



Preparing every student to thrive in a global society.

**REQUEST FOR PROPOSALS (RFP)
RFP-07-16-17**

**CRITERIA DOCUMENT ARCHITECTURAL SERVICES
FOR
THE MUSIC, ART AND ADMINISTRATION NEW BUILDING & CENTRAL
QUAD MODERNIZATION PROJECT AT W.C. OVERFELT HIGH SCHOOL
August 22, 2016**

In February 04, 2016, East Side Union High School District's (ESUHSD) Board of Trustees adopted Resolution #2015/2016/12 approving use of Design Build Delivery for the Music, Art and Administration New building & Central Quad Modernization at W.C. Overfelt High School.

In order to implement the project identified, the District is seeking proposals from prequalified firms to provide architectural criteria document services for the new Music, Art and Administration New Building & Central Quad Modernization to be located at the W.C. Overfelt High School campus. The criteria architect will be selected to facilitate the creation of Design Criteria Documents that will be turned over to a Design Build Entity (DBE) for their use in completing design work and construction of this project.

Please note; in an effort to maintain the highest level of transparency the District has precluded firms that successfully contract with the District on this project from contracting with a Design Build Entity (DBE) on the Music, Art and Administration New Building & Central Quad Modernization project.

The District is seeking proposals in response to this RFP from pre-qualified design firms to provide criteria documents for the new Music, Art and Administration New Building & Central Quad Modernization Project to be constructed at the W.C. Overfelt High School campus. This RFP defines the services sought by the District and generally outlines the requirements for the proposal.

LIMITATIONS

The District reserves the right to contract with any entity responding to this RFP. The District makes no representation that participation in the RFP process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing any proposal in response to this RFP. The awarding of contracts for specific design services, if at all, is at the sole discretion of the District.

The District reserves the right to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted, and to include, or not include, entities in a short list of qualified architectural firms or award a contract, if any, in a manner which best serves the interests of the District at a reasonable cost to the District.

East Side Union High School District Board of Trustees

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RESTRICTIONS ON LOBBYING AND CONTACTS

For the period beginning on the date of the issuance of this RFP and ending on the date of the notification of the firm selected to be offered a contract to perform criteria docs for the Music, Art and Administration New Building & Central Quad Modernization project, no person or entity submitting in response to this RFP, nor any officer, employee, representative, agent, or consultant representing such a person or entity, shall contact through any means or engage in any discussion regarding this RFP, the evaluation or selection process/or the award of the contract(s) with any member of the District's Governing Board, selection members, or any member of the Citizens' Oversight Committee, or with any employee of the District except for clarifications and questions as described herein. Any such contact shall be grounds for the disqualification of the person or entity submitting a proposal.

SCOPE OF SERVICES

Scope of Services includes architectural services to develop Design Criteria Documents for the New Music, Art and Administration New Building & Central Quad Modernization Project at W.C. Overfelt High School. The Design Criteria Documents shall serve as the District's basis for design which will be utilized by a Design-Build Entity to complete architectural design and construction of this new facility. Building area anticipated is to be approx. 30,000 GSF with construction cost not to exceed \$17,736,227 Million.

Scope of work is to include, but not limited to, working with Campus Leadership, District Program, Planning/Design staff and Construction Manager(s), Facilities Operations and Maintenance, and User Groups to establish architectural programming criteria, program space and adjacency diagrams, room data requirements, descriptive narratives for key building systems (architectural, engineering, and specialty systems), a code analysis, and a balance of performance criteria and prescriptive specifications, in adherence with District Design Standards as further outlined in Exhibit A attached to this RFP. It is anticipated that the Design Criteria Documents will also include diagrams, images, and conceptual site plans which show the general building location on campus, site constraints and limitations, and a depiction of the general building spatial organization, along with diagrammatic floor plans, roof plans, building elevations and sections, and perspective renderings showing aesthetic imagery. Prospective firms should anticipate conducting a series of Design Criteria Development meetings and workshops with the Campus Representatives, District Program and Construction Manager, and User Groups to facilitate and define design criteria and specific requirements of the project. Criteria Documents shall describe in sufficient detail all information necessary to ensure the District's programmatic needs, level of quality, and desired performance are clearly defined for the DBE.

Information for the planned capital improvement project is described in the "Project Brief". The District is interested in commencing with these projects immediately, to deliver upgraded facilities to all school sites as soon as possible.

ESUHSD is responsible only for what is expressly stated in this RFP and written addenda thereto. The District is not responsible for and will not be bound by any person not authorized to act on its behalf.

As of the issuance date of this RFP and continuing until the date for submission of proposals, communications with ESUHSD employees pertaining to this RFP is strictly limited. Personnel representing ESUHSD will not conduct meetings, conferences or conversations, or exchange written communications with firms and/or individuals who are considering responding to this RFP. A firm whose representatives are found to be acting in any way contrary to this directive will be disqualified from entering into any contract that may result from this RFP.

