

AGREEMENT FOR ENGINEERING SERVICES

1 PARTIES AND DATE.

This Agreement is made and entered into this 8th day of August, 2008 by and between the **Anaheim Union High School District**, a public school district organized under the laws of the State of California with its principal place of business at 501 Crescent Way Anaheim, CA, 92801 (“District”) and **Budlong & Associates, Inc.**, a Corporation, with one or more engineers licensed to practice in the State of California and with its principal place of business at 5151 Verdugo Way, Suite 201, Camarillo, CA, 93012 (“Engineer”). District and Engineer are sometimes individually referred to as “Party” and collectively as “Parties.”

2 RECITALS.

2.1 District. District is a public school district organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose.

2.2 Engineer. Engineer desires to perform and assume responsibility for the provision of certain professional Engineering services required by the District on the terms and conditions set forth in this Agreement. Engineer warrants that it is fully licensed, qualified, and willing to perform the services required by this Agreement; provided, however, that if Engineer is a corporation or other organization, the Project Engineer designated pursuant to Section 3.2, and not the Engineer itself, shall be fully licensed to practice as an Engineer in the State of California.

2.3 Project. District desires to engage Engineer to render such services for the Modernization, New Construction and Repairs of the District Facilities as set forth in this Agreement and to be specifically defined by individual Work Authorization(s).

3 TERMS.

3.1 Employment of Engineer. Engineer promises and agrees to furnish to District all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional Engineering and related services necessary for the full and adequate completion of the Project consistent with the provisions of this Agreement (hereinafter referred to as “Services”). The Services are more particularly described throughout this Agreement, including Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, any exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations. All Services performed by Engineer shall be subject to the sole and discretionary approval of the District for compliance with the Standard of Care as defined in the Agreement and in

conformance with this Agreement, which approval shall not be unreasonably withheld.

3.2 Project Engineer; Key Personnel.

3.2.1 Project Engineer. Engineer shall name a specific person to act as Project Engineer, subject to the approval of District. Engineer hereby designates James A. Jordan, P.E. (License No. M25448) to act as the Project Engineer for the Project. The Project Engineer shall: (1) maintain oversight of the Services at all times; (2) have full authority to represent and act on behalf of the Engineer for all purposes under this Agreement; (3) supervise and direct the Services using his or her best skill and attention; (4) be responsible for the means, methods, techniques, sequences and procedures used for the Services; (5) adequately coordinate all portions of the Services; and (6) act as principal contact with District and all contractors, consultants, engineers and inspectors on the Project. Any change in the Project Engineer shall be subject to the District's prior written approval, which approval shall not be unreasonably withheld. The new Project Engineer shall be of at least equal competence as the prior Project Engineer. In the event that District and Engineer cannot agree as to the substitution of a new Project Engineer, District shall be entitled to terminate this Agreement for cause.

3.2.2 Key Personnel. In addition to the Project Engineer, Engineer has represented to the District that certain additional key personnel, engineers and consultants will perform the Services under this Agreement. Should one or more of such personnel, engineers or consultants become unavailable, Engineer may substitute others of at least equal competence upon written approval of the District. In the event that District and Engineer cannot agree as to the substitution of key personnel, engineers or consultants, District shall be entitled to terminate this Agreement for cause. As discussed below, any personnel, engineers or consultants who fail or refuse to perform the Services in a manner acceptable to the District, or who are determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Engineer at the request of the District. The key additional personnel, engineers and consultants for performance of this Agreement are as follows: Samuel Michael, Kelly Schall, Harold Lunt, and Shield Anderson.

3.3 Hiring of Consultants and Personnel.

3.3.1 Right to Hire or Employ. Engineer shall have the option, unless District objects in writing after notice, to employ at its expense engineers, experts or other consultants 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 Engineer may delegate without relieving Engineer from administrative or other responsibility under this Agreement. Engineer shall be responsible for the coordination and cooperation of Engineer's experts or other consultants. All consultants, including changes in consultants, shall be subject to approval by District in its sole and reasonable discretion. Engineer shall notify District of the identity of all consultants at least fourteen (14) days prior to their commencement of work in order to allow District time to review their qualifications and decline consent to their participation on the Project if deemed necessary by District in its sole and reasonable discretion.

3.3.2 Qualification and License. All engineers, experts and other consultants retained by Engineer in performance of this Agreement shall be qualified to perform the Services assigned to them, and shall be licensed to practice in their respective professions, where required by law.

3.3.3 Standards and Insurance. All engineers, experts and other consultants hired by Engineer shall be required to meet the same standards and insurance requirements set forth in this Agreement, unless other standards or requirements are approved by the District in writing. Unless changes are approved in writing by the District, Engineer's agreements with its consultants shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.3.4 Assignments or Staff Changes. Engineer shall promptly obtain written District approval of any assignment, reassignment or replacement of such engineers, experts and consultants, or of other staff changes of key personnel working on the Project. As provided in the Agreement, any changes in Engineer's consultants and key personnel shall be subject to approval by District.

3.4 Standard of Care.

3.4.1 Standard of Care. Engineer shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals qualified to perform the Services in the same discipline in the State of California, and shall be fully responsible to District for any damages to District and delays to the Project as specified in the indemnification provision of this Agreement. Without limiting the foregoing, Engineer shall be fully responsible to the District for any increased costs incurred by the District as a result of any such delays in the design or construction of the Project. Engineer represents and maintains that it is skilled in the professional calling necessary to perform the Services. Engineer warrants that all of its employees, engineers, experts and other consultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Engineer represents that it, its employees, engineers, experts and other consultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services assigned to or rendered by them, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Engineer shall perform, at its own cost and expense and without reimbursement from the District, any services necessary to correct errors or omissions which are caused by the Engineer's failure to comply with the standard of care provided for herein.

3.4.2 Performance of Employees. Any employee or consultant who is reasonably determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee or consultant who fails or refuses to perform the Services in a manner acceptable to the District, shall be promptly removed from the Project by the Engineer and shall not be re-employed to perform any of the Services or to work on the Project.

3.5 Laws and Regulations.

3.5.1 Knowledge and Compliance. Engineer shall keep itself fully informed of, and in compliance with, all applicable local, state and federal laws, rules and regulations in any manner affecting the performance of the Services or the Project, and shall give all notices required of the Engineer by law. Engineer shall be liable, pursuant to the standard of care and indemnification provisions of this Agreement, for all violations of such laws and regulations in connection with its Services. If the Engineer performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the District, Engineer shall be solely responsible for all costs arising there from. Engineer shall defend, indemnify and hold District, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.5.2 Drawings and Specifications. Engineer shall cause all drawings and specifications to conform to any applicable requirements of federal, state and local laws, rules and regulations, including, but not limited to, the California Building Code, the California Education Code, Titles 19, 21 and 24 of the California Code of Regulations, and any requirements of the Division of State Architect (including structural safety, fire/life safety and access compliance section), the State Department of Education, the California Department of General Services and local jurisdictions, in effect as of the time the drawings and specifications are prepared or revised during the latest phase of the Services described in Exhibit "A" attached hereto. Any significant revisions made necessary by changes in such laws, rules and regulations, which were not known or reasonably should not have been known by Engineer, may be compensated as Additional Services. Engineer shall cause the necessary copies of such drawings and specifications to be filed with any governmental bodies with approval jurisdiction over the Project, in accordance with the Services described in Exhibit "A" attached hereto.

