construction may be completed for the total cost which does not exceed the specified sum or so that certain portions of the Project may be omitted, deferred, or separately bid.

(iv) The Architect shall provide five (5) complete sets of the final working drawings and specifications described in section (g)(i), for District review and approval. Additionally, at District expense, the Architect shall provide copies of such documents in quantities and formats as required by any State, federal, local, or regional agencies concerned with the Project, including, but not limited to CDE, DSA, the Department of General Services and any other appropriate federal, State, local, or regional regulatory bodies. Any additional copies required shall be provided at cost to District.

(h) Construction Contract Documents.

If so required by District, Architect shall assist District in the completion of construction documents, including but not limited to Advertisement for Bids, Information for Bidders, Bid Forms, Bonds, General Conditions, Special Conditions, Agreement, documents required to comply with Minority, Women and Disabled Veteran Business Enterprise preferences, if required, affirmative action documents, or any documents required in order to obtain bids responsive to the specifications. All such documents shall be subject to the approval of the District and District's counsel. At the time of delivery of the aforementioned construction documents, which shall include the final working drawings and specifications (collectively, the "Construction Documents"), Architect shall provide District with its final estimate of probable construction cost ("Final Estimate"). A copy of the approved Construction Documents will be provided to the District in the electronic media format(s) specified by the District.

(i) Bid Phase.

(i) Following District's approval of the Construction Documents and Final Estimate, Architect shall provide to District at District expense, sets of Construction Documents in adequate number for bidding purposes. Architect shall assist District notifying potential interested parties to obtain the copies of Construction Documents and in obtaining bids on the Project and awarding the contract, including coordinating the distribution and collection of bid plans, specifications, and addenda as required.

(ii) Architect shall assist District, if so requested, in prequalifying bidders pursuant to the Public Contract Code.

(iii) If the low responsive bid on the Project exceeds the final estimate by ten percent (10%), District may request Architect to amend the final drawings and specifications to rebid the Project so that bids are within ten percent (10%) of the Final Estimate. At the request of District, Architect shall provide working drawings and specifications which include alternate bids as deemed advisable by the District.

(j) Observation of Project. Observation of the work executed from the final working drawings and specifications shall be in person by the Architect provided that the District may in its discretion consent to such observation by a competent representative of the Architect. The Architect's responsibility shall include the preparation of all documents and/or drawings made necessary by errors in the originally approved drawings or specifications and such modifications therein as may be necessary to meet unanticipated conditions encountered during construction.

(k) Construction of Project. The Architect shall provide general administration of the Construction Documents, including, but not limited to the following:

(i) Architect shall conduct a pre-construction meeting with all interested parties.

(ii) Site visits to observe contractor's work and for general conformance with the plans and specifications and that work is progressing in accordance with the Construction Documents and contractor's schedule.

(iii) Site visits to communicate and monitor the activities of the Project inspector employed by District. Architect shall direct the inspector and/or contractor and coordinate with the inspector in the preparation of record drawings indicating dimensions and location of all "as-built" conditions, including but not limited to underground utility lines. Such drawings shall be forwarded to District upon completion of the Project.

(iv) Cause engineers and other consultants as may be hired by Architect pursuant to subdivision (b) of this Article, to observe the work completed under their engineering disciplines as required, and approve and review all test results for general conformance with the original approved documents for their portion of the Project.

(v) Make regular reports as may be required by the applicable local, regional and state agencies.

(vi) Provide written reports to the District after each construction meeting to keep District informed of the progress of the work. Such meetings shall occur at a frequency necessary for the progress of the work.

(vii) Make written reports to the District as necessary to inform District of problems arising during construction, changes contemplated as a result of the problem and progress of work.

(viii) Keep records of construction progress and time schedules and advise contractor and District of any deviations from the time schedule which would delay timely completion of Project.

(ix) Check and process all required material and test reports and report to DSA, the contractor and the District any deficiencies in material as reflected by those reports with recommendation for corrections of such deficiencies.

(x) Review in a timely manner schedules and shop drawings, samples, and other submissions of the contractor and subcontractors for compliance with design and specifications.

(xi) Reject work or materials which do not conform to the Construction Documents and notify District of such rejection.

(xii) Consult with District with regard to substitution of materials, equipment, and the laboratory reports thereof prior to the final approvals of such substitutions by the District in writing.

(xiii) Advise District in writing of any material change, or changes, necessary in the plans and specifications of the Project. Architect shall not order contractors to make any changes affecting contract price without approval by the District of a written change order, pursuant to the terms of the Construction Documents. The Architect may order on his or her own responsibility and pending the Board's approval, changes necessary at the time to meet construction emergencies if written approval of the District Representative is first secured.

