

Form of Agreement Between

Client and Architect for School Building Projects

SAMPLE

THIS AGREEMENT, made in two copies on the 17th day of December in the year Nineteen Hundred Ninety Six by and between [SCHOOL DISTRICT NAME], Sacramento County, California, hereinafter called the CLIENT, and [ARCHITECT NAME], a California corporation, hereinafter called the ARCHITECT, located at [ADDRESS].

WITNESSETH:

Whereas the Client intends to:

Modernize school facilities as delineated in Application No. , [PROJECT NAME] in accordance with the Leroy F. Greene State School Building Lease Purchase Law of 1976, hereinafter called the Project.

NOW, THEREFORE, The Client and Architect agree as follows:

I. PROJECT BUDGET

A. The project budget is established as follows:

As determined by the State Office of Public School Construction, and approved by the State Allocation Board.

B. The size of the project and the type and quality of modernization are dependent upon the funds available for the Project. The Architect will exercise his best judgment in determining the balance between the size of the project, the type of modernization, and the quality of modernization to achieve a satisfactory solution within budget limitations

II. BASIC SERVICES OF THE ARCHITECT

A. Schematic Design Phase

1. The Architect shall review the program furnished by the Client to ascertain the requirements of the project.

2. The Architect shall conduct all necessary conferences and develop tentative schemes or methods to modernize the building(s) leading to a recommended solution of the program.
3. If directed by the Executive Officer of the State Allocation Board at the time of approval of Modernization Schemes, the preliminary and final working drawings and specifications shall be prepared so that portions of the work of the project may be performed under separate construction contracts, or so that the reconstruction of certain buildings, facilities, or other portions of the project may be deferred.
4. The Architect shall review the budgeted amount of the project with the Client and establish a tentative project modernization cost subject to later revision.

B. Design Development Phase (Preliminary Plans)

1. Upon approval by the Client of the services set forth in paragraph A, the Architect shall prepare floor plans, elevations and other drawings, and shall outline specifications to fix and illustrate the size and character of the entire project in its essentials as to kinds of materials, quantities, categories of proposed work, type of structure, and such other work as may be required.
2. The Architect shall establish a preliminary estimated project modernization cost subject to revision at the modernization document phase.
3. The Architect shall assist the Client in applying for and obtaining required approvals from applicable governmental agencies having jurisdiction.

C. Modernization Construction Document Phase (Final Plans)

1. The Architect shall prepare, from the approved design development documents, working drawings and specifications setting forth in detail and prescribing the work to be done, and the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, and electrical service connected equipment. The Architect shall also prepare necessary bidding information, general conditions of the contract, and supplementary general conditions of the contract, and shall assist the Client's legal advisor in the drafting of proposal and contract forms.
2. The Architect shall assist the Client in applying for and obtaining required approvals from applicable State agencies having jurisdiction.
3. The Architect shall notify the Client whether or not there is any indicated adjustment in previous estimates of the project modernization cost arising from market fluctuations or approved changes in scope or requirements.

D. Modernization Construction

1. The Architect shall reproduce the contract documents in the required number, the expense being borne as provided in Article XIV, A and B; and shall assist the Client in obtaining bids from contractors and in awarding the modernization contracts.

2. The Architect shall provide technical direction to a full time project inspector employed by and responsible to the Client as required by applicable law. The Architect shall advise inspector and/or contractor in the preparation of a marked set of prints indicating dimensioned location of buried utility lines (record drawings) which shall be forwarded to the Client upon completion of the project.

3. The architect will endeavor to secure compliance by contractors with the contract requirements, but he does not guarantee the performance of their contracts.

4. The Architect shall: provide general administration of the modernization contracts, including periodic visits at the site as he deems necessary to render architectural observation which is distinguished from the continuous personal inspection of the project inspector; make regular reports as may be required by applicable State agencies; keep the Client informed of the progress of modernization; review schedules and shop drawings for compliance with design; approve substitution of materials, equipment, and the laboratory reports thereof; maintain modernization accounts, prepare change orders for written approval of the Client; examine contractors: applications for payment; issue certificates for payment in amounts approved by the Architect; provide a color schedule of all materials in the project for Client's review and approval; determine date of substantial completion; make final inspection of the project; assemble written guarantees, instruction books, diagrams, and charts required of the contractors; and issue the Architect's certificate of completion and final certificate for payment.

