



HIBSER YAMAUCHI Architects, Inc.

October 9, 2020

Rebecca Westover
Chief Business Official
Mountain View Whisman School District
1400 Montecito Ave.
Mountain View, CA 94043
rwestover@mvwsd.org

Re: Huff Elementary School – Additional Portable
Fee Proposal

Dear Rebecca:

Thank you for considering our consulting services for your project. We appreciate all opportunities to work with the Mountain View Whisman School District. Per your recent Request for Proposals we are submitting this proposal for Architectural and Engineering Services. Our understanding is that you will be installing a new portable at Huff Elementary School, location to be determined.

PROJECT DETAILS

Project Location:

The project is located at Huff Elementary School in Mountain View.

Scope of Work:

Installation of one 960sf portable classroom building.

Budget:

The Construction Cost Budget is currently estimated to be \$310,000.

Schedule and Phasing:

The project is intended to be occupied in August of 2021. After receipt of the written approval of this Contract and the receipt of all required information, our work will be performed per the time durations as summarized below. This schedule is predicated on receipt of all appropriate information from various parties in a timely fashion. Review times by various parties (i.e. users, building departments, etc.) can vary and may have an impact on this schedule. If the construction schedule exceeds the estimated time we may adjust this proposal to account for additional CA support and meetings.

The design and construction will be completed in [one phase].

In summary, the preliminary schedule is as follows:

- Schematic Design 4 weeks (October 22-November 19)
- Construction Documents 4 weeks (November 20-December 31)
- Agency Review 1 weeks (estimated and assumed to be OTC)
- Bidding 6 weeks
- Construction Administration 8 weeks (anticipated)



Special Conditions:

Not applicable.

Construction Delivery Method:

The project will be delivered using the design-bid-build method for bidding and construction.

SCOPE OF SERVICES

As we understand it, the following services are necessary to complete the project. These are further detailed in the attached Terms and Conditions or our current Master Agreement with you. This proposal is currently limited to those services and consultants identified below. Should services beyond what is listed below be necessary, we may adjust this proposal to account for that effort. If you would propose to utilize a different agreement than attached, that agreement will apply to this proposal.

1. Architect's Basic Services

- a. Schematic Design
 - 1) Services per Agreement
 - 2) Limit 2 design options
 - 3) District/Site Meeting 1
- b. Construction Documents
 - 1) Services Per Agreement
 - 2) District/Site Meeting 1
- c. Agency Submittal
 - 1) Over The Counter Meeting 1
- d. Bidding
 - 1) Service per agreement
- e. Construction Administration
 - 1) Regular Meetings 1 every other week (4)
 - 2) Punchlist 1
 - 3) Back-punch/Final Walk 1
- f. Closeout

2. Architect's Extra Services

- a. none

3. Deliverables

- a. Schematic Design: Electronic
- b. Construction Documents: Electronic
- c. Agency Submittal: Electronic
- d. Bidding: Electronic



4. Consultants

a. Electrical

- i. Site survey of existing site electrical systems including power, lighting, data/telephone, clock/paging, intrusion and fire alarm.
Provide site plan with new power and low voltage systems connections.
- ii. Provide interior plans for power connections and additional interior power requirements not provided by modular manufacturer.
- iii. Provide floor plans for data/telephone, clock/paging, intrusion and fire alarm systems.
- iv. Provide electrical one-line diagram.
- v. Provide low voltage system riser diagrams and details clock/paging, data/telephone and intrusion alarm systems.
- vi. Provide fire alarm system for all work connected to existing system.
- vii. Provide riser diagrams, calculations, cut sheets and CSFM listing sheets per DSA requirements for fire alarm system.
- viii. Provide electrical specifications including materials and installation requirements.
- ix. Coordinate drawing requirements with client and DSA plan check and review.

b. Civil

- i. Final Design and Construction Documents –U&R shall prepare the final design and Construction Documents for the Civil Engineering portion of the project. Based upon the dimensioned site plan provided by the HY, U&R will overlay and review the portable layout over the survey backgrounds. U&R shall prepare Final Grading, Drainage, and specifications for the civil site work. Civil drawings shall also include any necessary site walkway paving replacement and reconstruction. The completed work shall be handed over to the Architect for processing and permitting through DSA. Civil plans to include:
 1. All new site ADA accessible pathway designs
 2. Site Plan coordination and horizontal controls
 3. Site grading, paving, and drainage plan
 4. Civil details
 5. Attendance at one project coordination meetings
 6. Technical specifications for civil work
 7. Site utility plan for water, sanitary sewer and storm drain (if required)
- ii. Construction Administration - U&R shall provide construction administration assistance as required for the continual progress of the project. This work may include the issuance of review of contractor submittals, and review of RFI's.