I. Submittal Format

Firms responding to this RFP must follow the format below. Material must be in 8-1/2 x 11 inch format. Submittals shall include divider tabs labeled with boldface headers below; e.g. the first tab would be entitled "**Cover Letter**", the second tab would be entitled "**Relevant Qualifications**", etc. Proposals shall be limited to a maximum of 20 pages of printed material excluding tabs, table of contents, appendix, and covers.

1. COVER LETTER

Identify the name of the entity proposing and the type of organization

- Provide a brief history of the entity proposing
- Provide a summary of the firm's design philosophy and capabilities in relation to developing criteria documents
- Identify key team members including proposed sub-consultants
- Provide name of primary contact person
- Summarize most relevant qualifications and experience
 - Architect is required to acknowledge both types of contract indemnification

Acknowledge and understand that the successful firms will sign the standardized Agreement for Architectural Services which contains the following indemnity provisions for full Architectural Services:

[10.1] To the furthest extent permitted by California law, Architect shall defend, indemnify, and hold free and harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect, its officers, employees, subcontractors, consultants, or agents.

[10.2] Architect's obligation pursuant to [section 10.1] includes reimbursing District for the cost of any settlement paid by the indemnified parties and for any and all fees and costs incurred by the indemnified parties to enforce the indemnity herein. Architect's obligation to indemnify shall not be restricted to insurance proceeds. District shall also have the right to accept or reject any legal representation that Architect proposes to defend the indemnified parties.

[10.3] District may withhold any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect from amounts owing to Architect.

o Acknowledge and understand that the successful firms will sign the standardized Independent Consultant Agreement for Professional Services for smaller sized projects, which contains the following indemnity provisions for full Architectural Services:

[13] To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold free and harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims that arise out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Contractor. The District shall have the right to accept or reject any legal representation that the Contractor proposes to defend the indemnified parties.

The following statement must be included in the letter:

“(Firm’s name) received a copy of the standardized Agreement for Architectural Services used by East Side Union High School District, including the indemnity provisions and professional liability insurance provisions contained therein. If given the opportunity to contract with the District, (firm’s name) has no substantive objections to the use of these agreements.”

(A copy of the District’s Agreement for Architectural Services is attached to this RFP as Attachment “A”)

- Exhibit 1 – Consultant Info-Signature required
- Exhibit 2 – Conflict of Interest Form. Complete and sign the form and include with your proposal submission.

Respondents may not withdraw their proposal for a period of ninety (90) calendar days after the date set for receipt of proposals.

2. RELEVANT FIRM QUALIFICATIONS

Please provide the following information:

- A statement demonstrating your team’s experience with providing criteria documents in a comprehensive and thorough manner within established timeframes and budgets.
- Describe your firm’s approach to engaging user groups to effectively ascertain and understand their needs and requirements in a Design Build delivery method environment.
- Describe your firm’s approach to multi-use building design, include some history of previous design efforts on previous public works projects, preferably educational projects, awarded in the last five years.
- Identify established methods and approaches utilized by your firm to successfully meet completion deadlines. Discuss how your firm ensures that relevant project activities do not affect the schedule (i.e.: geotechnical reports, surveys, hazmat coordination, etc.).
- Describe your firm’s approach to the development of criteria/bridging documents. Include your firm’s philosophy regarding the specificity of the criteria/bridging documents for K-12 projects and the best practices for soliciting design build entities, while managing the participatory governance process.
- Provide case study demonstrating the implementation of criteria/bridging documents in a public sector environment. Provide lessons learned that will benefit the East Side Union High School District’s bond program.

3. RELEVANT PROJECT EXPERIENCE

Provide information about prior projects in which criteria documents were prepared by your firm that you feel closely relate to the work being proposed on for the upcoming Music, Art and Administration New Building & Central Quad Modernization project. Include the following information:

Briefly state the significance of each listed project your firm has worked on that you would like to be considered in this RFP and how that project relates to the work being proposed on.

Provide the following information for each project listed:

- company name and location, name of contact person, title, telephone number, and email address to be contacted for a reference;
- project name, type of project and location;
- beginning and end dates of project (including construction);
- approximate square footage;
- original budget, bid amount & final construction cost at close-out;
- key individuals of the firm involved and their roles in the project;

4. PROJECT TEAM SUMMARY

- Identify key team members, including sub-consultants, and state their qualifications and experience relevant to providing services and the scope of their anticipated services.
- Key team member and sub-consultant resumes

SELECTION CRITERIA

A. EVALUATION

A Selection Committee will evaluate all proposals for responsiveness and evaluate pursuant to the specific criteria set forth in sections 1-5 of this RFP, including without limitations:

1. Firm Qualifications (25%)

- Location of office and accessibility to the projects.
- Reputation of the firm.
 - i. Satisfaction of previous clients (client relationships).
 - ii. Timeliness of work and ability of the firm to meet schedules.
 - iii. Accuracy of cost estimates and designing to the budget.
 - iv. Quality of the documents and ability to minimize issues during design completion and construction.
- Current commitments and ability of firm to handle several simultaneous projects.
- Firm's experience with similar type projects.
- Level of construction administration services, which are provided by the firm and its consultants during construction.
- Capacity and commitment to provide services to client.
- Project Architect's knowledge of applicable local and state regulations.