5. The Architect, as part of his basic professional services, will provide advice to the Client on apparent deficiencies in modernization following the acceptance of the work and prior to the expiration of the one year General Construction Contract guarantee period of the project.

III. EMPLOYEES AND CONSULTANTS

The Architect as part of the basic professional services, shall furnish at his expense the services of structural, mechanical, and electrical engineers, properly skilled in the various aspects of the design and modernization of facilities required.

IV. EXTRA SERVICES OF THE ARCHITECT

The following services, if performed due to unusual circumstances and through no fault or neglect on the part of the Architect, cause the Architect extra expense and shall be paid for by the Client as provided in Article VIII:

A. Plan preparation and/or modernization contract administration work on that portion of a project let on a segregated bid basis.

B. Contract administration of the repair of damage to the project.

C. The selection by the Architect at the Client's request of moveable furniture, equipment or articles which are not included in the modernization contract.

D. The additional services cause by the delinquency or insolvency of the Contractor.

E. If directed by the Client, the employment of special consultants, the preparation of special delineations and models, and overtime work by the Architect's employees.

F. Providing contract administration services after the modernization contract time has been exceeded through no fault of the Architect, where it is determined that the fault is that of the Contractor, and liquidated damages are collected therefore.

G. Life cycle costing specific to obtaining an extra allowance.

V. THE CLIENT'S RESPONSIBILITIES

A. The Client shall provide full information as to the requirements and educational program of the Project, including realistic budget limitations and scheduling.

B. The Client shall furnish, or direct the Architect to procure, at Client's expense, a certified survey of the site if required, including grades and lines of streets, pavements, and adjoining properties; right-of-way, restrictions, easements, boundaries, and contours of the building site; locations, dimensions and floor elevations of existing buildings, other improvements and trees; and full information as to available service and utility lines, both public and private.

C. The Client shall furnish, or direct the Architect to procure, at client's expense, chemical, mechanical, or other tests required for proper design, and borings or test pits necessary for determining subsoil conditions.

D. The Client shall furnish all inspection services.

E. The Client shall furnish all legal advice and services required for the project.

F. The Client shall notify the Architect of administrative procedures required and name a representative authorized to act in its behalf. The Client shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the project. The Client shall observe the procedure of issuing any orders to contractors only through the Architect.

G. During the Contractor's one year guarantee period, the Client shall notify the Architect in writing of apparent deficiencies in materials or workmanship.

VI. PROJECT MODERNIZATION COST

A. Project modernization cost as used in this agreement means the total cost to the Client of all work designed or specified by the Architect, including work covered by approved change orders

and/or alternates, but excluding the following: any payments to Architect or consultants, for costs of inspections, surveys, tests, and sites, and landscaping not included in project.

B. When labor or material is furnished by the Client below its market cost, the project modernization cost shall be based upon current market cost of labor and new material.

C. The project modernization cost shall be the acceptable estimate of modernization costs to the Client as submitted by the Architect until such time as bids have been received, whereupon it shall be the initial modernization contract amount.

VII. ESTIMATE OF PROJECT MODERNIZATION COSTS

A. Estimates referred to in Article II shall be prepared on a square foot/unit costs basis, or more detailed computation if deemed necessary by the Architect, considering prevailing modernization costs and including all work for which bids will be received. It is understood that the project modernization cost is affected by the labor and/or material market as well as other conditions beyond the control of the Architect or Client.

B. If a project budget is set forth in Article I or thereafter accepted by the Client, the Architect shall review the estimate at each phase of his services. If such estimates are in excess of the project budget, the Architect shall revise the type or quality of modernization to come within the budgeted limit.

VIII. ARCHITECT'S COMPENSATION

A. The Architect agrees to perform professional services provided by this agreement and the Client agrees to pay the Architect for such services compensation in the amount of:

1. Twelve percent (12%) of the first five hundred thousand dollars (\$500,000) of computed cost.
2. Eleven and one-half percent (11 1/2%) of the next five hundred thousand dollars (\$500,000) of computed cost.
3. Eleven percent (11%) of the next one million dollars (\$1,000,000) of computed cost.
4. Ten percent (10%) of the next four million dollars (\$4,000,000) of computed cost.
5. Nine percent (9%) of the next four million dollars (4,000,000) of computed cost.
6. Eight percent (8%) of the computed cost in excess of ten million dollars (\$10,000,000).

and other payments and reimbursements as hereinafter provided, and the said compensation applies to work let under single modernization contract.