CLARIFICATIONS AND ASSUMPTIONS

1. This project will be done in 1 phase.
2. This project will require 1 package for permitting and construction.
3. Site topographical and utility survey in the vicinity of the building location and surrounding areas in CAD format will be made available for our use in the development of the site plan.
4. Existing plans and elevations are available in CAD/BIM format for our use in the development of improvement drawings.
5. The existing infrastructure is sufficient to accommodate these renovations. This includes site fire water systems, electrical power and low voltage systems.
6. Portable will have electrical heating/cooling system and gas service is not required



7. While we recognize that landscape is requested in the RFP, it is unclear if this will be necessary since the location has not been determined. For this reason, landscape architecture is excluded.
8. Interior finishes will be recommendations of finish types only since these are provided by the portable manufacturer.
9. Design-phase meeting minutes will be completed by HY Architects
10. Construction-phase meeting minutes will be completed by others

EXCLUSIONS

1. Cost estimating
2. Soils engineering
3. Site topographic or utilities surveys
4. Structural Engineering or specifying
5. Mechanical Engineering or specifying
6. Plumbing Engineering or specifying
7. Landscape design, architecture or specifying
8. Security Alarm
9. Nurse call systems
10. IBs and/or change orders to the construction contract which require submittal to Agencies Having Jurisdiction and which were not caused as a result of our documents will be charged as an additional service.
11. ADA upgrades which may be required by the Agency Having Jurisdiction as a contingent to this project have not been identified and are therefore excluded.
12. Building upgrades to bring into fire code compliance.
13. Building Commissioning.
14. Bid Alternates.
15. Plan check and/or permit fees

BASIS OF PROPOSAL

1. Request for Proposal received from Greystone West on 9/18/20

PROJECT TEAM

1. Architect: Hibser Yamauchi Architects, Inc.
 Principal: Marcus Hibser
 Project Manager: Peter Engel
2. Electrical Engineer: WKM, Inc.
 e-mail: tiffany@wkm-electrical.com
 Contact: Tiffany Kane, Principal
3. Civil Engineer: Underwood & Rosenblum
 e-mail: Mark@uandr.com
 Contact: Mark Sorenson



HIBSER YAMAUCHI Architects, Inc.

2020 Billing Rates

Architectural

| | |
|---------------------|----------------|
| Principal | \$235 per hour |
| Associate | \$195 per hour |
| Architect 3 | \$180 per hour |
| Architect 2 | \$160 per hour |
| Architect 1 | \$150 per hour |
| Job Captain | \$135 per hour |
| Senior Draftsperson | \$120 per hour |
| Draftsperson | \$115 per hour |
| Jr. Draftsperson | \$105 per hour |

Interiors

| | |
|------------------|----------------|
| Project Designer | \$135 per hour |
| Staff Designer | \$110 per hour |

| | |
|----------------------|---------------|
| Administrative Staff | \$85 per hour |
|----------------------|---------------|

(rates subject to change annually)



Hibser Yamauchi Architects, Inc.
AGREEMENT - Terms and Conditions

This document stipulates the Terms and Conditions of the AGREEMENT made between the “OWNER” and Hibser Yamauchi Architects, Inc. “ARCHITECT.” The AGREEMENT consists of the FEE PROPOSAL dated October 9, 2020 incorporated herein by reference and all attachments thereto, including, but not limited to, these TERMS AND CONDITIONS and Standard Hourly Rates. The following Terms and Conditions shall apply to any services rendered under THE AGREEMENT.

Article 1 - Project Information:

- 1.1 Project Scope, Location, Schedule, Construction Budget, Delivery Method, fee for services and other special project parameters are as indicated in the FEE PROPOSAL to which this is an attachment.
- 1.2 Should any of the parameters of the project materially change from the FEE PROPOSAL, the OWNER and ARCHITECT shall agree upon respective adjustments to the Project Schedule, Services to be Rendered, OWNER’s Construction Budget and Fees for services.

Article 2 – ARCHITECT’s Responsibilities:

- 2.1 The ARCHITECT’s services shall consist of those services performed by the ARCHITECT, ARCHITECT’s employees and ARCHITECT’s consultants, as enumerated in Articles 3, 4 and 5 of these TERMS AND CONDITIONS.
- 2.2 The ARCHITECT’s services shall be performed in a manner that is consistent with and limited to the professional skill and care ordinarily provided by ARCHITECTs practicing in the same or similar locality under the same or similar circumstances. The ARCHITECT shall perform its services expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. This standard of care shall govern all obligations under this AGREEMENT. Such standard of care is not a warranty or guarantee, and the ARCHITECT shall have no such obligation.
- 2.3 The ARCHITECT shall identify a representative authorized to act on behalf of the ARCHITECT with respect to the Project.

Article 3 – Scope of ARCHITECT’s Services:

- 3.1 The ARCHITECT will perform only those specific services identified in the FEE PROPOSAL. Those services will be performed as indicated in Article 4 and as described in the FEE PROPOSAL
- 3.2 The ARCHITECT shall manage the ARCHITECT’s services, staff and consultants, consult with the OWNER, research applicable design criteria, communicate with members of the Project team and report progress to the OWNER, when required and reasonable under the circumstances.



- 3.3 The ARCHITECT shall recommend services required due to programmatic changes in the PROJECT including, but not limited to, size, quality, complexity, method of bidding or negotiating the contract for construction. The ARCHITECT shall be prepared to prioritize and prepare a priority list to address critical Program and Project needs in the case where there are Budget constraints.
- 3.4 The ARCHITECT shall, at appropriate times, contact the primary Authorities Having Jurisdiction (AHJ or Agencies) responsible for the review and approval of the Construction Documents. These Agencies shall be limited to the primary building department, local fire marshal and health department. Reviews with other Agencies will be conducted as an additional service and entitle ARCHITECT to additional compensation. In designing the Project, the ARCHITECT shall respond to applicable design requirements imposed by such AHJ and by such entities providing utility services.
- 3.5 The ARCHITECT shall assist the OWNER in connection with the OWNER's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.
- 3.6 The duties, responsibilities and limitations of authority of the ARCHITECT shall not be modified, or extended without written AGREEMENT between the OWNER and ARCHITECT.
- 3.7 The ARCHITECT shall have access to the work at all times.