3.5.3 Americans with Disabilities Act. Engineer will use its best professional efforts to interpret all applicable federal, state and local laws, rules and regulations with respect to access, including those of the Americans with Disabilities Act ("ADA"). Engineer shall inform District of the existence of inconsistencies of which it is aware or reasonably should be aware between federal and state accessibility laws, rules and regulations, as well as any other issues which are subject to conflicting interpretations of the law, and shall provide District with its interpretation of such inconsistencies and conflicting interpretations. Unless Engineer brings such inconsistencies and conflicting interpretations to the attention of the District and requests District's direction on how to proceed, the Engineer's interpretation of such inconsistencies and conflicting interpretations shall be the sole responsibility and liability of Engineer, and the Engineer shall correct all plans, specifications and other documents prepared for the Project at no additional cost if its interpretations are shown to be incorrect. If Engineer brings such inconsistencies and conflicting interpretations to the attention of the District and request's District's direction on how to proceed, Engineer shall be responsible to the District only pursuant to the indemnification provision of this Agreement. District acknowledges that the requirements of the federal and state accessibility laws are subject to various and possibly contradictory interpretations, and that the Engineer cannot warrant or guarantee that its interpretation will be correct. Engineer will adhere to the standard of care provided for in this Agreement and will use its reasonable professional efforts and judgment in making its interpretations.

3.5.4 Permits, Approvals and Authorizations. Engineer shall provide District with a list of all permits, approvals and other authorizations required for the Project from all federal, state or local governmental bodies with approval jurisdiction over the Project. Engineer shall then assist the District in obtaining all such permits, approvals and other authorizations. The costs of such permits, approvals and other authorizations shall be paid by the District.

3.6 Independent Contractor.

3.6.1 Control and Payment of Subordinates. District retains Engineer on an independent contractor basis and Engineer is not an employee of District. Engineer is not an employee for state tax, federal tax or any other purpose, and is not entitled to the rights or benefits afforded to District's employees. Any additional personnel performing the Services under this Agreement on behalf of Engineer shall also not be employees of District, and shall at all times be under Engineer's exclusive direction and control. Engineer shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Engineer shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.7 Schedule of Services.

3.7.1 Timely Performance Standard. The District shall issue Work Authorizations to the Engineer, incorporating the terms and conditions set forth herein, with any noted exceptions, authorizing the Engineer to proceed with the work described therein ("Work Authorization"). The District shall not be liable for payment for any work performed by the Engineer for which the District has not issued a Work Authorization. Engineer shall perform all Services hereunder as expeditiously as is consistent with professional skill and care, as well as the orderly progress of the Project work so as not to be the cause, in whole or in part, of delays in the completion of the Project or in the achievement of any Project milestones, as provided herein. Specifically, Engineer shall perform its Services so as to allow for the full and adequate completion of the Project within the time required by the District and within any completion schedules adopted for the Project. Engineer agrees to coordinate with District's staff, contractors and consultants in the performance of the Services, and shall be available to District's staff, contractors and consultants at all reasonable times.

3.7.2 Performance Schedule. Engineer shall prepare an estimated time schedule for the performance of Engineer's Services, to be adjusted as the Project proceeds. Such schedule shall be subject to the District's review and approval, which approval shall not be unreasonably withheld, and 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 funding. If District and Engineer cannot mutually agree on a performance schedule, District shall have the authority to immediately terminate this Agreement. The schedule, including any excusable delays, shall not be exceeded by Engineer without the prior written approval of District. If the Engineer's Services are not completed within the time provided by the agreed upon performance schedule, or any milestones established therein, it is

understood, acknowledged and agreed that the District will suffer damage for which the Engineer will be responsible pursuant to the indemnification provision of this Agreement.

3.7.3 Excusable Delays. Any delays in Engineer's work caused by the following shall be added to the time for completion of any obligations of Engineer: (1) the actions of District or its employees; (2) the actions of those in direct contractual relationship with District; (3) the actions of any governmental agency having jurisdiction over the Project; (4) the actions of any parties not within the reasonable control of the Engineer; and (5) any act of God or other unforeseen occurrence not due to any fault or negligence on the part of Engineer.

3.7.4 Request for Excusable Delay Credit. The Engineer shall, within ten (10) calendar days of the beginning of any excusable delay (unless District grants in writing a further period of time to file such notice prior to the date of final payment under the Agreement), notify the District in writing of the causes of delay. District will then ascertain the facts and the extent of the delay, and grant an extension of time for completing the Services when, in its sole and reasonable judgment, the findings of fact justify such an extension. The District's findings of fact thereon shall be final and conclusive on the parties. Extensions of time shall apply only to that portion of the Services affected by the delay, and shall not apply to other portions of the Services not so affected. If Additional Services are required as a result of an excusable delay, the parties shall mutually agree thereto pursuant to the Additional Services provision of this Agreement. Should Engineer make an application for an extension of time, Engineer shall submit evidence that the insurance policies required by this Agreement remain in effect during the requested additional period of time.

3.8 Additional Engineering Services.

3.8.1 Request for Services. At District's request, Engineer may be asked to perform services not otherwise included in this Agreement, not included within the basic services listed in Exhibit "A" attached hereto, and/or not customarily furnished in accordance with generally accepted Engineering practices.

3.8.2 Definition. As used herein, "Additional Services" mean: (1) any work which is determined by District to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary for the Engineer to perform at the execution of this Agreement; or (2) any work listed as Additional Services in Exhibit "A" attached hereto. Engineer shall not perform, nor be compensated for, Additional Services without prior written authorization from District and without an agreement between the District and Engineer as to the scope and compensation to be paid for such services. District shall pay Engineer for any approved Additional Services, pursuant to the compensation provisions herein, so long as such services are not made necessary through the fault of Engineer pursuant to the indemnification provision of this Agreement.

3.8.3 Examples of Additional Services. Such Additional Services shall not include any redesign or revisions to drawings, specifications or other documents when such revisions are necessary in order to bring such documents into compliance with applicable laws, rules, regulations or codes of which Engineer was aware or should have been aware pursuant to

the laws and regulations provision of this Agreement above. Such Additional Services may include, but shall not be limited to:

3.8.3.1 Separately Bid Portions of Project. Plan preparation and/or administration of work on portions of the Project separately bid.

3.8.3.2 Fault of Contractor. Services caused by delinquency, default or insolvency of contractor, or by major defects in the work of the contractor, provided that any such services made necessary by the failure of Engineer to detect and report such matters when it reasonably should have done so shall not be compensated.

3.8.3.3 Inconsistent Approvals or Instructions. Revisions in drawings, specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given and are due to causes beyond the control of Engineer.

3.8.3.4 Legal Proceedings. Serving as an expert witness on District's behalf or attending legal proceedings to which the Engineer is not a party.

3.8.3.5 Damage Repair. Supervision of repair of damages to any structure.

3.8.3.6 Extra Environmental Services. Additional work required for environmental conditions (e.g. asbestos or site conditions) not already contemplated within the Engineer's services for the Project.

3.8.3.7 Inspection Services. Professional inspection services, as required, in strict accordance with all applicable local, state and federal laws, rules and regulations.