B. The Client further agrees to pay the Architect compensation for extra services due to unusual circumstances provided by Article IV only when approved in writing by the Executive Officer of the State Allocation Board, as follows:

1. Each portion of the project let separately on a segregated bid basis shall be considered a separate project for purposes of determining the fee.

2. Two (2) percent of the cost of furnishings, equipment or other articles incorporated in the modernization documents by the Architect and not included in the modernization contract.

3. Two and a half (2 1/2) times the direct personnel expense (Direct Personnel Expenses is defined as the direct salaries of all the Architect's personnel engaged on the project, and the portion of the cost of their mandatory and customary contribution and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits) incurred by the Architect in rendering other extra services.

4. 110% of the direct billings of consultants.

C. Reimbursement at cost shall be paid to the Architect for:

1. Approved reproduction of drawings and specifications in excess of the copies provided by this agreement.

2. Fees advanced for securing approval of authorities having jurisdiction over the project.

IX. PAYMENTS TO THE ARCHITECT

A. Payments on account of the agreed compensation in Article VIII shall be:

1. Schematic Design Phase - 10% of total compensation based upon the tentative estimated project modernization cost.

Billings shall be monthly or lump sum, in arrears, up to 10% of the total compensation, based upon work completed.

2. Design Development Phase - increase to 25% of total compensation based upon the preliminary estimated project modernization cost.

Billings shall be monthly or lump sum, in arrears, up to 25% of the total compensation, based upon work completed.

3. Modernization Documents Phase -

a. Modernization Documents 50% complete - increase to 50% of the total compensation based upon the estimated project modernization cost. billings shall be monthly or lump sum, in arrears, up to 50% of total compensation, based upon work completed.

b. Modernization Documents 100% complete, ready for review by applicable public agencies - increase to 70% of the total compensation based upon the estimated project construction cost: Progress billings shall be monthly, in arrears, up to 70% of total compensation, based upon work completed.

c. Modernization documents approved by the Division of the State Architect, increase fee to 75% of the total compensation based upon the estimated project modernization cost.

4. Modernization Phase -

a. On all or that portion of the project for which documents have been reproduced and bids received, increase to 80% of total compensation adjusted to the accepted bid price.

b. Subsequent billings shall be submitted monthly, in arrears, in proportion to the amount of work certified complete.

c. Modernization complete and accepted by Client - increase to 100% of the total compensation, based upon the contract price, notwithstanding the Architect's services during the guarantee period as provided by Article II.D.5.

B. Payments in event of the following circumstances shall be:

1. Deferred Bids -

a. If upon approval by the Office of the State Architect the bids on all or portion of the project are received and accepted within one year from date of said approval, the compensation shall be adjusted to conform to the acceptable bid. If bids are received after one year from date of approval, the compensation shall not be subject to adjustment as heretofore noted and the payment during the Modernization Phase shall be the remaining percentage of the compensation based upon the accepted modernization contract, as otherwise provided in this agreement.

2. Delayed Completion of Liquidated Damages -

a. The Architect's compensation shall be paid at the time and in the amount noted notwithstanding a delay in completion of the project or the reduction in the final modernization cost by reason of penalties, liquidated damages or other amounts withheld from the modernization contractor.

C. Payments for extra services provided under Articulate IV shall be upon basis of one of the following:

1. Percentage of the Cost: In the same manner provided by this agreement for work let under a single modernization contract.

2. Direct Personnel Expense: Monthly, in arrears, as services are rendered and expenses incurred.

D. Reimbursement for fees and other expenses shall be made to the Architect as incurred.

X. TERMINATION OF AGREEMENT

A. This agreement may be terminated by either party upon written notice to the other party in the event of a substantial failure of performance by such other party; or if the Client should decide to abandon or indefinitely postpone the project.

B. In the event of such termination, the Client shall pay to the Architect as full payment for all services performed and all expenses incurred under this agreement an amount the sum total of which bears the same ratio to the total fee otherwise payable under this agreement as the services actually rendered hereunder by the Architect bear to the total services necessary for the full performance of this agreement, plus any sums due the Architect for extra services described under Article VIII, B. and C. herein. In ascertaining the services actually rendered hereunder up to the date of termination of this agreement, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents whether delivered to the Client or in the possession of the Architect. Notwithstanding any termination of this agreement or notice thereof, questions in dispute may be submitted to arbitration as provided in Article XVI.