Article 4 – ARCHITECT’s Basic Services:

- 4.1 Those services identified in the FEE PROPOSAL shall be performed per this article. For services identified in the FEE PROPOSAL not listed in this article, those services will be performed per the description in the FEE PROPOSAL.
- 4.2 Programming:
 - 4.2.1 Coordinate meetings with OWNER and establish overall guidelines for the development of a space program.
 - 4.2.2 Review programming and departmental standards as provided by OWNER.
 - 4.2.3 Meet with individual departments or committees to establish the number of occupants and identify required space allocations, relationships, operational requirements, required equipment and overall space needs.
- 4.3 Scoping/Conceptual Design
 - 4.3.1 Based upon the approval of the Program Document (or the presentation of such a document if it was prepared by others), the ARCHITECT will prepare Scoping/Conceptual Design Drawings per the following:
 - 4.3.2 Perform pre-design investigations to establish appropriate guidelines around which and within which the Project is to be designed. Identify design issues relating to functional needs, directives and constraints imposed by regulatory codes. Review all data pertinent to the Project including survey, site maps, geotechnical reports and recommendations, soil testing results reports, and pertinent historical data, and other relevant information provided by OWNER.



- 4.3.3 Field survey and photograph existing conditions.
 - 4.3.4 Prepare conceptual block diagrams to indicate layout of spaces and general configuration for signoff by the users and the Owner’s project manager.
 - 4.3.5 Review the California Building Code (CBC) and Municipal Code pertaining to the proposed Project design.
 - 4.3.6 Identify design issues relating to functional needs, directives and constraints imposed by applicable regulatory codes.
 - 4.3.7 Based on survey and topography data provided by the OWNER, develop existing conditions base for the Schematic Design Phase. Administer Project as required to coordinate work with the OWNER and among Consultants.
 - 4.3.8 The number of design iterations at this phase shall be limited to those indicated in the FEE PROPOSAL.
- 4.4 Schematic Design
- 4.4.1 Based upon the approval of the Scoping/Conceptual Design (or the presentation of such a document if it was prepared by others), the ARCHITECT will prepare Schematic Design Documents per the following:
 - 4.4.2 Prepare scaled floor plans showing overall dimensions, identifying the various major areas and their relationships. Include circulation and room-by-room tabulation of all net usable floor areas and a summary of gross floor area. Also, provide typical layouts of major equipment or operational layout.
 - 4.4.3 For new construction and exterior renovations, develop preliminary building exterior elevations and sections in sufficient detail to demonstrate design concept indicating location and size of fenestration.
 - 4.4.4 Identify minimum finish requirements, including ceiling, floors, walls, doors, windows, and types of hardware.
 - 4.4.5 Confirm code requirements, including occupancy classification(s) and type of construction.
 - 4.4.6 Administer Project as required to coordinate work with the OWNER and among Consultants.
 - 4.4.7 The number of design iterations at this phase shall be limited to those indicated in the FEE PROPOSAL.
- 4.5 Design Development
- 4.5.1 Based upon the approval of the Schematic Design, the ARCHITECT will prepare Design Development Documents per the following:



- 4.5.2 Prepared updated scaled, dimensioned floor plans with final room locations including all openings.
 - 4.5.3 Develop 1/8" scale building sections showing dimensional relationships, materials and component relationships.
 - 4.5.4 Develop exterior elevations of all proposed new buildings, existing buildings to be renovated and all architectural elements of the Project.
 - 4.5.5 Identify all fixed equipment to be installed in Project.
 - 4.5.6 Interior finishes identified and located within the rooms of all buildings.
 - 4.5.7 Site plan completely drawn with preliminary notes and dimensions.
 - 4.5.8 Prepare enlarged floor plans at 1/4" scale of detailed areas.
 - 4.5.9 Show standard details.
 - 4.5.10 Legend showing all symbols used on drawings.
 - 4.5.11 Development of Outline Specifications.
 - 4.5.12 Typical reflected ceiling development including ceiling grid and heights for each ceiling to be used.
 - 4.5.13 Administer Project as required to coordinate work with the OWNER and among Consultants.
 - 4.5.14 The number of design iterations at this phase shall be limited to those indicated in the FEE PROPOSAL.
- 4.6 Construction Documents
- 4.6.1 Based upon the approval of the Design Development Documents, the ARCHITECT will prepare Construction Documents Drawings per the following:
 - 4.6.2 Construction Documents and Specifications will set forth in detail the quality levels of materials and systems and other requirements for the construction of Project.
 - 4.6.3 Site Plans, Floor plans, Reflected Ceiling Plans and Roof Plans at a scale appropriate to convey appropriate information to the CONTRACTOR and/or Authority Having Jurisdiction.
 - 4.6.4 Elevations (exterior and interior) sections and floor plans.
 - 4.6.5 Developed finish, door and hardware schedules.
 - 4.6.6 Architectural details.