3.9 District Responsibilities. District's responsibilities shall include the following:

3.9.1 Data and Information. District shall make available to Engineer all necessary data and information concerning the purpose and requirements of the Project, including scheduling and budget limitations, objectives, constraints and criteria. As part of the budget limitation information, the District shall provide the Engineer with a preliminary construction budget ("District's Preliminary Construction Budget").

3.9.2 Bid Phase. Distribute or delegate to others, included but not limited to the Engineer, Final Construction Bid Documents to bidders and conduct the opening and review of bids for the Project.

3.9.3 Testing. Retain consultant(s) to conduct chemical, mechanical, soils, geological or other tests required for proper design of the Project, and furnish such surveys, borings, test pits, and other tests as may be necessary to reveal conditions of the site which must be known to determine soil condition or to ensure the proper development of the required drawings and specifications.

3.9.4 Required Inspections and Tests. Retain consultant(s) to conduct materials testing and inspection, as required by Title 21 of the California Code of Regulations, or to

conduct any other environmental or hazardous materials testing and inspection pursuant to any other applicable laws, rules or regulations.

3.9.5 Fees of Reviewing or Licensing Agencies. Directly pay or reimburse the payment of all fees required by any reviewing or licensing agency, or other agency having approval jurisdiction over the Project.

3.9.6 District's Representative. Designate a person to act as its representative for the performance of this Agreement ("District's Representative"). The District's Representative shall be authorized to act as liaison between Engineer and District in the administration of this Agreement and the Construction Documents, and shall have the power to act on behalf of the District for all purposes under this Agreement. Such person shall assist Engineer in observing construction of the Project and participating in the preparation of the Punch List Items required by Exhibit "A" attached hereto. District may designate new and/or different individuals to act as District's Representative from time to time. The District's Representative shall render decisions in a timely manner so as to avoid unreasonable delay in the orderly and sequential progress of the Services, as provided in the excusable delay provisions of this Agreement above.

3.9.7 Review and Approve Documents. Review all documents, including change orders and other matters requiring approval by the District Board of Trustees or other officials. District shall advise Engineer of decisions pertaining to such documents within a reasonable time after submission, so as not to cause unreasonable delay as provided in the excusable delay provisions of this Agreement above.

3.10 Compensation.

3.10.1 Engineer's Compensation for Basic Services. Subject to adjustment under Exhibit "B" attached hereto, District shall pay to Engineer, for the performance of all Services rendered under this Agreement, a not to exceed amount of TWO HUNDRED THOUSAND DOLLARS \$200,000.00 in incremental amounts set forth in the Work Authorizations to be issued by the District prior to performance of Services as described herein ("Total Compensation"). The Total Compensation shall constitute complete and adequate payment for the Services provided under this Agreement.

3.10.2 Payment for Additional Services. Additional Services may be authorized pursuant to the applicable provisions of this Agreement. If authorized, such Additional Services will be compensated at the rates and in the manner set forth in Exhibit "B" attached hereto and incorporated herein by reference, unless a flat rate or some other form of compensation is mutually agreed upon by the parties. Engineer shall be paid for Additional Services, as defined by this Agreement, so long as they have been approved in advance by the District. If District requires Engineer to hire consultants to perform any Additional Services, Engineer shall be compensated therefore at the rates and in the manner set forth in Exhibit "B" attached hereto and incorporated herein by reference, unless a flat rate or some other form of compensation is mutually agreed upon by the parties. District shall have the authority to review and approve the rates of any such consultants. In addition, Engineer shall be reimbursed for any expenses incurred by such consultants pursuant to the terms and conditions of Section 3.10.3.

3.10.3 Reimbursable Expenses. Reimbursable expenses are in addition to compensation for the Services and Additional Services. Engineer shall not be reimbursed for any expenses unless authorized in writing by District, which approval may be evidenced by inclusion in Exhibit "B" attached hereto. Such reimbursable expenses shall include only those expenses which are reasonably and necessarily incurred by Engineer in the interest of the Project. Engineer shall be required to acquire prior written consent in order to obtain reimbursement for the following: (1) extraordinary transportation expenses incurred in connection with the Project; (2) out-of-town travel expenses incurred in connection with the Project; (3) fees paid for securing approval of authorities having jurisdiction over the Project; (4) additional document duplication costs in excess of the number of sets set forth in Exhibit "A" and (5) other costs, fees and expenses not specifically allowed under this Agreement or a part of a Work Authorization.

3.10.4 Payment to Engineer. Engineer's compensation and reimbursable expenses shall be paid by District to Engineer no more often than monthly. Such periodic payments shall be made based upon the percentage of work completed, and in accordance with the compensation rates indicated in Exhibit "B" attached hereto and incorporated herein by reference. In order to receive payment, Engineer shall present to District an itemized statement which indicates Services performed, percentage of Services completed, method for computing the amount payable, and the amount to be paid. The statement shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement, as well as those expenses for which reimbursement is requested for that statement period. District shall, within thirty (30) days of receiving such statement, review the statement and pay all approved charges thereon pursuant to the provisions of Civil Code Section 3320. Disputed amounts shall be resolved by the parties in a mutually agreeable manner.

Payments made for Additional 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, and in accordance with any authorized fee or rate schedule. In order to receive payment, Engineer shall present to District an itemized statement which indicates the Additional Services performed, percentage of Additional Services completed, method for computing the amount payable, and the amount to be paid. The statement shall describe the amount of Additional Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. District shall, within thirty (30) days of receiving such statement, review the statement and pay all approved charges thereon pursuant to the provisions of Civil Code Section 3320. Disputed amounts shall be resolved by the parties in a mutually agreeable manner. Upon cancellation or termination of this Agreement, Engineer shall be compensated as set forth in the termination provision herein.

3.10.5 Withholding Payment to Engineer. The District may withhold payment, in whole or in part, to the extent reasonably necessary to protect the District from claims, demands, causes of action, costs, expenses, liabilities, losses, damages, or injuries of any kind to the extent arising out of or caused by the intentional or negligent acts, errors or omissions protected under the indemnification provisions of this Agreement. Failure by District to deduct any sums from a progress payment shall not constitute a waiver of the District's right to such sums. The District

may keep any moneys which would otherwise be payable at any time hereunder and apply the same, or so much as may be necessary therefore, to the payment of any expenses, losses, or damages as determined by the District, incurred by the District for which Engineer is liable under the Agreement or state law. Payments to the Engineer for compensation and reimbursable expenses due shall not be contingent on the construction, completion or ultimate success of the Project. Payment to the Engineer shall not be withheld, postponed, or made contingent upon receipt by the District of offsetting reimbursement or credit from parties not within the Engineer's reasonable control.

3.10.6 Prevailing Wages. Engineer is aware of the requirements of California Labor Code Sections 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Engineer agrees to fully comply with, and to require its consultants to fully comply with, such Prevailing Wage Laws. District shall provide Engineer with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Engineer shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Engineer's principal place of business and at the Project site. Engineer shall defend, indemnify and hold the District, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure of the Engineer or its consultants to comply with the Prevailing Wage Laws.

3.10.7 Labor Compliance Program. Pursuant to Labor Code Section 1771.7, the District has implemented, staffed, and shall enforce a Labor Compliance Program ("LCP"), as approved by the Department of Industrial Relations on April 2003. The Engineer shall be required to comply with all the requirements of the District's LCP and all applicable provisions of the California Labor Code.

3.11 Notice to Proceed.

Engineer shall not proceed with performance of any Services under this Agreement unless and until the District provides a written notice to proceed.