C. If, upon payment of the amount required to be paid under this Article following the termination of the agreement, the Client thereafter should determine to complete the original project or substantially the same project, the Client for such purpose shall have the right of utilizing any completed drawings, specifications, estimates and other completed contract documents prepared under this agreement by the Architect who shall make them available to the Client upon request without additional compensation.

XI. TIME SCHEDULE

Upon request, the Architect will prepare for the Client an estimated time schedule necessary to complete the contract documents, and modernization plans barring delays caused by conditions beyond the control of the Architect.

XII. ACCOUNTING RECORDS OF THE ARCHITECT

Records of the Architect's direct personnel and reimbursable expense pertaining to the extra services of this project and records of accounts between the Client and contractor shall be kept on a generally recognized accounting basis and shall be available to the Client or his authorized representative at mutually convenient times.

XIII. INSURANCE TO BE CARRIED BY ARCHITECT

The Architect shall carry insurance to protect himself from claims under Worker's Compensation Acts.

XIV. REPRODUCTION OF DOCUMENTS

A. The Architect shall provide, at no expense to the Client and in the number required, the preliminary plans and modernization documents for the review and approval of the Client and applicable State agencies.

B. The Architect shall provide copies of the modernization documents for bidding and reconstruction purposes, the expense for the first twenty-five copies shall be borne by the Client.

XV. OWNERSHIP OF DOCUMENTS

A. The plans, specifications, and estimates shall be and remain the property of the Client, pursuant to Section 39119 of the Education Code.

XVI. ARBITRATION

A. Questions in dispute under this agreement may be submitted to arbitration at the election of both parties. Such arbitration shall be conducted in accordance with the rules of the American Arbitration Association insofar as the same are not in conflict with the laws of the State of California.

B. If either party petitions to confirm, correct, or vacate the award as provided by Chapter 4 of Title 9 of the Code of Civil Procedure (commencing with Section 1285), the prevailing party shall be entitled as part of his or its costs to a reasonable attorney's fee to be fixed by the court.

XVII. SUCCESSORS AND ASSIGNS

It is mutually understood and agreed that this Agreement shall be binding upon the Client and its successors and upon the Architect, his partners, successors, executors, and administrators. Neither this agreement, nor any monies due or to become due thereunder may be assigned by the Architect without the consent and approval of the Client.

XVIII. ADDITIONAL PROVISIONS

The following amendments and/or additions are made a part of this agreement and shall be given effect notwithstanding any other provision contained herein:

A. The Architect shall, at no additional cost to the Client, make any changes in approved plans and specifications necessary to obtain a modernization bid which is acceptable to, and within the cost standards established by the State Allocation Board.

B The Architect shall not perform, or receive any payment for, extra cost services as delineated in articles IV and VIII B of this contract without specific prior written approval of the Executive Officer of the State Allocation Board.

C. This contract shall only be considered approved by the Client for performance or payment consideration to the extent shown on Form SAB 521 (Specific

Authorization to Commit Funds And To make Expenditures), as executed by the Executive Officer of the State Allocation Board.

D. Environmental Impact Reports and/or similar studies are not included in this contract, and if required, will not be paid for with State funds.

E. Architect's compensation as shown in Article VIII A shall be based upon the initial modernization contract cost, increased by the dollar amounts of all approved additive contract change order items with the exception of items resulting from errors and omissions on the part of the Architect.

F. The furnishing of current as built drawing of existing structures is the responsibility of the School District.

G. In any conflict of interest between the State and the School District, the conflict shall be resolved in favor of the State whose interest shall be paramount in all matters of substance.

The Client and Architect hereby agree to the full performance of the covenants contained herein.

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

County Superintendent of Schools or School District Board of Trustees

Client

Client

Client

Client

Client

Client

Architect

School District Representative

**ADDENDUM TO THE FORM OF AGREEMENT BETWEEN
CLIENT/ARCHITECT AGREEMENT (CONSTRUCTION)**

SAMPLE

[Project Name]

This Addendum, made in two copies on this December 17, 1996, by and between [DISTRICT NAME] (hereinafter called "District"), and [ARCHITECT NAME and ADDRESS], (hereinafter called the "Architect") and supplements that certain Agreement between the Client and Architect (Rev. 8-94), hereinafter the "Agreement", dated as of December 17, 1996.