- 4.6.7 Fixed Equipment details and identification.
- 4.6.8 Review the California Building Code (CBC) and Municipal Code pertaining to the proposed Project design.
- 4.6.9 Identify design issues relating to functional needs, directives and constraints imposed by applicable regulatory codes.
- 4.7 Permitting
 - 4.7.1 ARCHITECT shall submit construction documents to agencies having approval authority (Agencies Having Jurisdiction) over the project in order to begin construction. Those specific agencies are identified in the FEE PROPOSAL.
 - 4.7.2 OWNER will coordinate the preparation of reports outside of the ARCHITECT's control if such reports are required to be submitted to the Agencies Having Jurisdiction.
 - 4.7.3 The ARCHITECT will respond to comments from the Agencies Having Jurisdiction and make such corrections as may be required to obtain permit approval.
- 4.8 Project Bidding
 - 4.8.1 Based upon the OWNER's direction, the ARCHITECT shall perform Bidding Phase services as follows:
 - 4.8.2 Contact potential bidders and encourage their participation in the Project.
 - 4.8.3 Coordinate the development of the bidding procedures and the construction contract documents with the OWNER.
 - 4.8.4 While the Project is being advertised for bids, all questions concerning intent shall be referred to the ARCHITECT.
 - 4.8.5 In the event that items requiring interpretation of the drawings or specifications are discovered during the bidding period, those items shall be analyzed by the ARCHITECT for decision by the OWNER as to the proper procedure required. Corrective action will be in the form of an addendum prepared and issued by the ARCHITECT.
 - 4.8.6 Attend bid opening.
- 4.9 Construction Administration
 - 4.9.1 Upon award of a contract to a General CONTRACTOR, the ARCHITECT shall perform the following services during the construction:
 - 4.9.2 All instructions to the CONTRACTOR shall be forwarded through the ARCHITECT. The ARCHITECT shall advise and consult with the OWNER in the general administration of the



Project. The ARCHITECT will have authority to act on behalf of the OWNER only to the extent provided in the Contract Documents, unless OWNER grants additional authority in writing.

- 4.9.3 The ARCHITECT shall timely provide OWNER with copies of all of its correspondence with the CONTRACTOR.
- 4.9.4 The ARCHITECT shall, at all times, have access to the Project wherever it is in preparation and progress. To the extent reasonably possible given CONTRACTOR's work in progress, the OWNER shall provide such access so that the ARCHITECT may perform its functions under the Agreement and Contract Documents.
- 4.9.5 The ARCHITECT shall visit the site as the ARCHITECT deems necessary, but under no circumstances less than once (1) per week, to maintain familiarity with the quality and progress of the Project, to determine that the CONTRACTOR's work visually complies with all documents, drawings, plans and specifications and that the Project is progressing in substantial accordance with the Contract Documents. Such observations are to be distinguished from the continuous inspection provided by any Project Inspector as hired by the OWNER.
- 4.9.6 RFI: The ARCHITECT shall provide prompt and timely direction to the OWNER, Project inspectors and/or CONTRACTOR as to the interpretation of Contract Documents. ARCHITECT shall respond to all Requests for Information ("RFI's") from a CONTRACTOR within fourteen (14) calendar days of receipt, unless the subject of the RFI is impacting, or may impact, the critical path of the Project and is causing, or may cause, delay, in which case the ARCHITECT shall respond as soon as reasonably possible. If the ARCHITECT is not able to take action within the time required due to reasons beyond ARCHITECT's control, the ARCHITECT may take action within a reasonable period of time under the circumstances; however, the ARCHITECT shall make such determination within seven (7) calendar days of receipt of the RFI, and shall notify the OWNER and CONTRACTOR immediately after such determination with an explanation as to why the ARCHITECT cannot take action within the time required, what the ARCHITECT is doing to expedite its response, when the ARCHITECT expects to be able to issue a response, and what action, if any, should be taken by OWNER or CONTRACTOR in the meantime to mitigate delays and/or costs.
- 4.9.7 SUBMITTALS: The ARCHITECT shall review and approve, take exception to, or take other appropriate action upon all schedules, shop drawings, samples and other submissions of the CONTRACTOR to determine general conformance with the Project design and specifications as set forth in the Contract Documents. All such action shall be taken within fourteen (14) days of receipt of the submittals. If ARCHITECT is not able to take such action within the required time due to reasons beyond ARCHITECT's control, the ARCHITECT may take action within a reasonable period of time under the circumstances; however, the ARCHITECT shall make such determination within seven (7) calendar days of receipt of the submission, and shall notify the OWNER and CONTRACTOR immediately after such determination with an explanation as to why the ARCHITECT cannot take action within the time required, what the ARCHITECT is doing to expedite its response, when the ARCHITECT expects to be able to issue a response, and what action, if any, should be taken by OWNER or CONTRACTOR in the meantime to mitigate delays and/or costs.