3.12. Termination, Suspension and Abandonment.

3.12.1 District's Termination for Convenience; Engineer's Termination for Cause. District hereby reserves the right to suspend or abandon, at any time and for any reason, all or any portion of the Project and the construction work thereon, or to terminate this Agreement at any time with or without cause. Engineer shall be provided with at least seven (7) days advanced written notice of such suspension, abandonment or termination. In the event of such suspension, abandonment or termination, Engineer shall be paid for Services and reimbursable expenses rendered up to the date of such suspension, abandonment or termination,

pursuant to the schedule of payments provided for in this Agreement, less any claims against or damages suffered by District as a result of the default, if any, by Engineer. Engineer hereby expressly waives any and all claims for damages or compensation arising under this Section 3.12, except as set forth herein, in the event of such suspension, abandonment or termination. Engineer may terminate this Agreement for substantial breach of performance by the District, such as failure to make payment to Engineer as provided in this Agreement.

3.12.2 District's Suspension of Work. If Engineer's Services are suspended by District, District may require Engineer to resume such Services within ninety (90) days after written notice from District. When the Project is resumed, the Total Compensation and schedule of Services shall be equitably adjusted upon mutual agreement of the District and Engineer.

3.12.3 Documents and Other Data. Within seven (7) calendar days following suspension, abandonment or termination of this Agreement, Engineer shall provide to District all preliminary studies, sketches, working drawings, specifications, computations, and all other Project Documents, as defined below, to which District would have been entitled at the completion of Engineer's Services under this Agreement. Upon payment of the amount required to be paid to Engineer pursuant to the termination provisions of this Agreement, District shall have the rights, as provided in this Agreement hereinafter, to use such Project Documents prepared by or on behalf of Engineer under this Agreement. In the event of a dispute regarding the amount of compensation to which the Engineer is entitled under the termination provisions of this Agreement, the Parties shall be subject to Section 3.19 of this Agreement and Engineer shall provide all Project Documents to District upon payment of the undisputed amount. Engineer shall have no right to retain or fail to provide to District any such documents pending resolution of the dispute. Engineer shall make such documents available to District without additional compensation other than as may be approved as a reimbursable expense.

3.12.4 Employment of other Engineers. In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.13 Ownership and Use of Documents; Confidentiality.

3.13.1 Ownership. Pursuant to California Education Code Section 17316 and the requirements of the District, all plans, specifications, original or reproducible transparencies of working drawings and master plans, preliminary sketches, Engineering presentation drawings, structural computations, estimates and any other documents prepared pursuant to this Agreement, including, but not limited to, any other works of authorship fixed in any tangible medium of expression such as writings, physical drawings and data magnetically or otherwise recorded on computer diskettes (hereinafter referred to as the "Project Documents") shall be and remain the property of District. Although the official copyright in all Project Documents shall remain with the Engineer or other applicable subcontractors or consultants, the Project Documents shall be the property of District whether or not the work for which they were made is executed or completed. Within thirty (30) calendar days following completion of the Project, Engineer shall provide to District copies of all Project Documents required by District. In addition, Engineer shall retain copies of all Project Documents on file for a minimum of five (5) years following completion of the Project, and shall make copies available to District upon the

payment of reasonable duplication costs. Before destroying the Project Documents following this retention period, Engineer shall make a reasonable effort to notify District and provide District with the opportunity to obtain the documents.

3.13.2 Right to Use. Engineer grants to District the right to use and reuse all or part of the Project Documents, at District's sole discretion with no additional compensation to Engineer, for the construction of all or part of this Project. District is not bound by this Agreement to employ the services of Engineer in the event such documents are used or reused. District shall be able to use or reuse the Project Documents for their intended purposes or to otherwise complete this Project, if necessary, without risk of liability to the District. However, any use or reuse by District of the Project Documents for other than their intended use or on any project other than this Project without employing the services of Engineer shall be at District's own risk. If District uses or reuses the Project Documents on any project other than this Project, it shall remove the Engineer's seal from the Project Documents and indemnify and hold harmless Engineer and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Project Documents on such other project. Engineer shall be responsible and liable for its Project Documents, pursuant to the terms of this Agreement, only with respect to the condition of the Project Documents at the time they are provided to the District upon completion, suspension, abandonment or termination. Engineer shall not be responsible or liable for any revisions to the Project Documents made by any party other than Engineer, a party for whom the Engineer is legally responsible or liable, or anyone approved by the Engineer.

3.13.3 License. This Agreement creates a non-exclusive and perpetual license for District to copy, use, modify or reuse any and all Project Documents and any intellectual property rights therein. Engineer shall require any and all subcontractors and consultants to agree in writing that District is granted a non-exclusive and perpetual license for the work of such subcontractors or consultants performed pursuant to this Agreement.

3.13.4 Right to License. Engineer represents and warrants that Engineer has the legal right to license any and all copyrights, designs and other intellectual property embodied in the Project Documents that Engineer prepares or causes to be prepared pursuant to this Agreement. Engineer shall indemnify and hold District harmless pursuant to the indemnification provisions of this Agreement for any breach of this Section. Engineer makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates or other documents that were prepared by design professionals other than Engineer and provided to Engineer by District.

3.13.5 Confidentiality. All Project Documents, either created by or provided to Engineer in connection with the performance of this Agreement, shall be held confidential by Engineer to the extent they are not subject to disclosure pursuant to the Public Records Act. All Project Documents shall not, without the written consent of District, be used or reproduced by Engineer for any purposes other than the performance of the Services. Engineer shall not disclose, cause or facilitate the disclosure of the Project Documents to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Engineer which is otherwise known to Engineer or is generally known, or has become known, to the related industry shall be deemed confidential. Engineer shall not use District's name or insignia,

photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the written consent of District.

3.14 Indemnification.

Engineer shall defend, indemnify and hold District, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of or incident to any intentional or negligent acts, errors or omissions of Engineer, its officials, officers, employees, subcontractors, consultants or agents in the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages and reasonable attorney's fees, expert witness fees and other related costs and expenses of defense. Engineer shall defend, at Engineer's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against District, its officials, officers, employees, volunteers and agents. Engineer shall pay and satisfy any judgment, award or decree that may be rendered against District, its officials, officers, employees, volunteers and agents in any such suits, actions or other legal proceedings. Engineer shall also reimburse District for the cost of any settlement paid by District arising out of any such claims, demands, causes of action, costs, expenses, liabilities, losses, damages, injuries, suits, actions, or other legal proceedings. Such reimbursement shall include payment for District's reasonable attorney's fees and costs, including expert witness fees. Engineer shall reimburse District, its officials, officers, employees, volunteers and agents for any and all legal expenses and costs, including expert witness fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Engineer's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its officials, officers, employees, volunteers and agents.

3.15 Insurance.

3.15.1 Time for Compliance. Engineer shall not commence Services under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this Section.

3.15.2 Minimum Requirements. Engineer shall, at its expense, procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Engineer, its officials, officers, agents, representatives, employees or subcontractors. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability:* Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability:* Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); (3) *Workers' Compensation and Employers' Liability:* Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance; and (4) *Professional*

Liability: Coverage which is appropriate to the Engineer's profession, or that of its consultants or subcontractors.