Now, therefore, the District and the Architect agree as follows:

1. Design Development Phase -- Preliminary Plans -- Filing of Documents. During the design development phase, the Architect shall be responsible for filing preliminary plans and other documents as required by law with the California Department of Education ("CDE"). The Architect shall provide the District's Assistant Superintendent, Facilities and Planning (the "Assistant Superintendent, Facilities and Planning") with a copy and proof of filing of each document so filed.
2. Construction Document Phase--Final Plans--Filing of Documents. During the Construction Document Phase, the Architect shall be responsible for filing the final plans, specifications, bid documents, and other documents as required by law with CDE and the Division of the State Architect ("DSA"). The Architect shall provide the District's Assistant Superintendent, Facilities and Planning with a copy and proof of filing of each document so filed.
3. Employees and Consultants. Section III of the Agreement is amended to include the following consultants/services: energy (including unconventional), food service, civil engineering, landscaping, acoustical, and technology.
4. Architect's Duty to Coordinate Requirements of Other Entities. The Architect shall exercise usual and customary care to coordinate the requirements of various public and private entities as they pertain to the Project to the extent such requirements apply. The aforesaid various entities include state, local and federal governmental entities, utility companies (including but not limited to gas, electric, telephone and water companies or districts), sewer districts, drainage districts and the like. The Architect shall determine if any local zoning and building ordinances apply to the Project pursuant to Government Code Section 53097 and, if so, give an opinion as to compliance with such local ordinances. The Architect shall obtain written cost commitments and approval of design from all involved entities regarding utility, sewer, drainage, grading, road improvement, telephone, water, local fire marshall, health department, traffic department, city/county public works departments and other like services for the Project. All cost commitments, approvals and Agreements shall be forwarded to the Assistant Superintendent, Facilities and Planning.

5. Architect Compensation

a. Excess General Site. The Architect will be compensated for any additional general site work specified by the District above the OPSC allowance. This compensation shall be on the sliding fee scale computed on the whole project as delineated above adding the excess general site work cost.

b. Change Orders. The total cost of the project shall be adjusted to reflect Change Orders so that the Architect receives extra compensation in accordance with the Agreement when the Change Order results in an increase in total cost and a reduction in compensation when Change Orders result in a decrease in the total cost and are required to meet the budget, but in no event shall the Architect's compensation exceed the amount appropriated and apportioned to the District by the State Allocation Board. The Architect will be paid in total accordance to the lowest percentage of the sliding scale fee used to determine the total fee for the project.

If a change order is requested by the District as a project enhancement and not funded by the State Allocation Board then the Architect will be compensated.

6. Final Payment. Final payment to the Architect, as required by paragraph IX.A.4.c. of the Agreement, shall be made by the District after the Notice of Completion is approved by the Board. However, this payment shall not exclude the Architect from continuing to provide services to resolve outstanding punch list items.

7. Contract Administration. The Architect shall endeavor to secure compliance by the prime contractor with the Contract requirements as required by paragraph II.D3. of the Agreement. The Architect's responsibilities in this regard are more particularly set forth below:

a. Bid Open Date. Upon authorization by the Governing Board of District (the "Board") to bid the Project, the Architect with the District's assistance shall establish a date on which the bids will be opened (the "Bid Open Date"). The Bid Open Date shall be at least one week prior to a regularly scheduled meeting of the Board and shall be approved by the Assistant Superintendent, Facilities and Planning.

b. Pre-Publication Duties--List of Trades. The Architect and the Assistant Superintendent, Facilities and Planning shall agree on the date the Notice Inviting Bids is to be first published in a newspaper as required by law. Any inquiries regarding crafts and trades will be referred to the Architect for resolution.

c. Legal Review and Notice Inviting Bids. The Architect, after consultation with the District, shall prepare the necessary bidding information and the form of the Contract Documents as defined in paragraph 6.j. hereof. These shall be prepared for review by District's attorney, and shall be available for such legal review at least two weeks prior to need for their utilization. The Architect shall make such changes as are recommended by the District or the District's attorney. The Architect shall provide the Assistant Superintendent, Facilities and Planning with a typed Notice Inviting Bids suitable for publication. Said notice shall be complete and shall incorporate to the best of Architect's ability the most recent changes in any laws pertaining to competitive

bidding by school districts. The Assistant Superintendent, Facilities and Planning will publish said notice in a newspaper or newspapers as required by law prior to the Bid Open Date once a week for a minimum of two weeks, commencing at least fifteen (15) days prior to the Bid Open Date.