- 4.9.8 PAYMENT APPLICATIONS: Based on the ARCHITECT's observations, and an evaluation of each Project Application for Payment, the ARCHITECT will estimate the amount of work completed by CONTRACTOR, and assist the OWNER in determining the amount owing to the CONTRACTOR. The ARCHITECT's estimation of the amount of work completed by CONTRACTOR shall constitute representations by the ARCHITECT to the OWNER that the quality of the completed work is in accordance with the Contract Documents based upon ARCHITECT's observations of the completed work, and that the CONTRACTOR is entitled to payment for the completed work.
- 4.9.9 CHANGE ORDERS: The ARCHITECT shall recommend, prepare and process necessary change orders.
- 4.9.10 In the discharge of its duties of observation and interpretation, the ARCHITECT shall require CONTRACTORS to comply with the Contract Documents, and shall guard the OWNER against defects and deficiencies in the work of the CONTRACTOR. The ARCHITECT shall advise and consult with the OWNER and inspectors concerning the CONTRACTOR's compliance with the Contract Documents and shall assist the OWNER and inspectors in securing the CONTRACTOR's compliance.
- 4.9.11 The ARCHITECT shall notify the OWNER promptly of any significant defect in materials, equipment or workmanship, and of any default by any CONTRACTOR in the orderly and timely prosecution of the Project.
- 4.9.12 The ARCHITECT will have the authority to reject work and materials which do not conform to the Contract Documents. The ARCHITECT's approval of a specific item shall not be an approval of an assembly of which the item is a component. Whenever, in the ARCHITECT's reasonable judgment, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the ARCHITECT will have authority to require special inspection or testing of the work or materials in accordance with the Contract Documents whether or not such work or materials be then fabricated, installed or completed. The ARCHITECT will also recommend substitution of materials or equipment when, in the ARCHITECT's reasonable judgment, such action is necessary to the accomplishment of the intent and purpose of the Contract Documents. Such actions as are described in this paragraph shall be taken with reasonable promptness.
- 4.9.13 The ARCHITECT will file reports with the primary Agency Having Jurisdiction as may be required from time to time, but only such reports required by the ARCHITECT.
- 4.9.14 ARCHITECT shall assist the OWNER in requiring CONTRACTOR to provide assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals and training personnel for operation and maintenance.
- 4.9.15 The ARCHITECT shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions or programs in connection with the work. The ARCHITECT shall not be responsible for acts or omissions of the CONTRACTOR, subcontractors, or their agents or employees or of any other persons performing portions of the Project not employed or retained by ARCHITECT.



4.9.16 The ARCHITECT shall assist OWNER in determining the date of final completion and make a final detailed on-site review of the job with representatives of the OWNER and the CONTRACTOR.

Article 5 – Extra Services:

- 5.1 Services other than those listed in Article 4 will be performed as indicated in the FEE PROPOSAL. Services beyond that listed in Article 4 or the FEE PROPOSAL that is requested subsequent to the initial AGREEMENT shall be provided at the request of the OWNER upon written AGREEMENT including a specific scope, fee and schedule adjustment as may be required.
- 5.2 Extra Services not specifically mentioned in Article 4 are considered beyond basic services and, if included, are described in detail in the FEE PROPOSAL. If not included and described in detail in the Fee Proposal these Extra Services are specifically excluded from ARCHITECT’s scope of service. These services may include:
 - 5.2.1 Existing condition field measurements and documentation;
 - 5.2.2 Conversion of printed drawings into BIM or CAD format;
 - 5.2.3 Accessibility or ADA surveys or reports other than those required for the area of design;
 - 5.2.4 Development of segmented bid documents to accommodate multi-prime project delivery;
 - 5.2.5 Identification of additive or deductive alternates within the drawings and specifications for separate pricing by the CONTRACTOR during bidding;
 - 5.2.6 Development of documents intended for phased Agency review and/or phased construction;
 - 5.2.7 Creation of a conformed set of documents that includes all changes subsequent to the issuance of the building permit via addendum or other means;
 - 5.2.8 Creation of as-built CAD/BIM files that incorporates all changes identified by the ARCHITECT or CONTRACTOR during construction;
 - 5.2.9 Building Commissioning;
 - 5.2.10 3-D renderings;
 - 5.2.11 Coordination and preparation of any scorecards, applications, documentation or support for LEED, CHPS, Green Rater or other sustainability rating system;
 - 5.2.12 Preparing drawings, specifications and other documentation and supporting data, and providing other services in connection with change orders required by causes beyond the control of the ARCHITECT which are not the result of the direct negligence, errors, or omissions on the part of the ARCHITECT;



- 5.2.13 Providing consultation concerning the replacement of work damaged by fire and furnishing services required in connection with the replacement of such work;
- 5.2.14 Providing services made necessary by the default of the CONTRACTOR, which does not arise directly from negligence, errors, or omissions of ARCHITECT;
- 5.2.15 Providing contract administration services after the construction Contract time has been exceeded through no fault of the ARCHITECT;
- 5.2.16 Providing furniture planning and layout;
- 5.2.17 Providing furniture design and specification;
- 5.2.18 Providing equipment planning, layout or specifications;
- 5.2.19 Development of finish binders;
- 5.2.20 Interior signage program, drawings and specifications for signs not required by any relevant Building Code;
- 5.2.21 Wayfinding signage program, drawings and specifications;
- 5.2.22 Development of finish standards;
- 5.2.23 Artwork coordination;
- 5.2.24 Providing BIM documents that exceeds LOD 200;
- 5.2.25 Providing any other services not otherwise included in this AGREEMENT.