(xiv) Receive, process, issue, review and/or negotiate all contractor Requests for Information, Supplemental Instructions, Proposal Requests, Change Order requests and replies related to pricing information.

(xv) Examine, verify, and approve contractors' applications for payment and issue certificates for payment in amounts approved by inspector.

(xvi) coordinate final color and product selection with District's original design concept.

(xvii) Determine date of substantial completion.

(xviii) After determining the Project is substantially complete, the Architect shall inspect the Project and provide the District and contractor a written list of all deficiencies, including minor items ("punch-list items"). Architect shall

notify contractor in writing that all deficiencies and punch list items must be corrected prior to acceptance of the Project.

(xix) Assemble for and provide to District written warranties, guarantees, owners' manuals, instruction books, diagrams, record drawings ("as-builts"), and any other materials required from the contractors and subcontractors.

(xx) Make any further inspections of Project necessary to issue Architect's Certificate of Completion and final certificate for payment.

(xxi) Cause engineers and other consultants, as may be hired by Architect pursuant to subdivision (b) of this Article, to file required documentation with governmental authorities necessary to close-out Project.

(xxii) Process Change Orders, verified reports, testing reports and other required documentation through DSA to obtain certification for the Project.

(xxiii) Provide advice to District on apparent deficiencies in construction following acceptance of work.

(l) Additional Services of Architect. At District request, Architect may be asked to perform services not otherwise included in this Agreement and/or services not customarily furnished in accordance with generally accepted architectural practice. District may agree to pay Architect for such services, pursuant to Article 4 subdivision (b), if such services cause Architect additional expense and are necessitated due to unusual circumstances and through no fault or neglect on the part of Architect. No additional compensation shall be paid to Architect for performing such services unless District and Architect agree in writing as to the amount of compensation for such services prior to such services being rendered. Such services may include, but shall not be limited to (i) plan preparation and/or administration of work on portions of the Project separately bid; (ii) assistance to District, if requested for the selection of moveable furniture, equipment or articles which are not included in Construction Documents; (iii) services caused by delinquency, default or insolvency of contractor or by major defects in the work of the contractor in the performance of the construction contract; (iv) revisions in drawings, specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given and due to causes beyond the control of Architect; (v) serving as an expert witness on District's behalf; and (vi) supervision of repair of damages to structure.

Article 3. District Responsibilities. The District's responsibilities shall include the following:

(a) Make available to the Architect all necessary data and information concerning the purpose and requirements of the Project, including realistic scheduling and budget limitations.

(b) Depending upon the scope of the Project, furnish Architect with, or direct Architect to procure at District expense, a survey of the Project site prepared by a registered surveyor or civil engineer and any other record documents which shall indicate existing structures, land features, improvements, sewer, water, gas, electrical and utility lines, topographical information and boundary dimensions of the site and any

other such pertinent information. District shall also provide a soils investigation report and a geological report, if required by law.

(c) Appoint and pay an inspector as provided by State law. Said inspector shall be qualified and approved by DSA and shall be under direction of the Architect and responsible to, and act in accordance with the policies of the District. The administration by Architect and his or her engineers shall be in addition to the continuous personal supervision of the District's inspector.

(d) Assist Architect in the distribution of plans to bidders and conduct the opening of bids on the Project, if applicable.

(e) Conduct chemical, mechanical, or other tests required for proper design of the Project. Furnish such surveys, borings, test pits and other tests as may be necessary to reveal conditions of the site which must be known for the proper development of the required drawings and specifications and to determine soil condition.

(f) Retain a testing service for materials testing and inspection as required by Title 21 of the California Code of Regulations.

(g) Direct pay or reimburse the payment of all fees required by any reviewing or licensing agency.

(h) Designate a representative authorized to act as liaison between Architect and District in the administration of this Agreement and the Construction Documents. Such person or persons shall assist Architect in making inspections and preparing the list of deficiencies required by subdivision (k) paragraph (xviii) of Article 2 hereof and accompany Architect and contractor on the final inspection.

(i) Review all documents submitted by Architect, including change orders and other matters requiring Board approval or approval of District officials. Advise Architect of decisions pertaining to such documents within a reasonable time after submission.

(j) Notify Architect in writing if any deficiencies in material or workmanship become apparent during contractor's warranty period.

Article 4. Architect's Fee.

(a) The District shall pay to the Architect for the performance of all services rendered herein the amount of:

Pricing as per proposal dated _____, which is attached as Exhibit C.