d. Documents Available for Inspection by Bidders--Bid Set. The Architect shall provide a complete Bid Set to the Assistant Superintendent, Facilities and Planning and all other bid documents prepared by the Architect at least ten (10) business days prior to the date selected as the first day of publication of the Notice Inviting Bids; provided that the Assistant Superintendent, Facilities and Planning may waive this time limit. Upon approval of the Assistant Superintendent, Facilities and Planning, additional Bid Sets will be provided at the cost of the district. The Architect shall make his best effort to revise the Bid Set to comply with any changes in the applicable laws.

e. Distribution of Bid Set. The Architect shall assist the District in making the Bid Set available for inspection by potential bidders. The Bid Set shall clearly specify the terms on which the Bid Set may be checked out by potential bidders, the amount of money deposits for checking out the Bid Set and the terms on which money deposits for the Bid Set will be forfeited to the District. The Architect shall use reasonable efforts in addition to newspaper notice to advise potential bidders, whom the Architect knows to be responsive and responsible Contractors, of the Notice Inviting Bids for the Client's Project.

f. Prebid Meeting. The Architect shall include the date of any prebid meeting in the Notice Inviting Bids. The Notice Inviting Bids shall specify whether the prebid meeting is to be held at the District's Facilities and Planning Office, the Project site or an alternate site. The Architect shall conduct the prebid meeting and shall be responsible for distributing any Addendum authorized by the Bid Set to the potential bidders. The Architect shall take minutes of the prebid meeting and deliver said minutes to the Assistant Superintendent, Facilities and Planning.

g. Bid Opening. The Assistant Superintendent, Facilities and Planning shall conduct the bid opening. The Architect shall attend the bid opening and prepare a table or schedule showing:

- 1) The names of the Contractors who have inspected or received the Bid Set and any Addendum thereto. If a bidder has not inspected or received the Bid Set or any such Addendum, the Architect shall so note.
- 2) Receipt or nonreceipt of the ten percent (10%) Bid Bond.
- 3) Receipt or nonreceipt of the List of Subcontractors submitted by the bidder.
- 4) Receipt or nonreceipt of the Non-Collusion Affidavit submitted by the bidder.
- 5) Receipt or nonreceipt of Minority, Women and Disabled Veteran Business Enterprise Certification forms.
- 6) The amount of the base bid.

7) The amount of each alternative bid.

8) A roster of all persons who attended the bid opening and the capacity in which they attended.

h. Post Bid Opening. After the bids are opened, the Architect shall verify that the bids are in order prior to reading the amount of the bids. Any irregularities shall be recorded by the Architect in the minutes of the bid opening. Prior to the next meeting of the Board, the Architect shall verify the validity of the General Contractor's License and Bond. After the Board accepts the successful bidder, the Architect shall send all the bids and Bid Bonds to the Assistant Superintendent, Facilities and Planning, and the Assistant Superintendent, Facilities and Planning will be responsible for returning the Bid Bonds to the bidders.

i. Signing the Contract Documents. Within such time as the Assistant Superintendent, Facilities and Planning shall specify, the Architect shall call a meeting with the successful bidder, the Assistant Superintendent, Facilities and Planning and the Architect for the purpose of obtaining Payment and Performance Bonds and executing the Contract Documents. The meeting shall be held at the District's Facilities and Planning Office. The Architect shall assemble and have present all documents necessary for distribution and signing at this meeting. The Architect shall conduct the meeting. The Architect shall be prepared to explain the construction administration procedures at the meeting. The Architect shall be prepared to distribute a Notice to Proceed at this meeting. The Architect shall supervise the signing of the Contract Documents at this meeting.

j. Definition of Contract Documents. "Contract Documents" means the following:

1) Specifications (execution copies).

2) Plans (execution copies).

3) Addenda (execution copies).

4) Bid Documents (Notice Inviting Bids, Instructions to Bidders, Completed Bid Form, Bid Bond, List of Subcontractors).