Article 6 – OWNER’s Responsibilities:

- 6.1 Unless otherwise provided for under this AGREEMENT, the OWNER shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the OWNER's Construction Budget, objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.
- 6.2 The OWNER shall identify a representative authorized to act on the OWNER's behalf with respect to the Project. The OWNER’s representative(s) are: Rebecca Westover
- 6.3 The OWNER shall promptly render decisions and approve the ARCHITECT's submittals per the design schedule in order to avoid unreasonable delay in the orderly and sequential progress of the ARCHITECT's services. Such approval can take the form of verbal confirmation as recorded in meeting minutes, electronic responses, signatures on documents, or any other format.
- 6.4 The OWNER shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project. The surveys and legal information shall include, as applicable,



- grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. The survey shall be provided electronically in CAD or BIM format.
- 6.5 For any new construction or exterior paving, the OWNER shall furnish services of geotechnical engineers who will provide written reports and appropriate recommendations for the design of structural systems for building or site components, pavement sections and sub-surface improvements.
 - 6.6 The ARCHITECT shall be entitled to rely on the accuracy and completeness of services and information furnished by the OWNER and the OWNER's consultants. The ARCHITECT shall provide prompt written notice to the OWNER if the ARCHITECT becomes aware of any error, omission or inconsistency in such services or information.
 - 6.7 The OWNER shall coordinate the services of its own consultants with those services provided by the ARCHITECT.
 - 6.8 The OWNER shall furnish the services of consultants other than those designated in this AGREEMENT, or authorize the ARCHITECT to furnish them as an Additional Service, when the ARCHITECT requests such services and demonstrates that they are reasonably required by the scope of the Project. The OWNER shall require that its consultants maintain professional liability insurance as appropriate to the services provided.
 - 6.9 The OWNER shall furnish tests, inspections and reports required by the Authority Having Jurisdiction (AHJ).
 - 6.10 The OWNER shall provide written notice within 72 hours to the ARCHITECT if the OWNER becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the ARCHITECT's Instruments of Service.
 - 6.11 The OWNER shall retain others besides ARCHITECT or ARCHITECT's Consultants to be solely responsible for the identification, investigation, evaluation, planning, collection, removal, transportation, and disposal of any and all hazardous materials or toxic substances in conjunction with the Project or Project Site. Where the ARCHITECT actually becomes aware of the presence of such hazardous materials or toxic substances at the Project Site, they may voluntarily advise the OWNER who shall be solely responsible for the identification and retention of persons or entities to undertake the tasks set forth above. The ARCHITECT shall have no responsibility in this regard. The OWNER shall look solely to persons or entities retained other than the ARCHITECT or ARCHITECT's Consultants for such tasks in the event of any claim or liability.
 - 6.12 Unless specifically authorized, the OWNER shall communicate with the ARCHITECT's consultants through the ARCHITECT about matters arising out of or relating to the Contract Documents. The OWNER shall promptly notify the ARCHITECT and keep ARCHITECT informed in writing of any request for or direct communications that may affect the ARCHITECT's services. Direct communications between OWNER and ARCHITECT's Consultants may occur only upon ARCHITECT's written approval.



- 6.13 The OWNER will develop or procure a contract for construction to be used between the OWNER and the CONTRACTOR. Before executing the Contract for Construction, the OWNER may provide the ARCHITECT the opportunity to review the contract and provide recommendations. The OWNER shall coordinate the requirements of the contract with the ARCHITECT's services as identified in THE AGREEMENT. The ARCHITECT shall bear no liability in this regard.

Article 7 – Construction Budget:

- 7.1 The PROJECT's "Construction Cost," as used in this AGREEMENT, means the total cost to the OWNER of all work designed or specified by the ARCHITECT, or as designed and specified by the OWNER's consultants and included in a bid package to a General CONTRACTOR including any alternates approved by the OWNER. The Construction Cost does not include, unless specifically included in the bid package as described above, furniture, equipment, design fees, permit fees, inspection or testing fees or any other costs related to the management of the project.
- 7.2 If indicated in the FEE PROPOSAL, at the completion of Conceptual Design, Schematic Design, Design Development and Construction Documents phases, the ARCHITECT will prepare a Construction Cost Estimate that will evaluate the potential Construction Cost at the time the project is intended to be bid. The ARCHITECT's Estimate of Construction Cost shall be reconciled against the Budget as provided by the OWNER pursuant to section 6.1. If the preparation of a cost estimate is not indicated in the FEE PROPOSAL, then it is specifically excluded from this agreement.
- 7.3 The Construction Budget and Construction Cost Estimate shall be of no effect if the bidding has not commenced within ninety (90) days after the ARCHITECT submits the Construction Cost Estimate for the Construction Documents to the OWNER to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the OWNER and the date on which bids are sought for the PROJECT. The ARCHITECT and OWNER may adjust the Construction Cost Estimate and Budget upon written agreement.
- 7.4 In preparing Estimates of Construction Cost, the ARCHITECT shall be permitted to include contingencies for design, bidding and price escalation, and to include in the Contract Documents alternate bids as may be necessary to adjust the Estimate of Construction Cost to meet the OWNER's Construction Budget.
- 7.5 If at any time the ARCHITECT's Estimate of Construction Cost exceeds the OWNER's budget for the Cost of the Work, the ARCHITECT shall make recommendations to the OWNER to adjust the Project's size, quality or Construction Budget, and the OWNER shall cooperate with the ARCHITECT in making such adjustments. If the Project Documents are approved at any phase without evaluating any proposed adjustments to the Project's size, quality or Construction Budget, it is assumed that the Construction Budget is adjusted. Any subsequent changes to the project design shall entitle the ARCHITECT to additional compensation.