2. Relevant Project Experience (30%)

- Experience developing criteria or bridging documents for K-12 school projects, specifically high school related projects.
- Use of energy savings and value engineering in design.
- Knowledge of state laws, including the American with Disabilities Act, and other governmental requirements for public works, specifically K-12 educational campuses.
- Experience in data communication systems used on educational campuses.

3. Pricing (20%)

- Pricing of services should be included that will detail the process used to develop an understanding of project specific needs including, but not limited to:

- i. A thorough site investigation (including current site developments, geotechnical issues, hazmat issues, etc.) that will need to be investigated to establish a set of criteria documents.
- ii. Recommended number of user group meetings to develop a detailed programming plan from which to complete criteria design documents.
- iii. Deliverables:
 - 1. Programming documents
 - 2. Building system narratives
 - 3. Diagrammatic plans
 - a. Site Plan
 - b. Floor Plans
 - c. Roof Plan
 - d. Building sections
 - e. Wall sections
 - f. Building elevations
 - g. Perspective renderings
- iv. Design criteria documents
- v. Compliance with the construction cost budget
- vi. DBE bid reviews
 - 1. Answer Requests For Clarifications (RFC) from DBE for overall adherence to approved design criteria
- vii. Construction Administration
 - 1. Submittal reviews
 - 2. Change order review
 - 3. Closeout

4. Interviews (25%)

Upon review of the received proposals the District plans to establish a shortlist of three firms which will be engaged in an interview for final determination of fit within the District's needs. If a firm is requested to sit for an interview, the key proposed Project staff will be expected to attend the interview. The interview will be an opportunity for the District's selection committee to review the firm's proposal and other matters the committee deems relevant. Following the interviews, it is expected that the selection committee will provide a ranking of firms interviewed to the District for the purposes of performing negotiations to establish the firm that provides the District the best fit and best value for providing criteria documents for the Music, Art and Administration New Building & Central Quad Modernization Project.

B. DISTRICT INVESTIGATIONS

The District may perform investigations of responding parties that extend beyond contacting the references identified in the proposal. The District may request an entity submitting a proposal to submit additional information pertinent to the review process. The District also reserves the right to investigate and rely upon information from other available sources in addition to any documents or information submitted.

C. FINAL DETERMINATION AND AWARD

The District reserves the right to contract with any entity responding to this RFP for all or any portion of the work described herein and/or in an Agreement offered to the entity, to reject any proposal as non-responsive, and/or not to contract with any firm submitting a proposal for the services described herein. The District makes no representation that participation in the RFP process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing any proposal in response to this RFP,

including any supporting materials. There is no guarantee that the firms selected to be interviewed will receive any work.

The awarding of a contract(s) is at the sole discretion of the District. The District may, at its option, determine to award contract(s) only for portions of the scope of work identified herein. In such case, the successful proposing architectural services company will be given the option not to agree to enter into the Agreement and the District will retain the right to negotiate with any other proposing firm.

The Respondent's proposal package, and any other supporting materials submitted to the District in response to this RFP will not be returned and will become the property of the District unless portions of the materials are designated as proprietary at the time of submittal, and are specifically requested to be returned.

D. SUBMISSION GUIDELINES

Email proposals to CapPurchasing@esuhsd.org. Proposals received after the due date and time cannot be accepted. In the subject line of the email please type:

"RFP-07-16-17 Bridging Architect for the Music, Art and administration New Building & Central Quad Modernization"

This package includes:

Request for Proposal (RFP#07-16-17) Criteria Document Architectural Services and Project Brief

Exhibit "A" – Responsibilities and Services of Architect

Attachment "A" – Agreement for Architectural Services

Can also be found at: <http://www.esuhsd.org/Community/Purchasing/Capital-Purchasing/Current-RFQ-RFP-BIDS/index.html>

PROPOSALS ARE DUE BY 3:30 P.M., on September 12, 2016

If you have any questions regarding this RFP please submit them in writing via email to: Janice Unger on or before September 02, 2016 by 4:30 pm at ungerj@esuhsd.org

Each Submittal must conform and be responsive to the requirements set forth in this RFP. Incomplete statements will be considered nonresponsive and grounds for disqualification. The District retains the sole discretion to determine issues of compliance and to determine whether a firm is responsive, responsible, and qualified.

The District reserves the right to reject any or all proposals, to waive any informalities or irregularities not affected by law, to evaluate the proposals submitted and to award contract(s) according to the proposal, which best serves the interests of the District.

The District hereby notifies all respondents that it will affirmatively insure that, in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit its response to this RFP and no respondent will be discriminated against on the grounds of race, color, sex, age, ancestry, religion, marital status, national origin, medical condition or physical disability on consideration for the award.