5) Construction Contract, including the Agreement, the general conditions, the supplemental conditions and any Addenda (execution copies) (hereinafter "the Contract").

6) Fully executed and completed Performance Bond.

7) Fully executed and completed Payment and Materials Bond.

8) Insurance Certificates and Policies showing that the Contractor has obtained all the insurance required by the Contract.

k. Notary. The District shall provide a notary public at the signing, but the Architect shall be responsible, with the District's assistance, for determining that all documents needing a notary's signature have been notarized before the signatories leave the meeting.

l. Number of Copies. The Architect shall provide four (4) original sets of Contract Documents in bound form to be distributed as follows: two to the, Assistant Superintendent, Facilities and Planning one to the Sacramento County Recorder and one to the Contractor. The Architect shall provide two additional copies of the Contract Documents for distribution to the Inspector and the Assistant Superintendent, Facilities and Planning. The Architect shall be responsible for confirming that each original set and each copy of the Contract Documents is identical.

m. Filing of Contract Documents. The Architect shall be responsible for serving the Sacramento County Recorder with those Contract Documents required by law to be served and filed with those entities.

n. Notice to Proceed. The Architect shall deliver the Notice to Proceed to the Contractor at the Contract signing meeting unless there is good cause not to do so. If necessary, the meeting may be continued until the Contract Documents are in order and the Architect determines that the Notice to Proceed should specify the start date, the start time and the completion date.

o. Pre-Construction Meeting. The Architect shall hold a preconstruction meeting as soon as practicable after service of the Notice to Proceed. The Architect shall keep minutes of the pre-construction meeting and send a copy of the minutes to the Assistant Superintendent, Facilities and Planning. The Contract signing meeting and the pre-construction meeting may be held on the same day.

p. Agenda for Pre-Construction Meeting. The Architect shall take minutes of the pre-construction meeting and prepare an agenda for the pre-construction meeting.

8. Construction Monitoring. The Architect shall provide construction observation services as set forth in paragraph II.D.4. of the Agreement, and amended below:

The Architect shall: provide general administration of the Construction Contracts, including a minimum weekly visit at the site unless found unnecessary by the District, to render architectural observation. The Architect will provide minutes of such visitations and will also direct the consultants to visit the site when deemed necessary or requested by the District. Construction monitoring is distinguished from the continuous personal inspection of the Project Inspector. During construction monitoring the Architect is required to make regular reports as may be required by applicable State agencies; keep the Client informed of the progress of construction; review schedules and shop drawings for compliance with design; approve substitution of materials, equipment and the laboratory reports thereof; maintain construction accounts; review and respond to RFIs; prepare RFPs and Change Orders for written approval of the Client; examine Contractors' applications for payment; issue Certificates for Payment in amounts approved by the Architect; provide a color schedule of all materials in the Project for Client's review and approval; determine date of substantial completion; make final inspection of the Project; assemble written guarantees, instruction books, diagrams and charts required of the

Contractors; and issue the Architect's Certificate of Completion and Final Certificate for Payment.

9. Change Order Contents. Change Orders and related documentation pertaining to Change Orders shall be submitted by the Architect to the Assistant Superintendent, Facilities and Planning on the second Tuesday of the month. Change Orders shall specify:

a. All items agreed to by the Contractor and the actual or anticipated date of completion.

b. Cost items shall be verified for accuracy and reasonableness.

c. Time extensions shall be reviewed by the Inspector.

d. Signature blocks shall be completed.

e. The Change Order shall be signed by the Contractor.

f. The Architect and any consultants retained by the Architect with responsibility for the Change Order shall indicate their approval of the Change Order by signing it. If they disapprove of the Change Order, they should submit a written explanation for their disapproval.

10. Substantial Completion - Punch List. When the Project is substantially completed, the Architect shall obtain a Punch List from the Contractor. The Punch List shall list all items to be completed or corrected. The Architect shall review and revise the list as necessary and shall advise the Assistant Superintendent, Facilities and Planning in writing of any defects, omissions, errors or changes that need to be made to the Punch List.