Article 8 – Project Schedule:

- 8.1 Within ten (10) working days after the date THE AGREEMENT is fully executed, the ARCHITECT shall submit for the OWNER's review a schedule for the performance of the ARCHITECT's services. The schedule initially shall indicate time frames for all design phases and assumed construction duration. The schedule shall include allowances for periods of time required for the OWNER's review, for the



performance of the OWNER's consultants, and for approval of submissions by Authorities Having Jurisdiction over the Project. Once reviewed by the OWNER, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the ARCHITECT or OWNER.

- 8.2 All parties agree that review periods by any Agency Having Jurisdiction are estimates only and actual review periods may vary.
- 8.3 If the project is delayed at any phase for 60 days or more, through no fault of the ARCHITECT, then a restart fee may be charged by the ARCHITECT. This does not apply to extended review periods by Authorities Having Jurisdiction unless the review periods are beyond what would normally be expected and the ARCHITECT has made efforts to communicate with the AHJ without resolution.

Article 9 – Ownership and License:

- 9.1 The ARCHITECT and the ARCHITECT's consultants shall be deemed the authors and OWNERS of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights, rights and remedies under California and Federal law. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the ARCHITECT and the ARCHITECT's consultants.
- 9.2 Upon execution of this AGREEMENT, the ARCHITECT grants to the OWNER a nonexclusive license to use the ARCHITECT's Instruments of Service solely and exclusively for purpose of constructing, using, maintaining, altering and adding to the Project, provided that the OWNER substantially performs its obligations, including prompt payment of all sums when due, under this AGREEMENT. If the ARCHITECT rightfully terminates this AGREEMENT for cause as provided in Section 11, the license granted in this Section shall terminate.
- 9.3 Upon completion of the project or termination of this Agreement, the OWNER's rights to use the Instruments of Service shall cease. In the event the OWNER uses the Instruments of Service without retaining the ARCHITECT or its Consultants, the OWNER will indemnify and hold harmless the ARCHITECT and ARCHITECT's consultant(s) from all claims and causes of action arising from such uses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the OWNER's use of the Instruments of Service.
- 9.4 Any unauthorized use of the Instruments of Service shall be at the OWNER's sole risk and without liability to the ARCHITECT and the ARCHITECT's consultants.

Article 10 – Dispute Resolution:

- 10.1 The OWNER and ARCHITECT shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement within the period specified by applicable California law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The OWNER and ARCHITECT waive all claims and causes of action not commenced in accordance with this Section.



- 10.2 The ARCHITECT and OWNER waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.
- 10.3 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation with JAMS as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the ARCHITECT's services, the ARCHITECT may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.
- 10.4 The OWNER and ARCHITECT shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by JAMS in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.
- 10.5 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- 10.6 To the fullest extent permitted by law, the total liability, in the aggregate, of the Architect of Record, and the Architect's officers, employees, agents, and independent professional associates and consultants, and any of them, to the Owner and anyone claiming by, through, or under the Owner, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the Architect's services, the project, or this Agreement, including but not limited to the tort liability or breach of contract or warranty, if any, of the Architect, the Architect officers, partners, directors, employees, agents, and independent professional associates and consultants, or any of them, shall not exceed the total compensation received by the Architect under this Agreement.

Article 11 – Termination:

- 11.1 If the OWNER fails to make payments to the ARCHITECT in accordance with this AGREEMENT, such failure shall be considered substantial nonperformance and cause for termination or, at the ARCHITECT's option, cause for suspension of performance of services under this AGREEMENT. If the ARCHITECT elects to suspend services, the ARCHITECT shall give seven (7) days written notice to the OWNER before suspending services. In the event of a suspension of services, the ARCHITECT shall have no liability to the OWNER for delay or damage caused the OWNER because of such suspension of services. Before resuming services, the ARCHITECT shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the ARCHITECT's services. The ARCHITECT's fees for the remaining services and the time schedules shall be equitably adjusted.
- 11.2 If the OWNER suspends the Project for more than 60 days, the ARCHITECT shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the ARCHITECT



shall be compensated for expenses incurred in the interruption and resumption of the ARCHITECT's services. The ARCHITECT's fees for the remaining services and the time schedules shall be equitably adjusted.