RFP RESPONSE SCHEDULE SUMMARY:

The District reserves the right to change the dates on the schedule without prior notice.

DATE	EVENT	TIME DEADLINE
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August 22, 2016	Issuance of RFP-XX-16-17	
September 02, 2016	Deadline for submission of written questions to District concerning RFP-XX-16-17	4:30 pm
September 07, 2016	Issuance of Answers to written questions will be posted on the District's website	4:30 pm
September 12, 2016	Deadline for all submissions in response to RFP-XX-16-17 (electronically – CapPurchasing@esuhsd.org)	3:30 pm
September 15, 2016	Release of short-listed firms selected to interview	5:00 pm
September 22, 2016	Interviews of short-listed firms	TBD
September 29, 2016	Notification to firm selected for providing criteria documents.	5:00 pm
October 20, 2016	Recommendation of Contract award to the Board of Trustees	

WE THANK YOU FOR YOUR INTEREST IN THIS EXCITING PROGRAM!

**EXHIBIT "A"
RESPONSIBILITIES AND SERVICES OF ARCHITECT
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EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF CRITERIA ARCHITECT

Criteria Architect shall provide all professional services necessary for completing the following:

A. SCOPE OF PROJECT

1. Project Name: W.C. Overfelt High School Music, Art and Administration Building and Central Quad Modernization Project

Approximate Gross Square Footage: 30,000 SF

Construction Cost Budget: \$17,736,227

B. BASIC SERVICES

Criteria Architect agrees to provide the Services described below:

1. Criteria Architect shall be responsible for the professional quality and technical accuracy of all studies, reports, projections, master plans, designs, drawings, specifications and other services furnished by Architect under the Agreement as well as coordination with all master plans, studies, reports and other information provided by District. Architect shall, without additional compensation, correct or revise any errors or omissions in its studies, reports, projections, master plans, design, drawings, specifications and other Services. Criteria Architect will use all due care and diligence to confirm that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and

publishes any potentially relevant information that could, in any way, have an impact on a contractor's cost of performance. Architect shall advise the District of the most effective methods of identifying and securing such information as part of each stage of design. Criteria Architect shall track for District's benefit all such suggested and disclosed information.

2. The District has existing Campus Site Plans, Geotechnical reports, Topographic and Utility Surveys, which will be made available to the Criteria Architect for use in development of the Design Criteria Documents. If Criteria Architect determines that additional site information is required, Criteria Architect shall contract directly with consulting services and be responsible for the cost of additional site information.

If Criteria Architect determines that additional information or documentation is required for purposes of developing Design Criteria Documents, such as topographical survey; geotechnical report; test borings; test pits; determinations of soil bearing values; percolation tests; ground corrosion tests; resistivity tests; tests for anticipating subsoil conditions; and/or other information that the District does not have already available, the Criteria Architect shall be responsible for contracting and/or acquiring that information directly with consultants and shall be responsible for all associated costs.

1 **Technology Backbone.** Criteria Architect shall be responsible for the coordination of the design criteria and the layout of the technology backbone system with the District's information technology department.

2 **District Standards.** Criteria Architect shall incorporate the adopted District standards for facilities and construction into the Criteria Documents where applicable. Any deviations from the District Standards, or incorporation of design elements in the Criteria Documents that are in conflict with District Standards shall be brought to the attention of the District for review and approval.

3 **Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the District's request, the Architect, its agents, officers, and employees agree to assist in resolving the dispute or litigation. Architect's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation ("Mandatory Assistance").

C. DESIGN CRITERIA SERVICES

1. Project Initiation

Upon final execution of the Agreement with the District, Criteria Architect shall:

a. Within the first week following execution of the Agreement, prepare a detailed work plan and schedule to the District's satisfaction. The work plan will identify specific tasks including, but not limited to: interviews, data collection, analysis, Design Criteria workshops, planning, architectural programming, concepts and diagrammatic drawings as required to define all aspects of the Design Criteria for the project. Criteria Architect shall also identify milestone activities or dates, specific task responsibilities, required completion times necessary for review and approval by the District.

b. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.

2. Development of Design Criteria Documents

Architectural Program:

Criteria Architect shall prepare for the District's review an Architectural Program as follows:

a. Perform pre-design investigations and interviews with user groups 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 to meet the educational plan, user group requirements, and imposed by regulatory codes. Review all information and data pertinent to the Project including Education Plan, survey, site maps, geotechnical reports and recommendations, soil testing results reports, and pertinent historical data, and other relevant information provided by District.

(i) Based on the information gathered from interviews with user groups, educational plan, and other research and needs assessment, prepare an inventory of program space needs listing the rooms/spaces required for the project and approximate assignable square footage requirements for each room/space. As Program Space Summary shall be provided listing all rooms/spaces needed for the project with a subtotal of assignable square footage and applicable increase factor to approximate building gross square footage and overall building area.