11. Notice of Completion and Final Payment.

a. Time for Payment. The Contract shall provide that final payment to the Contractor is not due until the Board has approved the Notice of Completion, said notice has been filed and, 35 days from the date of filing, said notice has elapsed. The Contract shall provide a reasonable period of time for the District to obtain a check for final payment from the County.

b. Board Approval. The Assistant Superintendent, Facilities and Planning shall see that approval of final payment (including payment of the retainage) and approval of the Notice of Completion is placed on the agenda for the Board's regularly scheduled meeting after receipt from the Architect of the Certificate for Final Payment and the execution copy of the Notice of Completion.

c. Delivery of Certificate and Notice. The Architect shall submit Contractor's Certificate of Final Payment, as approved by the Board, and a file stamped copy of the Notice of Completion, as recorded by the County Recorder, to the Assistant Superintendent, Facilities and Planning in a timely manner.

12. Release of Final Payment and Retention. Within 35 days after the Notice of Completion is filed, the Architect shall make sure the following has been completed and final payment and payment of the remaining retainage is warranted:

- a. The Contractor has provided all guarantees and warranties as required by the Contract.
- b. The Contractor has provided all Operation Manuals to the Assistant Superintendent, Facilities and Planning as required by the Contract.
- c. DSA has received all reports and given all approvals required by law for the Project.
- d. The Architect has submitted "record drawings" plans to the Assistant Superintendent, Facilities and Planning.
- e. The Architect has verified to the best of Architect's ability all certificates and documents required by law, DSA, CDE, this Agreement, this Addendum, and the Contract Documents are on file with the Assistant Superintendent, Facilities and Planning.
- f. The Architect shall represent in writing that all of the above has been completed and final payment, including payment of the retainage, is due and payable specifying the date when the payment is due. If the Architect cannot so certify, he shall submit a detailed explanation to the Assistant Superintendent, Facilities and Planning explaining what needs to be done and why and, giving his best estimate, as to when final payment may be released. If final payment has been delayed for any reason, the Architect shall immediately notify the Assistant Superintendent, Facilities and Planning in writing when there is no longer any reason to delay final payment.

13. Guarantee Period. The Architect shall provide services during the guarantee period as required by paragraph II.E.5. of the Agreement, which is modified to read:

II.D.5. The Architect, as part of his basic professional services, will attempt to resolve to the satisfaction of the Client apparent deficiencies in construction following the acceptance of the work and prior to the expiration of the one-year General Construction Contract guarantee period of the Project. The Architect shall conduct a final one-year quality inspection walk-through to ascertain that all warranty items are completed.

14. Architectural Insurance Requirements. The Architect shall procure and maintain professional liability insurance in the amount of \$500,000 for protection from claims arising out of the performance of professional services caused by a negligent error, omission or act for which the insured is legally liable. The Architect will likewise require the consultants to carry the same insurance package. It will be the Architect's responsibility to require the carrier to deliver certificates to the District. The obligation to maintain professional liability insurance coverage shall survive termination of this Addendum. The Architect is liable for the entire cost of the insurance required by this Addendum.

15. Termination Without Cause. In addition to the reasons for terminating the Agreement as found in Article X of the Agreement, the District may terminate the Agreement and Addendum

on 30-days written notice to the Architect for any reason provided that the Architect is compensated for all services performed to the termination date. The amount of such compensation shall be determined pursuant to paragraph X.B. of the Agreement.

16. Ownership and Use of Documents. In addition to the District's right to retain ownership of all plans, specifications and estimates pursuant to Education Code Section 39159, the parties agree that the District shall have the right to retain copies of drawings, plans specifications, estimates, Bid Sets, Contract Documents and other documents prepared by the Architect in connection with the Project, and the District may use any documents so retained for any purpose without further liability to the Architect.

17. Severability. If any term, provision, covenant or condition of this Addendum is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision shall remain in full force and effect.

18. Business Day. "Business Day" as used herein means any day the District's Facilities and Planning Office is open to the public.

19. The District and the Architect hereby agree to the full performance of the covenants contained herein.

IN WITNESS WHEREOF, the DISTRICT, and the ARCHITECT have executed this Agreement to be effective as of the day and year first above written.

Executed by the [DISTRICT REPRESENTATIVE and NAME OF DISTRICT] as authorized by the Governing Board of the District.

[School District Representative]

[If a corporation, the President should sign and the Secretary should attest.]

Executed by _____ (print name), as the authorized representative

of _____, the Architect, and the Architect's
California License

No. is _____ .

Signed by:

Print Title:

ATTEST:

Secretary