(B) Minimum Limits of Insurance. Coverage shall provide limits no less than: (1) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; (3) *Workers' Compensation and Employer's Liability*: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of \$1,000,000 per accident for bodily injury or disease; and (4) *Professional Liability*: Not less than \$1,000,000 per claim.

3.15.3 Professional Liability. Engineer and its consultants and subcontractors shall procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance with limits discussed in this Section. This insurance shall be endorsed to include contractual liability.

3.15.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Engineer shall provide endorsements on forms supplied or approved by the District to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall be endorsed to state that: (A) the District, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the performance of the Agreement by the Engineer, its officials, officers, agents, representatives, employees or subcontractors, including materials, parts or equipment furnished in connection with such services; and (B) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Engineer's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees and agents shall be excess of the Engineer's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (A) the District, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Engineer or for which the Engineer is responsible; and (B) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Engineer's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees and agents shall be excess of the Engineer's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the District, its directors, officials,

officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Engineer.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the District, its directors, officials, officers, employees and agents.

3.15.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officials, officers, employees and agents.

3.15.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the District. Engineer shall guarantee that, at the option of the District, either: (A) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its directors, officials, officers, employees and agents; or (B) the Engineer shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.15.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VII, licensed to do business in California, and satisfactory to the District.

3.15.8 Verification of Coverage. Engineer shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the District, if requested. All certificates and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.15.9 Subcontractor and Consultant Insurance Requirements. Engineer shall not allow any of its engineers, experts or other consultants to commence work on any subcontract until they have provided evidence satisfactory to the District that they have secured all insurance required under this Section. If requested by Engineer, District may approve different scopes or minimum limits of insurance for particular engineers, experts or other consultants. Unless otherwise approved by the District, the engineers, experts and other consultants shall comply with each and every provision of this Section.

3.16 Records.

Engineer shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Engineer shall allow a representative of District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this

Agreement. Engineer shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of five (5) years from the date of final payment under this Agreement.

3.17 Standardized Manufactured Items.

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

3.18 Limitation 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 the Project, or at any other District site, will be covered by, and be the subject of, a separate Agreement for Engineering services between District and the Engineer chosen therefore by District.

3.19 Dispute Resolution.

In the unlikely event of a dispute, each person signing this Agreement (or his or her successor) shall mutually attempt resolution first by informal face-to-face negotiations. If mutually agreeable to the parties, any remaining disputes shall be submitted to a mutually agreeable independent third-party for mediation, whose decision of the dispute shall be final and binding on all parties. The type and process of mediation to be utilized shall be subject to the mutual agreement of the parties.

3.20 Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Engineer shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of District. Any attempted assignment without such consent shall be invalid and void.

3.21 Asbestos Certification.

Engineer shall certify to District, in writing and under penalty of perjury, that to the best of its knowledge, information and belief no asbestos-containing material or other material deemed to be hazardous by the state or federal government was specified as a building material in any construction document that the Engineer prepares for the Project. Engineer shall require all consultants who prepare any other documents for the Project to submit the same written certification. Engineer shall also assist the District in ensuring that contractors provide District with certification, in writing and under penalty of perjury, that to the best of their knowledge, information and belief no material furnished, installed or incorporated into the Project contains asbestos or any other material deemed to be hazardous by the state or federal

government. These certifications shall be part of the final Project submittal. Engineer shall include statements in its specifications that materials containing asbestos or any other material deemed to be hazardous by the state or federal government are not to be included.

3.22 No Third Party Rights.

This Agreement shall not create any rights in, or inure to the benefits of, any third party except as expressly provided herein.

3.23 Governing Law.

This Agreement shall be construed in accordance with, and governed by, the laws of the State of California. Venue shall be in Los Angeles County.

3.24 Entire Agreement.

This Agreement, with its exhibits, contains the entire agreement of the parties hereto, and supersedes any and all other prior or contemporaneous negotiations, understandings and 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 are 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.

3.25 Severability.

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

3.26 Non-Waiver.

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

3.27 Safety.

Engineer shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Engineer shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its employees, consultant and subcontractors appropriate to the nature of the work and the conditions under which the work is to be performed.

3.28 Delivery of Notices.

All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**ENGINEER: BUDLONG & ASSOCIATES, INC.
5151 VERDUGO WAY, SUITE 201
CAMARILLO, CA 93012
ATTENTION: JAMES A. JORDAN**

**DISTRICT: ANAHEIM UNION HIGH SCHOOL DISTRICT
P.O. BOX 3520
501 CRESCENT WAY
ANAHEIM, CA 92803-3520
ATTENTION: TIMOTHY D. HOLCOMB
DEPUTY SUPERINTENDENT**

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.29 Attorney's Fees.

If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other reasonable costs of such action, including expert witness fees and expenses.

3.30 Time of Essence.

Time is of the essence for each and every provision of this Agreement.

3.31 District's Right to Employ Other Consultants.

District reserves right to employ other consultants, including Engineers, in connection with this Project or other projects.

3.32 Prohibited Interests.

3.32.1 Solicitation. Engineer warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Engineer, to solicit or secure this Agreement. Further, Engineer warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Engineer, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or

resulting from the award or making of this Agreement. For breach or violation of this warranty, District shall have the right to rescind this Agreement without liability.

3.32.2 **Conflict of Interest.** For the term of this Agreement, no director, official, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising there from.

3.33 Equal Opportunity Employment.

Engineer represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or any other classification protected by federal or state law. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Engineer shall also comply with all relevant provisions of District's minority business enterprise program, affirmative action plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.34 Disabled Veteran Business Enterprise Certification. If required for this Project, Engineer shall provide proof of DVBE compliance, in accordance with any applicable policies of the District or the State Allocation Board, within thirty (30) days of its execution of this Agreement. If Engineer fails to comply with this requirement, the Agreement shall be deemed canceled.

3.35 Labor Certification.

By its signature hereunder, Engineer certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.36 Subcontracting.

As specified in this Agreement, Engineer shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of District. Subcontracts, if any, shall contain a provision making them subject to each and every provision of this Agreement.

3.37 Supplemental Conditions.

Any supplemental conditions shall be attached as an exhibit to this Agreement, and that exhibit shall be incorporated herein by reference.

3.38 Drug/Tobacco Free Facilities. All District facilities are drug and tobacco free facilities. Any drug and/or tobacco use (smoked or smokeless) is prohibited at all times.

3.39 Fingerprinting Requirements. Unless exempted, Engineer shall comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the District's pupils. The Engineer shall also ensure that its consultants on the Project also comply with the requirements of Section 45125.1. To this end, the Engineer and its consultants must provide for the completion of the certification form attached hereto as Exhibit "D" and incorporated herein by reference prior to any of the Engineer's employees, or those of any other consultants, coming into contact with the District's pupils.

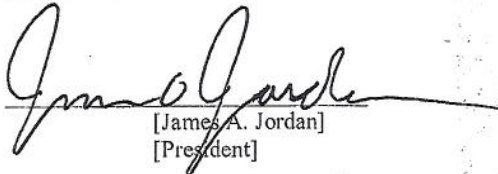
3.40 Exhibits and Recitals. All Exhibits and Recitals contained herein and attached hereto are material parts of this Agreement and are incorporated as if fully set forth herein by this reference.

3.41 Authority to Execute. The persons executing this Agreement on behalf of their respective Parties represent and warrant that they have the authority to do so under law and from their respective Parties.