Lump Sum total as per Exhibit C: _____.

which constitutes complete payment for the Architect's services under this Agreement. The costs of the work shall mean the cost to the District of the proposals or bids for the Project accepted by District and any additive change order items agreed to by the District and the contractor(s).

(b) Payment for Additional Services. The Architect shall be paid for additional services not originally contemplated by the parties to this Agreement as follows, provided the additional services have received advance written approval by the Board:

(i) Each portion of the Project let separately on a segregated bid basis shall be considered a separate Project for purposes of determining the fee.

(ii) Two percent (2%) of the cost of furnishings, equipment or other articles incorporated in the Construction Documents by the Architect and not included in the cost of the work, as defined in paragraph (a) above.

(iii) For services in addition to the basic services of Architect set forth in Article 2 hereof, a fee to be agreed upon by the parties in writing prior to performance of such services by Architect, which fee may be a flat amount or Architect's standard hourly rates set forth in Exhibit B.

(iv) Special consultants, except those hired pursuant to Article 2, subdivision (b) shall be paid at a multiple of 1.10 times the amount billed to the Architect for services.

(c) Reimbursable Expenses. Reimbursable expenses are in addition to compensation for basic and additional services (as set forth in Articles 2 (l) and 4 (a) and (b) above) and include expenses incurred by the Architect and Architect's employees and consultants in the interest of the Project, as identified in the following clauses.

(i) Expense of reproduction, postage and handling of drawings, specifications and other documents for agency approvals, construction and bidding, in excess of those set forth elsewhere in this contract.

(ii) Expense of additional insurance coverage or limits, including professional liability insurance, requested by the District in excess of that stipulated in Article 12 and normally carried by the Architect and Architect's consultants.

Article 5. Payments to Architect.

(a) Architect's compensation shall be paid by District to Architect monthly in arrears incrementally within the following phases as follows based upon the percentage of work completed:

Percentages of Total Fees

a.	Initial Planning Phase (Feasibility Study)	5%
b.	Schematic Design Phase	5%
c.	Design Development Phase	15%
d.	Final Drawing and Construction Document Phase	45%
e.	DSA Approval	5%
f.	Bid Phase	5%

g. Construction Phase

20%

Architect shall not receive final payment until completion of all Architect's required duties.

(b) In order to receive payment, Architect shall present to District a claim for payment for approval by District's authorized representative designating services performed, method of computation of amount payable, and amount payable.

(c) Payments made for extra work or special services shall be made in installments, not more often than monthly, proportionate to the degree of completion of such services or in such other manner as the parties shall specify when such services are agreed upon.

(d) Upon cancellation or termination of this Agreement, Architect shall be compensated as set forth in Article 8 hereof.

Article 6. Instructions to Proceed. The Architect is not to proceed with performance of any services under this Agreement without first securing written authorization from the District to do so.

Article 7. Time Schedule.

(a) Architect shall perform all services hereunder as expeditiously as is consistent with professional skill and care and the orderly progress of the work. Upon request of District, Architect shall prepare an estimated time schedule for the performance of Architect's services to be adjusted as the Project proceeds. Such schedule shall include allowances for periods of time required for District's review and approval of submissions and for approvals of authorities having jurisdiction over Project approval and for funding. The schedule shall not be exceeded by Architect, without the prior written approval of District.

(b) Any delays in Architect's work because of the actions of the District or its employees, those in direct contractual relationship with District, by a governmental agency having jurisdiction over the Project, or by an act of God or other unforeseen occurrence, not due to any fault or negligence on the part of Architect, may be added to the time for completion of any obligations of Architect. District shall not be liable for damage to Architect on account of such delays.

(c) Should Architect make an application for an extension of time, Architect shall submit evidence that the insurance policies required by Article 12, section (a) remain in effect during the requested additional period of time.

Article 8. Suspension, Abandonment, Termination.

(a) The District hereby reserves the right to suspend or abandon at any time all or any of the construction work on the Project or to terminate this Agreement at any time. In the event of such suspension, abandonment or termination, the Architect shall be paid pursuant to the schedule of payments set forth in Articles 4 and 5 for services rendered up to the date of such suspension, abandonment, or termination. If the date of suspension, abandonment or termination occurs prior to the date of approval of preliminary studies or prior to the date of approval of the working drawings, such

payments shall be the reasonable value of the services rendered up to the date of such suspension, abandonment, or termination less any payments theretofore made, as determined by the District, and the Architect hereby expressly waives any and all claims for damages or compensation arising under this Agreement, except as set forth herein.