(ii) Based on the function and relationship of the program room/space needs, prepare room/space adjacency diagrams that convey the building organization and required relationships between individual rooms/spaces.

b. Prepare detailed Room/Space Data Sheets, which outline the requirements for each room listed in the program space summary. Room Data Sheets shall clearly indicate the detailed requirements for each room, including, but not limited to:

(i) Room Requirements, such as assignable square footage (ASF), the number of rooms, Occupancy loads, special ceiling height requirements, access constraints, security, hours of use, required adjacencies to other program rooms/spaces, and other physical necessary requirements.

(ii) Environmental Requirements, such as: Temperature Range, Ventilation, Natural Light, Artificial Light, Acoustics, and other Special Provisions.

(iii) Services, such as: Fire Protection requirements, Ventilation, Exhaust, Filtration, Power, Telecommunications, Audio Visual, Emergency Power, Sinks, Floor Drains, Water, Compressed Air, Natural Gas, and other infrastructure needs for future expansion of services and environmental requirements.

(iv) Materials and Finishes, for: Floors and Base, Walls, Ceilings, Doors, Casework and cabinetry requirements, laboratory work

(v) Fixtures, Finishes, and Equipment (FF&E) needs: Group I and Group II FF&E requirements.

(vi) Diagrams: For selective spaces, provide specific spatial layout requirements for cabinetry, FF&E, Telecommunications, Audio Visual, Utilities and special systems.

(vii) Provide any other information that is deemed as important criteria or requirements for specific rooms, as a result of conducting the criteria development meetings with District Representatives and user groups.

c. Basis of Design Narratives and Specifications:

(i) Provide Basis of Design narratives for key building systems, including, but not limited to: Architectural, Civil, Structural, Mechanical, Plumbing, Electrical, Acoustical, and Sustainable Design. Narratives shall describe in detail, specific levels of performance and/or prescriptive specifications for relative systems.

(ii) Provide outline specifications for prescriptive building systems where District Standards may require more definition to clearly describe the Basis of Design expected by the District.

d. Diagrammatic Plans:

(i) Provide diagrammatic plans of the project as needed to convey the general building location relative to other buildings on campus, the general building organization in coordination with the architectural program adjacency diagrams.

(ii) Diagrammatic Plans shall include the following:

(A) **Site Plan:** showing general building location and footprint; front, rear, and side yard distances from streets and other buildings in coordination with code analysis; general building organization as it relates to outdoor spaces, hard as softscape areas; building entrances, service entries, utility yards and/or critical utility equipment locations, ADA Path of travel to building entrances, areas of refuge (if required),

(B) **Floor plans** (for all proposed levels): showing building interior organization and relative program spaces as per programmatic adjacency diagrams; common spaces, building entrances, required exits and means of egress in coordination with code analysis, ADA path of travel and means of egress, and critical FF&E components shown diagrammatically on floor plans.

(C) **Roof Plan:** General rooftop drainage plan; critical Mechanical equipment locations, finishes as per District Standards.

(D) **Building Sections:** showing interior spaces and scale of the ceiling heights relative to roof structure and anticipated roof framing depths.

(E) **Building Elevations:** showing building heights, exterior envelope treatment, materials and finishes, entrances, shading devices, roof eaves, and other exterior features critical to the proposed design.

(F) **Perspective Renderings:** Provide at least two exterior renderings of the building exterior showing mass, volume and aesthetic features of the building exterior. Provide at least two interior perspective rendering showing critical Music, Art & Administrative spaces and classroom spaces.

e. Code Analysis:

(i) Review all applicable codes pertaining to the proposed Project design, and provide a Code Analysis to ensure the project can be built as indicated in the diagrammatic plans

(ii) Identify design issues relating to functional needs, directives and constraints imposed by applicable regulatory codes.

f. Administer Project as required to coordinate work with the District and among Consultants.

g. Diagrammatic Sketches and Images:

(i) Provide diagrammatic sketches, concept diagrams, and/or images of critical programmatic spaces where particular layouts of rooms, or partial layouts of rooms, require stringent detailed relationships such as:
Music and Art Classrooms with FF&E layouts, Administration areas and FF&E layouts, Smart classroom AV relationships, etc.

h. Design Criteria Documents: The combination of items 2.a through 2.g, as outlined above, shall comprise the "Design Criteria Document", which will stipulate the specific Basis of Design, design criteria and requirements of the project, to be utilized by the Design-Build Entity (DBE) to complete the design and construction of the project under a Design-Build project delivery method. The Design Criteria Documents shall be included in the Design-Build Request for Proposals as the document, which defines the Districts requirements and parameters for the building design and site improvements, which the DBE's design will be held to for compliance.

i. Construction Cost Budget

(i) The Criteria Architect shall develop and prepare Design Criteria Documents that define a building and associated site improvements that can be built within the District's Construction Cost Budget for the Project. The estimates forming the basis of the Construction Cost Budget are to be based on the developed functional architectural program as approved by the District. The following conditions apply to the Construction Cost Budget prepared by the Criteria Architect:

~~(A)~~ All costs are to be based on current bid prices, with escalation rate and duration clearly identified as a separate line item; rate of cost escalation and projected bid and construction dates are to be approved by the District and its representatives.