**ANAHEIM UNION HIGH SCHOOL
DISTRICT**

BUDLONG & ASSOCIATES, INC.

By: _____
Timothy D Holcomb
Deputy Superintendent

By: 
[James A. Jordan]
[President]

Approved as to Form:

By: _____
Best Best & Krieger LLP

EXHIBIT "A"

ENGINEER'S SCOPE OF SERVICES BASED ON REQUEST FOR QUALIFICATIONS FOR ENGINEERING SERVICES #2008-19

1. GENERAL REQUIREMENTS.

1.1 Basic Services. Engineer agrees to perform all the necessary professional engineering (e.g. mechanical, electrical, plumbing, structural, site engineering, and any other necessary engineering services) and construction administration services for the Project in a timely and professional manner, consistent with the standards of the profession, including those provided for herein.

1.2 Exclusions from Basic Services. The following services shall be excluded from the basic services listed above: soils engineering, geotechnical services, hazardous waste or toxic substance engineering.

1.3 Additional Services. Engineer shall perform the following Additional Services for the Project: NOT APPLICABLE

1.4 Communication with District. Engineer shall participate in consultations and conferences with authorized representatives of District and/or other local, regional, or state agencies concerned with the Project, which may be necessary for the completion of the Project or 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 throughout the planning and construction of the Project and the contractor's warranty period. Engineer shall take direction only from the District's Representative, or any other representative specifically designated by the District for this Project, including any construction manager hired by the District.

1.5 Coordination and Cooperation with Construction Manager. The District may hire a construction manager to administer and coordinate all or any part of the Project on its behalf. If the District does so, it shall provide a copy of its agreement with the construction manager so that the Engineer will be fully aware of the duties and responsibilities of the construction manager. The Engineer shall cooperate with the construction manager and respond to any requests or directives authorized by the District to be made or given by the construction manager. The Engineer shall request clarification from the District in writing if the Engineer should have any questions regarding the authority of the construction manager.

2. INITIAL PLANNING PHASE.

During the initial planning phase of the Project, Engineer shall do all of the following, as well as any incidental services thereto:

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

2.2 Meeting Budget and Project Goals. Engineer shall notify District in writing of potential complications, cost overruns, unusual conditions, and general needs that potentially impact the Project budget and time line, including the District's Preliminary Construction Budget. Engineer shall use its best judgment in determining the balance between the size, type and quality of construction to achieve a satisfactory solution within the Project's budget and construction allowance. It shall be the duty of the Engineer to design the Project within budget. As discussed below, if the lowest responsive and responsible bid for the Project exceeds the budget by the specified amount, Engineer may be required to make the necessary changes in the drawing and specifications, at its sole cost and expense, to bring the bids within the required budget, unless the District, in its sole discretion, determines that bids are affected by market factors not within the reasonable control of the Engineer (e.g., labor or material shortage) and bids are received more than six (6) months following the completion of the Final Working Drawings and Specifications, as defined herein.

2.3 Permits, Approvals and Authorizations. As indicated in Section 3.5.4, Engineer shall assist District in securing easements, encroachment permits, rights of way, dedications, infrastructures and road improvements, as well as coordinating with utilities and adjacent property owners.

3. SCHEMATIC PLAN PHASE.

During the schematic plan phase of the Project, Engineer shall do all of the following, as well as any incidental services thereto:

3.1 Funding Documents. Engineer shall provide a site plan and all other Project-related information necessary and required for an application by District to any federal, state, regional, or local agencies for funds to finance the construction Project.

3.2 Schematic Plans. In cooperation with District, Engineer shall prepare preliminary plans and studies, schematic drawings, site utilization plans, and phasing plans showing the scale and relationship of the components of the Project, the plot plan development at the site, and the proposed Engineering concept of the buildings ("Schematic Plans"). Engineer shall incorporate the functional requirements of District into the Schematic Plans. The Schematic Plans shall meet all laws, rules and regulations of the State of California. The Schematic Plans shall show all rooms incorporated in each building of the Project in single-line drawings, and shall include all revisions required by District or by any federal, state, regional or local agency having jurisdiction over the Project. All Engineering drawings for the Project shall be in a form suitable for reproduction.

3.3 Preliminary Project Budget. Engineer shall use the District's Preliminary Construction Budget and its own expertise and experience with the Project to establish a preliminary project budget or allowance in a format required by District ("Engineer's Preliminary Project Budget"). The purpose of the Engineer's Preliminary Project Budget is to show the probable Project cost in relation to District's Preliminary Construction Budget and the construction standards of any applicable funding agency. If Engineer perceives site considerations which render the Project expensive or cost prohibitive, Engineer shall disclose such conditions in writing to District immediately. As stated above, if the lowest responsive and responsible bid for the Project exceeds the budget by the specified amount, Engineer may be required to make the necessary changes in the drawings and specifications, at its sole cost and expense, to bring the bids within the required budget, unless the District, in its sole discretion, determines that bids are affected by market factors not within the reasonable control of Engineer (e.g. labor or material shortage) and bids are received more than six (6) months following the completion of the Final Working Drawings and Specifications, as defined herein. Engineer shall provide a preliminary written time schedule for the performance of all construction work on the Project.

3.4 Copies of Schematic Plans and Other Documents. Engineer, at its own expense, shall provide three (3) complete sets of the Schematic Plans described herein for District's review and approval. Additionally, at District's expense, Engineer shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project. Any additional copies required by District shall be provided at actual cost to District.

4. DESIGN DEVELOPMENT PHASE.

During the design development phase of the Project, Engineer shall do all of the following, as well as any incidental services thereto:

4.1 Design Development Documents. Once District provides Engineer with specific written approval of the Schematic Plans described herein, Engineer shall prepare design development documents consisting of: (1) site and floor plans; (2) elevations; and (3) any other drawings and documents sufficient to fix and describe the types and makeup of materials, as well as the size and character of the Project's structural, mechanical and electrical systems, and to outline the Project specifications ("Design Development Documents"). The Design Development Documents shall be prepared in sufficient form to present to the District Council for approval.

4.2 Copies of Design Development and Other Documents. Engineer, at its own expense, shall provide three (3) complete sets of the Design Development Documents described herein for District's review and approval. Additionally, at District's expense, Engineer shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project. Any additional copies required by District shall be provided at actual cost to District.

4.3 Updated Project Budget. Engineer shall use its Preliminary Project Budget and expertise and experience with the Project to establish an updated estimate of probable

construction costs, containing detail consistent with the Design Development Documents as set forth herein and containing a breakdown based on types of materials and specifications identified herein (“Engineer’s Updated Project Budget”).

4.4 Timetable. Engineer shall provide a written timetable for full and adequate completion of the Project to District.

4.5 Application for Approvals. Engineer shall assist District in applying for and obtaining required approvals from all federal, state, regional or local agencies concerned with the Project. Engineer shall furnish and process all Engineering and engineering information required to prepare and process applications to applicable utilities in order to secure priorities and materials, to aid in the construction of the Project and to obtain final Project approval and acceptance by any of the above agencies as may be required.

4.6 Color and Other Aesthetic Issues. Engineer shall provide, for District’s review and approval, a preliminary schedule of all color materials and selections of textures, finishes and other matters involving an aesthetic decision about the Project.