(b) If the Architect's services are suspended by the District, the District may require the Architect to resume services within ninety (90) days after written notice from the District. Upon payment of the amount required to be paid under this Article following the termination of this Agreement, the District shall have the right to use any completed contract documents or other work product prepared by Architect under this Agreement. Architect shall make such documents available to the District upon request and without additional compensation.

Article 9. Ownership of Documents.

(a) Pursuant to Education Code section 17316, all plans, specifications and estimates prepared pursuant to this Agreement shall be and remain the property of the District. Such drawings and specifications supplied as herein required shall be the property of the District whether or not the work for which they were made is executed. The Architect shall furnish to the District such copies of all drawings and specifications as are necessary for study by the District and its representative; shall supply the copies of said drawings and specifications required under Article 2, subdivision (g) hereof, and shall supply five (5) additional copies to the District. Such other copies of the drawings and specifications as may be necessary for obtaining bids and for the proper conduct of the work shall be supplied to the District by the Architect at the cost of reproduction.

(b) The District reserves the right to reuse all or part of the aforementioned documents at its sole discretion for the construction of all or part of another Project constructed for District. The District is not bound by this Agreement to employ the services of Architect in the event such documents are reused. Any reuse by the District of documents prepared under this agreement, without employing the services of Architect, shall be at District's own risk. District shall indemnify, hold harmless and defend Architect and its officers, directors, agents and employees from all claims of any kind arising out of such use, re-use or modification of said documents prepared by Architect.

Article 10. Indemnity.

(a) Architect indemnifies and holds harmless District, the Board, each member of the Board, and the District's officers and employees from losses, damages, liabilities and costs to the extent that a claim arises out of, pertains to, or relates to the negligence, recklessness, or willful misconduct of the Architect and its consultants, agents, or employees associated with the Project or for whom the Architect is legally liable, to the maximum extent permissible under Civil Code section 2782.8.

(b) Any cost to defend District and related parties that is charged to the Architect shall be to the Architect's share of fault. Notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution, the Architect shall meet and confer with other parties to resolve unpaid defense costs.

(c) The provisions of this Article pertaining to the duty and cost to defend shall not apply if there is a Project-specific general liability policy that insures all Project

participants for general liability exposures on a primary basis and also covers all design professionals for their legal liability arising out of their professional services on a primary basis.

Article 11. Errors and Omissions. In addition to any other remedy which may be available to District and subject to Article 10, District may require Architect to pay all costs made necessary by any negligence, errors, or omissions of Architect, including but not limited to litigation costs, diminution or loss of State funding, and any cost related to the necessary removal of and/or replacement of materials. Architect shall not receive any fee for any of its work performed in correcting said errors or omissions regardless of whether such errors or omissions result in damages to District.

Article 12. Insurance.

(a) Architect shall maintain in full force and effect at its sole cost and expense from the time this Agreement is entered into until the date of acceptance of the work by District, insurance as set forth in this Article. All insurance provided for under this Article shall be with a carrier satisfactory to District. Prior to commencement of work, the Architect shall furnish to the District a certificate of insurance evidencing the above coverages. The District shall not be obligated to make any payment to Architect until after its receipt and acceptance of said certificate.

(i) Workers' compensation insurance as required by applicable laws, and employers liability insurance, with a limit of not less than \$1,000,000.

(ii) Commercial general liability insurance for bodily injury and property damage liability, the limits of which shall not be less than \$1,000,000 per occurrence. Commercial general liability policies obtained and maintained by the Architect shall contain endorsements naming the District and other interested parties designated by the District as additional insured and shall include products completed operation coverage as well as contractual liability coverage for liability assumed by Architect under this agreement.

(iii) Business automobile liability insurance for bodily injury and property damage. Such insurance shall extend to non-owned, and hired automobiles used in the performance of this agreement. The limits of liability shall not be less than \$1,000,000 per occurrence and shall name the District and other interested parties designated by the District as additional insured.

(iv) Professional liability insurance covering Architect's negligent acts, errors or omissions. The limit of liability shall not be less than \$1,000,000 each claim.

Article 13. Records. Architect shall maintain records of direct personnel and reimbursable expenses pertaining to the extra and special services of this Project that are compensable by other than a flat rate. Architect shall maintain all records of accounts between District and contractor on a generally recognized accounting basis. Such records shall be available to the District or its authorized representative for inspection or audit at any reasonable time. Architect shall maintain all records concerning the Project for a period of three years after its completion.