- 11.3 If the OWNER suspends the Project for more than 90 cumulative days for reasons other than the fault of the ARCHITECT, the ARCHITECT may terminate this AGREEMENT by giving not less than seven (7) days written notice.
- 11.4 Either party may terminate this AGREEMENT upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with the terms of this AGREEMENT through no fault of the party initiating the termination.
- 11.5 The OWNER may terminate this AGREEMENT upon not less than fourteen (14) days written notice to the ARCHITECT for the OWNER's convenience and without cause.
- 11.6 In the event of termination not the fault of the ARCHITECT, the ARCHITECT shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

Article 12 – Indemnification:

- 12.1 To the greatest extent permitted by law, OWNER shall indemnify and hold harmless ARCHITECT, and its OWNERS, directors, officers, employees and consultants (all of which persons are referred to herein collectively or individually as "Indemnitees") from and against any claim, suit, demand, liability, damage, loss or expense (including attorney's fees and costs of defense) related to the design or construction of the Project except to the extent of the Indemnitees' sole negligence or willful misconduct as found by a court of competent jurisdiction.

Article 13 – Insurance:

- 13.1 Unless otherwise provided in the FEE PROPOSAL, ARCHITECT shall acquire and maintain the following insurance coverages, at the minimum limits of liability specified, with insurance companies authorized to do business in the State of California and in the location of the Project, if different, assigned an A.M. Best's rating of no less than A-(IX):
 - 13.1.1 Professional Liability Insurance with minimum of \$1,000,000 per claim, and minimum of \$2,000,000 aggregate,
 - 13.1.2 Workers Compensation insurance as required under California law,
 - 13.1.3 Commercial general and automobile liability insurance with limits of not less than \$1,000,000 combined single limit, bodily injury and property damage liability per occurrence/aggregate, including owned, non-owned and hired vehicles, blanket contractual, broad form property damage, products/completed operations and personal and advertising injury; and,
 - 13.1.4 Employer's Liability Insurance with a \$1,000,000 policy limit.
- 13.2 The commercial general and automobile liability policy shall waive all rights of subrogation, and shall be endorsed to include the OWNER to be named as an Additional Insured.



13.3 Prior to commencing work under this AGREEMENT, ARCHITECT shall provide OWNER with Certificates of Insurance evidencing compliance with the foregoing requirements.

Article 14 – Billing and Payments:

14.1 The Fee includes all amounts identified in the FEE PROPOSAL plus any subsequent adjustments to the fee approved in writing by both the OWNER and the ARCHITECT.

14.2 The ARCHITECT shall bill monthly for the percentage complete of each phase for services rendered the month prior. Invoices are due and payable within 30 days. Amounts not paid within the specified time period will be charged interest of 10% per annum.

14.3 Time-and Materials projects will bill the hours spent the prior month per the rate schedule attached to the FEE PROPOSAL

14.4 Time-and-Materials Not-to-Exceed projects will bill the hours spent the prior month per the rate schedule attached to the FEE PROPOSAL. Hours spent beyond the percentage completion of the project phase will not be billed until the subsequent phase.

14.5 Payment for any services rendered shall be construed as approval of the design intent in the documents delivered at the completion of that phase.

14.6 Reimbursable expenses to the Owner, Agency, and/or General Contractor to be billed as incurred.

14.7 Fixed Fee and Time-and-Materials, Not-to-Exceed fees for services are allocated per the following schedule

| Phase | Percentage of Fee |
|-----------------------------|-------------------|
| Programming | 0 |
| Scoping/Conceptual Design | 0 |
| Schematic Design | 10 |
| Design Development | 0 |
| Construction Documents | 35 |
| Agency Review and Approval | 11 |
| Bid | 8 |
| Construction Administration | 33 |
| Project Closeout | 3 |
| Total | 100% |

Article 15 – Miscellaneous Provisions:

15.1 The OWNER hereby certifies, upon signing this AGREEMENT, that funds for the payment of architectural services as anticipated by this AGREEMENT are immediately available for payment of ARCHITECT’s invoices for providing these services.



- 15.2 Where the ARCHITECT’s documents incorporate, reference, or co-exist with other documents relative to the discovery, presence, handling, removal or disposal of hazardous materials or toxic substances, the ARCHITECT does so solely as an administrative function without any responsibility for the content of such documents.
- 15.3 The OWNER and ARCHITECT, respectively, bind themselves, their agents, successors, assigns and legal representatives to this AGREEMENT. Neither the OWNER nor the ARCHITECT shall assign this AGREEMENT without the written consent of the other, except that the OWNER may assign this AGREEMENT to a lender providing financing for the Project if the lender agrees to assume the OWNER’s rights and obligations under this AGREEMENT.
- 15.4 Nothing contained in this AGREEMENT shall create a contractual relationship with, or a cause of action in favor of, any third party against either the OWNER or ARCHITECT.
- 15.5 This AGREEMENT shall be governed by the laws of the State of California.
- 15.6 If either party becomes involved in litigation arising out of this AGREEMENT or the performance thereof, each party shall bear its own litigation costs and expenses, including reasonable attorneys’ fees.
- 15.7 These TERMS AND CONDITIONS apply to all services rendered by the ARCHITECT on behalf of the OWNER. This includes all services identified in the initial AGREEMENT and any services agreed to by amendment to the initial AGREEMENT which may only be done through written instrument signed by both OWNER and ARCHITECT.

ARCHITECT:
 Hibser Yamauchi Architects, Inc.
 Marcus Hibser

OWNER:
 Mountain View Whisman School District
 Rebecca Westover

 Signature

 Signature

 Date

 Date