(B) The format of the Construction Cost Budget prepared by Criteria Architect shall be in a building systems format (e.g., foundations, substructure, structural system, exterior wall enclosure, window systems, etc.) for new buildings.

(C) Contingencies for design, bidding, and construction are to be included as individual line items, with the percentage and base of calculation clearly identified.

(D) Criteria Architect shall include all information and estimates from the District and/or the Construction Manager that are intended to be part of the Construction Cost Budget.

(E) At a time, mutually agreed upon by Criteria Architect and District and Representatives, Criteria Architect shall submit its proposed Construction Cost Budget to the District and Program/Construction Manager for review and approval. At that time Criteria Architect shall coordinate with the District and Program/Construction Manager to further develop, review, and reconcile the Construction Cost Budget.

(F) Mechanical, electrical, civil, landscaping, and estimating consultant(s) shall participate in progress meetings as appropriate and shall provide input and feedback into the development of the Construction Cost Budget.

- (ii) The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget for the project. The accuracy of the Construction Cost Budget shall be the responsibility of the Criteria Architect.

3. Presentation

Criteria Architect, along with any involved consultant(s), shall present and review with the District and, if directed, with the District's governing board, the summary and detail of work involved in this Phase, including two dimensional renderings of any proposed facility suitable for public presentation.

4. Deliverables and Numbers of Copies

Criteria Architect shall provide to the District a hard copy of the following items produced in this Phase, together with one copy of each item in electronic format:

- a. Five copies of the Design Criteria Documents, comprised of Architectural Program; Narratives and Specifications; Diagrammatic Plans, Sketches, and Images; and Code Analysis, as defined in 2.a through 2.g above.
- b. Two copies of all meeting Reports/Minutes from Design Criteria Kick-off meeting, DSA compliance meetings, and all other Criteria Development meetings.
- c. Two copies of renderings provided to District for public presentation.

5. Meetings During this Phase, Criteria Architect shall conduct and facilitate design criteria development meetings and workshops, site visits, and review sessions with District Representatives and User Groups, as needed to complete the Design Criteria Documents.

D. DESIGN-BUILD REQUEST FOR PROPOSAL PHASE (DBE RFP)

Upon District's acceptance of Criteria Architect's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Criteria Architect shall assist the District as follows:

- 1. In the event that items requiring interpretation or clarification in the form of a Request for Clarification (RFC) of the Criteria Documents submitted by prospective DBEs during the DBE RFP period, those items shall be analyzed by the Criteria Architect with an opinion or interpretation provided for decision by the District as to the proper response required. Corrective action will be in the form of a response to the RFC prepared by the Criteria Architect and issued by the District.

E. DESIGN-BUILD CONSTRUCTION ADMINISTRATION PHASE

1. Criteria Architect's responsibility to provide basic services for the Design-Build Construction Phase under the Agreement commences with the award of the contract.

For Design-Build Construction and terminates upon satisfactory performance and completion of all tasks in this phase and commencement of the Closeout Phase or upon the District's terminating the Agreement, whichever is earlier.

2. Change Orders

- a. Criteria Architect shall, at the District's request, selectively review contractor's change order requests to determine if those requests are valid and appropriate as they relate to the Design Criteria Documents. Criteria Architect shall provide a recommendation to District as to whether the change should be approved, partially approved, returned to the contractor for clarification, or rejected.

3. Submittals

- a. At the District's request Criteria Architect shall review contractor's submittals such as: shop drawings, Project data, samples and Construction Change Documents, but only for the purpose of checking for conformance with Design Criteria Document and DBE contract scope of work.

- b. Criteria Architect's action upon contractor's submittals shall be taken as expeditiously as possible so as to cause no unreasonable delay in the construction of the Project or in the work of separate contractors, while allowing sufficient time in the Criteria Architect's professional judgment to permit adequate review. In no case shall the review period associated with a single, particular submittal exceed twenty-one (21) calendar days from its receipt by the Criteria Architect. Architect's response to each submittal shall be a substantive and acceptable response. This 21-day time period shall not include time when a submittal is within the District's control or if the submittal is being reviewed by DSA.

4. **RFCs.** During the course of construction as part of the basic services, Criteria Architect must respond to all Requests for Clarifications ("RFC") to the Design Criteria Documents as expeditiously as possible so as not to impact and delay the construction progress. In no case shall the review period associated with an RFC exceed seven (7) calendar days from receipt by the Criteria Architect. Criteria Architect's response to each RFC shall be a substantive and acceptable response. This seven-day time period shall not include time when a submittal is within the District's control or if the submittal is being reviewed by DSA.