Article 14. Standardized Manufactured Items. Architect shall cooperate and consult with District in use and selection of manufactured items on the Project, including but not limited to, paint, hardware, plumbing, mechanical and electrical equipment and fixtures, roofing materials and floor covering. All such manufactured items shall be standardized to the District's criteria to the extent such criteria do not interfere with building design.

Article 15. Limitations of Agreement. This Agreement is limited to and includes only the work included in the Project described above and as determined at the time the schematic drawings and site utilization plans are approved. Any subsequent construction at the site of this Project or at any other site in the District will be covered by and be the subject to a separate Agreement for architectural services by and between the District and the Architect chosen therefor by the District.

Article 16. Mediation. Disputes arising from this Agreement may be submitted to mediation if mutually agreeable to the parties hereto. The mediation process shall provide that both parties select a disinterested third person mediator within a reasonable period of time, mutually agreed to by the parties. The mediation shall be commenced within thirty (30) days of the selection of the mediator. If the parties fail to select a mediator within the 15-day period, any party may petition the Superior Court of San Diego County to appoint the mediator.

Article 17. Compliance with the Laws. Architect's work shall comply with and meet applicable requirements of federal, state, and local law, including, but not limited to the Uniform Building Code, the Education Code, Title 19 and Title 24 of the California Code of Regulations, and all requirements prescribed by the California Department of General Services.

Article 18. Independent Contractor. Architect is, for all purposes arising out of this Agreement, an independent contractor, and neither Architect nor its employees shall be deemed an employee of the District for any purpose. It is expressly understood and agreed that Architect shall in no event be entitled to any benefits to which District employees are entitled, including, but not limited to, overtime, retirement benefits, insurance, vacation, worker's compensation benefits, sick or injury leave or other benefits.

Article 19. Successors in Interest and Assigns. This Agreement is binding upon and inures to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement, provided, however that Architect shall not assign or transfer by operation of law or otherwise any or all of his rights, burdens, duties or obligations without the prior written consent of the Board of Education of the District. Any attempted assignment without such consent shall be invalid.

Article 20. Asbestos Certification. Architect shall certify pursuant to 40 CFR section 763.99 (a)(7) that no asbestos containing material was specified as a building material in any construction document for the Project, and will request that contractors provide the District with certification that all materials used in the construction of any school building are free from any asbestos containing building materials ("ACBMs"). This certification shall be part of the final Project submittal.

Article 21. Minority, Women and Disabled Veteran Business Enterprise Certification. Architect must complete DVBE compliance within 30 days of signing the Agreement, if required by the Project or this Agreement shall be deemed canceled.

Article 22. Miscellaneous. The following terms and conditions shall be applied to this Agreement:

(a) Governing Law. This Agreement shall be construed in accordance with, and governed by the laws of the State of California.

(b) Entire Agreement. This Agreement with its exhibits supersedes any and all other prior or contemporaneous oral or written agreements between the parties hereto. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which is not incorporated herein, and that any other agreements shall be void. Furthermore, any modification of this Agreement shall only be effective if in writing signed by all parties hereto.

(c) Severability. Should any provision in this Agreement be held by a court of competent jurisdiction to be invalid, void of unenforceable, the remaining provisions shall continue in full force and effect.

(d) Non-Waiver. None of the provisions of this Agreement shall be considered waived by either party unless such waiver is specifically specified in writing.

(e) Supplemental Conditions. Any supplemental conditions shall be attached as an exhibit to this Agreement and incorporated herein by reference.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed this ____ day of ____, 2018.

ARCHITECT

By: _____

Title: _____

DISTRICT

Vista Unified School District

By: _____

Donna Caperton

Title: Assistant Superintendent, Business Services

VUSD Board Date: _____

Contract#: _____

EXHIBIT A

LIABILITY INSURANCE LIMITS REQUIRED
FOR ENGINEERS AND CONSULTANTS HIRED BY ARCHITECT

<u>TRADE</u>	<u>REQUIRED INSURANCE LIMIT</u>	<u>CHECK HERE IF INSURANCE WAIVED</u>
Electrical	\$1,000,000	
Mechanical	\$1,000,000	
Structural	\$1,000,000	
Civil	\$1,000,000	
Landscape	\$1,000,000	

EXHIBIT B

HOURLY RATES

Principal	\$	/ hour
Project Architect	\$	/ hour
Staff Architect / Engineer	\$	/ hour
Draftsperson / Cad Operator	\$	/ hour
Administrative	\$	/ hour

To be completed by Architect.

EXHIBIT C

ARCHITECT'S PROPOSAL

To be completed by Architect.

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