5. FINAL WORKING DRAWINGS AND SPECIFICATIONS.

During the final working drawings and specifications phase of the Project, Engineer shall do all of the following, as well as any incidental services thereto:

5.1 Final Working Drawings and Specifications. Once District provides Engineer with specific written approval of the Design Development Documents described herein, Engineer shall prepare such complete working drawings and specifications as are necessary for developing complete bids and for properly executing the Project work in an efficient and thorough manner (“Final Working Drawings and Specifications”). Such Final Working Drawings and Specifications shall be developed from the Schematic Plans and Design Development Documents approved by District. The Final Working Drawings and Specifications shall set forth in detail all of the following: (1) the Project construction work to be done; (2) the materials, workmanship, finishes, and equipment required for the Engineering, structural, mechanical, and electrical systems; and (3) the utility service connection equipment and site work. As indicated in Section 3.9.2, District may be requested to supply Engineer with the necessary information to determine the proper location of all improvements on and off site, including record drawings (“record drawings”) in District’s possession. District shall make a good-faith effort to verify the accuracy of the record drawings and provide any supplemental information to Engineer which may not be shown on the record drawings.

5.2 Form. The Final Working Drawings and Specifications must be in such form as will enable Engineer and District to secure the required permits and approvals from all federal, state, regional or local agencies concerned with the Project. In addition, the Final Working Drawings and Specifications must be in such form as will enable District to obtain, by competitive bidding, a responsible and responsive bid within the applicable budgetary limitations and cost standards. The Final Working Drawings and Specifications shall be clear and legible so that uniform copies may be on standard Engineering size paper, properly indexed and numbered,

and shall be capable of being clearly copied and assembled in a professional manner by Engineer.

5.3 Approval and Revisions. District shall review, study, and check the Final Working Drawings and Specifications presented to it by Engineer, and request any necessary revisions or obtain any necessary approvals by the District Council, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Engineer shall make all District-requested changes, additions, deletions, and corrections in the Final Working Drawings and Specifications at no additional cost, so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, or inconsistent with earlier District direction or Engineer's professional judgment. Engineer shall bring any such conflicts and/or inconsistencies to the attention of District. The parties agree that Engineer, and not the District, possesses the requisite expertise to determine the constructability of the Final Working Drawings and Specifications. However, the District reserves the right to conduct one or more constructability review processes of the Final Working Drawings and Specifications at 75% to 90% completion levels with the assistance of the Engineer, its engineers and consultants, and to hire an independent Engineer or other consultant to perform such reviews at 90% to 100% completion level. Any such independent constructability review shall be at District's expense. Engineer shall make all District-requested changes, additions, deletions, and corrections in the Final Working Drawings and Specifications which may result from any constructability review, at no additional cost to the District, so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, or inconsistent with earlier District direction or Engineer's professional judgment. If such changes, additions, deletions or corrections are inconsistent with prior District direction, Engineer shall make such alterations and be compensated therefore pursuant to the Additional Services provision of this Agreement.

5.4 Costs of Construction. It is understood by Engineer that should the Final Working Drawings and Specifications be ordered by District, District shall specify the sum of money set aside to cover the total cost of construction of the work, exclusive of Engineer's fees. Should it become evident that the total construction cost will exceed the specified sum, Engineer shall at once present a statement in writing to the District's Representative setting forth this fact and giving a full statement of the cost estimates on which the conclusion is based.

5.5 Copies of Final Working Drawings and Specifications and Other Documents. Engineer, at its own expense, shall provide three (3) complete sets of the Final Working Drawings and Specifications described herein for District's review and approval. Additionally, at District's expense, Engineer shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project. Any additional copies required by District shall be provided at actual cost to District.

6. CONSTRUCTION CONTRACT DOCUMENTS.

During the construction contract documents phase of the Project, Engineer shall do all of the following, as well as any incidental services thereto:

6.1 Bid and Contract Documents. If so required by District, Engineer shall assist District in the completion of all bid and construction documents, including but not limited to, the Notice Inviting Bids, Instructions to Bidders, Contract Bid Forms (including Alternate Bids as requested by District), Contract, General Conditions, Supplementary General Conditions, Special Conditions, DVBE and other applicable affirmative action documents, Performance Bond, Payment Bond, Escrow Agreement for Security Deposits, and any other certifications and documents required by federal, state and local laws, rules and regulations which may be reasonably required in order to obtain bids responsive to the specifications and drawings. All such documents shall be subject to the approval of District and District's legal counsel.

6.2 Final Estimate. At the time of delivery of these bid and construction documents, which shall include the Final Working Drawings and Specifications (collectively referred to herein as the "Construction Documents"), Engineer shall provide District with its final estimate of probable construction cost ("Engineer's Final Estimate"). As stated above, it shall be the Engineer's duty to design the Project within budget.

7. BID PHASE.

During the bid phase of the Project, Engineer shall do all of the following, as well as any incidental services thereto:

7.1 Reproducible Construction Documents. Once District provides Engineer with specific written approval of the Construction Documents and Engineer's Final Estimate, Engineer shall provide to District one set of reproducible Construction Documents.

7.2 Distribution of Contract Documents and Review of Bids. Engineer shall assist District (at no cost to Engineer) in distributing the Construction Documents to bidders and conducting the opening and review of bids for the Project.

7.3 Overbudget. If the apparent lowest responsive and responsible bid on the Project exceeds the Engineer's Final Estimate by more than five percent (5%), District may request Engineer to amend, at Engineer's sole cost and expense, the Final Drawings and Specifications in order to rebid the Project and receive a lowest responsive and responsible bid equal to or less than the Engineer's Final Estimate, unless the District, in its sole discretion, determines that bids are affected by market factors not within the reasonable control of the Engineer (e.g., labor or material shortage) and bids are received more than six (6) months following the completion of the Final Working Drawings and Specifications, as defined herein. All revisions necessary to bring the lowest responsible and responsive bid within the Engineer's Final Estimate, including any omissions, deferrals or alternates, shall be made in consultation with, and subject to the approval of, the District.

8. CONSTRUCTION PHASE.

During the construction phase of the Project, Engineer shall do all of the following, as well as any incidental services thereto:

8.1 Observation. The Project Engineer shall observe work executed from the Final Working Drawings and Specifications in person, provided that District may, in its discretion, consent to such observation by another competent representative of Engineer. Engineer neither shall be responsible for performance of the work observed, nor shall Engineer incur any liability to any party for observation as required by this paragraph.

8.2 General Administration. Engineer shall provide general administration of the Construction Documents and the work performed by the contractors.

8.3 Pre-Construction Meeting. Engineer shall conduct one or more pre-construction meetings, as the District determines is needed for the Project, with all interested parties.

8.4 Site Visits of Contractor's Work. Engineer shall conduct site visits to observe each contractors' work for general conformance with the Construction Documents and with any approved construction schedules or milestones. Such site visits shall be conducted as often as are necessary and appropriate to the stage of construction, according to the District's sole discretion, but in no event less than weekly.

8.5 Site Visits of Inspector's Work. Engineer shall conduct site visits to communicate and observe the activities of the District inspectors. Such site visits shall be conducted as often as is mutually acceptable to Engineer and District. Engineer shall direct the District inspectors and the Project contractors to coordinate the preparation of record drawings indicating dimensions and location of all "as-built" conditions, including but not limited to, underground utility lines.