ATTACHMENT "A"

**RFP #07-16-17 W.C. OVERFELT HS MUSIC, ART & ADMINISTRATION BUILDING AND
CENTRAL QUAD MODERNIZATION**

CRITERIA DOCUMENT ARCHITECTURAL SERVICES

AGREEMENT FOR ARCHITECTURAL SERVICES

EAST SIDE UNION HIGH SCHOOL DISTRICT

WITH

[NAME OF ARCHITECTURAL FIRM]

FOR [NAME OF PROJECT]

[DATE]

**EXHIBIT "A" – RESPONSIBILITIES AND SERVICES OF ARCHITECT A-1 EXHIBIT "B" –
CRITERIA AND BILLING FOR EXTRA SERVICES B-1 EXHIBIT "C" – SCHEDULE OF
SERVICES C-1 EXHIBIT "D" – PAYMENT SCHEDULE D-1 EXHIBIT "E" – INSURANCE
REQUIREMENTS E-1 [If Required] EXHIBIT "F" – ROOFING PROJECT CERTIFICATION
F-1 [If Required] EXHIBIT "G" – IRAN CONTRACTING ACT CERTIFICATION G-1**

AGREEMENT FOR ARCHITECTURAL SERVICES

This Agreement for Architectural Services is made as of _____, 2016, between the East Side Union High School District, a California public school district, ("District") and _____ ("Architect") (collectively "Parties"), for the following project ("Project"):

[INSERT BRIEF DESCRIPTION OF THE PROJECT THAT INCLUDES THE ADDRESS OF THE PROJECT SITE]

For and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

Article 1. Definitions

- 1.1. In addition to the definitions above, the following definitions of words or phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1. **Agreement**: The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2. **Architect**: The Architect identified in the first paragraph of this Agreement, including all Consultants to the Architect.
 - 1.1.3. **As-Built Drawings ("As-Builts")**: Any document prepared and submitted by District contractor(s) that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by change orders.
 - 1.1.4. **Bid Set**: The plans, drawings, and specifications at the end of the Construction Documents Phase that the Division of the State Architect ("DSA") has approved and that the District can use to go out to bid for construction of the Project.
 - 1.1.5. **Conforming Set**: The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase. The Architect shall ensure that DSA has approved all revisions to the Bid Set that are incorporated onto the Conforming Set and for which DSA approval is required.
 - 1.1.6. **Construction Budget**: The total amount of funds indicated by the District for the entire Project plus all other costs, including design, construction, administration, and financing.
 - 1.1.7. **Construction Change Documents ("CCD")**: The documentation of changes to the DSA-approved construction documents.
 - 1.1.8. **Construction Cost Budget**: The total cost to District of all elements of the Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with this

the compensation of the Architect and the Architect's Consultants, the cost of land, rights-of-way, financing or other costs which are the responsibility of the District, including construction management.

- 1.1.9. **Consultant(s)**: Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Architect.
- 1.1.10. **District**: The East Side Union High School District.
- 1.1.11. **DSA**: The Division of the State Architect.
- 1.1.12. **Project**: [FILL IN DESCRIPTION OF PROJECT].
- 1.1.13. **Record Drawings**: A final set of drawings prepared by the Architect that incorporates all changes from all As-Builts, sketches, details, and clarifications.
- 1.1.14. **Service(s)**: All labor, materials, supervision, services, tasks, and work that the Architect is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.
- 1.1.15. **Visually Verify**: To verify to the fullest extent possible by physical inspection and reasonable investigation and without any destructive action.

Article 2. Scope, Responsibilities, and Services of Architect

- 2.1. Architect shall render the Services described in **Exhibit "A,"** commencing with receipt of a written Notice to Proceed signed by the District representative. Architect's Services will be completed in accordance with the schedule attached as **Exhibit "C."**
- 2.2. Architect shall provide Services that shall comply with professional architectural standards, including the standard of care applicable to architects designing public school facilities and applicable requirements of federal, state, and local law, including, but not limited to, the requirements of the California Business and Professions Code, the California Education Code, and the California Code of Regulations. All persons providing professional services hereunder shall be properly licensed as required by California law.
- 2.3. The District intends to award the Project to contractor(s) pursuant to a competitive bid process. District reserves its right to use alternative delivery methods and the Architect's scope of work may be adjusted accordingly.
- 2.4. Architect acknowledges that all California public school districts are obligated to develop and implement the following storm water requirements, and Architect shall provide the design for the same, without limitation:
 - 2.4.1. A municipal Separate Storm Sewer System ("MS4"). An MS4 is a system of conveyances used to collect and/or convey storm

water, including, without limitation, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

2.4.2. A Storm Water Pollution Prevention Plan ("SWPPP") that contains specific best management practices ("BMPs") and establishes numeric effluent limitations at:

2.4.2.1. Sites where the District engages in maintenance (e.g., fueling, cleaning, repairing) of transportation activities.

2.4.2.2. Construction sites where:

2.4.2.2.1. one (1) or more acres of soil will be disturbed, or

2.4.2.2.2. the project is part of a larger common plan of development that disturbs one (1) or more acres of soil.