8.6 Coordination of Engineer's Consultants. Engineer shall cause all Engineers, engineers and other consultants, as may be hired by Engineer or District, to observe the work completed under their disciplines as required, and approve and review all test results for general conformance with the Construction Documents.

8.7 Reports. Engineer shall make regular reports as may be required by applicable federal, state or local laws, rules or regulations, as well as the federal, state, regional or local agencies concerned with the Project.

8.8 Construction Meetings; Minutes. Engineer shall attend all construction meetings and provide written reports/minutes to the District after each construction meeting in order to keep District informed of the progress of the work. Such meetings shall occur at a frequency necessary for the progress of the Project work, according to the District's sole discretion, but no less than weekly.

8.9 Written Reports. Engineer shall make written reports to District as necessary to inform District of problems arising during construction, changes contemplated as a result of each such problems, and progress of the Project work.

8.10 Written Records. Engineer shall keep accurate written records of the progress and quality of the Project work and the time schedules, and shall advise the contractors and District of any deviations from the time schedule which could delay timely completion of the Project.

8.11 Material and Test Reports. Engineer shall check and process, in a timely manner, all required material and test reports for the Project work. In addition, Engineer shall provide notice of any deficiencies in material or work reflected in such reports, as well as its recommendation for correction of such deficiencies, to the contractors and District.

8.12 Review and Response to Submissions. Engineer shall review and respond, in a timely manner, to all schedules, submittals, shop drawings, samples, information requests, change requests, and other submissions of the contractor and subcontractors for compliance with, or alterations and additions to, the Construction Documents. Engineer's review and response shall be done in such a manner so as to ensure the timely and uninterrupted progress of the Project work.

8.13 Rejection of Work. Engineer shall promptly reject, as discussed with District, work or materials which do not conform to the Construction Documents. Engineer shall immediately notify the District and contractor(s) of such rejections. Engineer shall also have the authority to recommend to the District that additional inspection or testing of the work be performed, whether or not such work is fabricated, installed or completed.

8.14 Substitutions. Engineer shall consult with District, in a timely manner, with regard to substitution of materials, equipment and laboratory reports thereof, prior to the District's final written approval of such substitutions. Engineer's consultation shall be done in such a manner so as to ensure the timely and uninterrupted progress of the Project work.

8.15 Revised Documents and Drawings. Engineer shall prepare, at no additional expense to District, all documents and/or drawings made necessary by Engineer's errors and omissions in the originally approved Construction Documents.

8.16 Change Requests and Material Changes. Engineer shall evaluate and advise District, in a timely manner and in writing, of any change requests and material change(s) which may be requested or necessary in the Project plans and specifications. Engineer shall provide the District with its opinion as to whether such change requests should be approved, denied or revised. If the District has not hired a construction manager or other person to do so, the Engineer shall prepare and execute all change orders and submit them to the District for authorization. If the District has designated a construction manager or other person to prepare all change orders, the Engineer shall review all change orders prepared by such person, execute them and deliver them to the District for authorization if they meet with the Engineer's approval, or submit them to the District with recommendations for revision or denial if necessary. Engineer shall not order contractors to make any changes affecting the contract price without

approval by District of such a written change order, pursuant to the terms of the Construction Documents. Engineer may order, on its own responsibility and pending District Council approval, changes necessary to meet construction emergencies, if written approval of District's Representative is first secured.

8.17 Applications for Payment. Engineer shall examine, verify and approve contractor's applications for payment, and shall issue certificates for payment in amounts approved by the District's inspector.

8.18 Final Color and Product Selection. Engineer shall coordinate final color and product selection with District's original design concept.

8.19 Substantial Completion. Engineer shall determine the date of substantial completion, in consultation with the District.

8.20 Punch List. After determining that the Project is substantially complete, Engineer shall participate in the inspection of the Project and shall review all remaining deficiencies and minor items needed to be corrected or completed on the Project, including those identified on the punch list prepared by the contractor ("Punch List Items"). Engineer shall notify contractor in writing that all Punch List Items must be corrected prior to final acceptance of the Project and final payment. Engineer shall also notify District of all Punch List Items.

8.21 Warranties. Engineer shall review materials assembled by the contractor and subcontractors with regard to all written warranties, guarantees, owners' manuals, instruction books, diagrams, record "as built" drawings, and any other materials required from the contractors and subcontractors pursuant to the Construction Documents. Engineer shall coordinate and provide these materials to the District.

8.22 Certificate of Completion. Engineer shall participate in any further inspections of the Project necessary to issue Engineer's Certificate of Completion and final certificate for payment.

8.23 Documents for Project Close-Out. Engineer shall cause all other Engineers, engineers and other consultants, as may be hired by Engineer, to file any and all required documentation with the District or other governmental authorities necessary to close out the Project. Engineer shall assist the District in obtaining such documentation from all other Engineers, engineers, or other consultants.

9. RECORD DRAWINGS.

During the record drawings phase of the Project, Engineer shall do all of the following, as well as any incidental services thereto:

9.1 Record Drawings and Specifications. Not later than thirty (30) days after substantial completion of the Project, before receipt of final payment, Engineer shall review and forward the Final Working Drawings and Specifications, indicating on them all changes made by change orders or otherwise pursuant to the Construction Documents, as well as all information

called for on the specifications, thus producing an “as-built” set of Final Working Drawings and Specifications (“Record Drawings and Specifications”). The Record Drawings and Specifications shall show, among other things, the location of all concealed pipe, buried conduit runs and other similar elements within the completed Project. Engineer shall personally review and certify that the Record Drawings and Specifications are a correct representation of the information supplied to Engineer by any inspectors and the contractor. Engineer shall not be required to verify any information by physical inspection.

9.2 Approval. Once District provides Engineer with specific written approval of the Record Drawings and Specifications, Engineer shall forward to District the complete set of original Record Drawings and Specifications or a complete set of reproducible duplicate Record Drawings and Specifications. The tracing shall be of such quality that clear and legible prints may be made without appreciable and objectionable loss of detail.

9.3 Documents for Final Payment. Prior to the receipt of Engineer’s final payment, Engineer shall forward to District all of the following: (1) one clear and legible set of reproductions of the computations; (2) the original copy of the specifications; (3) the Record Drawings and Specifications as required herein; and (4) Engineer’s Certificate of Completion.

10. WARRANTY PERIOD.

During the warranty period phase of the Project, Engineer shall do all of the following, as well as any incidental services thereto:

10.1 Advice. Engineer shall provide advice to District on apparent deficiencies in the Project during any applicable warranty periods for the Project.

EXHIBIT "B"

COMPENSATION RATES AND REIMBURSABLE EXPENSES

1. HOURLY COMPENSATION RATES.

CLASSIFICATIONS	HOURLY RATE
Principal/Partners	\$155.00
Project Manager/Sr. Engineer/Sr. Designer/Architect	\$130.00
Designer	\$120.00
Senior Drafter/Senior CAD/Senior Administrator	\$95.00
Drafter/CAD	\$80.00
Clerical	\$55.00

2. REIMBURSABLE EXPENSES.

As approved by individual Work Authorizations.

3. ADDITIONAL SERVICES.

Additional Services shall be computed at the actual hourly rates listed above.

4. ADDITIONAL CONSULTANTS.

If District requires Engineer to hire consultants to perform any Additional Services, Engineer shall be compensated therefore at the consultant's actual hourly rates plus ten percent (10%). Owner shall have the authority to review and approve the rates of any such consultants.