2.4.3. Architect shall conform its design work to the District's storm water requirements indicated above, that are approved by the District and applicable to the Project, at no additional cost to the District. In addition, as required Architect shall develop a grading and drainage plan and a site plan from architectural information showing a final development of the site. This drawing will also include a horizontal and vertical control plan and a utility infrastructure plan. The Services described in this subparagraph shall be provided by a professional civil engineer who contracts with or is an employee of the Architect.

2.5. Architect shall contract for or employ at Architect's expense, Consultant(s) to the extent deemed necessary for completion of the Project including, but not limited to, architects, mechanical, electrical, structural and civil engineers, landscapers, and interior designers, licensed as such by the State of California as part of the basic Services under this Agreement. The names of Consultant(s) shall be submitted to the District for approval prior to commencement of Services, as indicated below. The District reserves the right to reject Architect's use of any particular Consultant. Nothing in the foregoing procedure shall create any contractual relationship between the District and any Consultant employed by the Architect under terms of the Agreement. Architect shall require each of the Consultants retained by it to execute agreements with standard of care and indemnity provisions commensurate with this Agreement, but Architect shall remain solely responsible and liable to District for all matters covered by this Agreement.

2.6. Architect shall coordinate with District personnel or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work related to the Project. This shall include, without limitation, coordination with State labor compliance, if applicable. If the Architect employs Consultant(s), the Architect shall ensure that its contract(s) with its Consultant(s) include language notifying the Consultant(s) of State labor compliance, if applicable.

2.7. Architect shall identify the regulatory agencies that have jurisdiction over essential building and design elements and coordinate with and implement the requirements of the regulatory agencies, including, without limitation, the California Department of Education, the Office of Public School Construction, the Department of General Services, DSA, including DSA Fire/Life Safety, DSA Access Compliance Section, DSA Structural Safety Section, the State Fire Marshal and any regulatory office or agency that has authority for review and supervision of school district construction projects.

2.7.1. If the Project is subject to DSA jurisdiction, then Architect, and its Consultants, if any,

shall comply with all the DSA requirements, without limitation, all the requirements included and/or referenced in the following forms:

2.7.2.1. Form DSA IR A-6, Construction Change Document Submittal and Approval Process.

2.7.2.2. Form DSA IR A-24, Construction Phase Duties of the School District, Contractor and Design Professional.

2.7.2.3. Form DSA PR 13-01, Construction Oversight Process Procedure.

2.7.1.3.1. Each of Architect's duties as provided in the Construction Oversight Process Procedure shall be performed timely so as not to result in any delay to the Project.

2.8. Architect shall provide Services as required to obtain any local, state and/or federal agencies' approval for on-site and off-site work related to the Project including review by regulatory agencies having jurisdiction over the Project.

2.9. Architect shall direct and monitor the work of the District's DSA project inspector(s) ("Project Inspector(s)") and the Laboratory of Record. Architect shall provide code required supervision of special inspectors not provided by the Laboratory of Record.

2.10. Architect shall give efficient supervision to Services, using its best skill and attention. Architect shall carefully study and compare all contract documents, drawings, specifications, and other instructions ("Contract Documents") and shall at once report to District, Construction Manager, and Contractor, any error, inconsistency, or omission that Architect or its employees may discover, in writing, with a copy to District's Project Inspector(s). Architect shall have responsibility for discovery of errors, inconsistencies, or omissions.

2.11. Architect recognizes that the District may obtain the services of a Construction Manager and that Architect may have to assume certain coordination and management responsibilities, including tracking

Requests for Information ("RFI"), providing RFI responses, and leading all coordination meetings between the District, Project Inspectors, and contractors on the Project. The District reserves the right to retain the services of a Program Manager or Construction Manager or both at any time. The Construction Manager, if any, shall be authorized to give Architect Services authorizations and issue written approvals and notices to proceed on behalf of District. The District reserves the right to designate a different Construction Manager at any time. Any task, including, but not limited to, reviews or approvals that the District may perform pursuant to this Agreement may be performed by the Construction Manager, unless that task indicates it shall be performed by the governing board of the District. In addition, the District may have a constructability review of Architect's design documents. Architect shall conform any design documents to the constructability review as part of the Services under this Agreement and shall not be entitled to any compensation as Extra Services for this activity.

2.12. Architect shall provide computer-generated pictures downloaded to computer files, updated as requested by the District, that the District may use on its website.

2.13. As part of the basic Services pursuant to this Agreement, Architect is not responsible for:

- 2.13.1. Ground contamination or hazardous material analysis.
- 2.13.2. Any asbestos and/or lead testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
- 2.13.3. Compliance with the California Environmental Quality Act ("CEQA"), except that Architect agrees to coordinate its work with that of any CEQA consultants retained by the District, to provide current elevations and schematic drawings for use in CEQA compliance documents, and to incorporate any mitigation measures adopted by the District into the Project design at no additional cost to the District.
- 2.13.4. Historical significance report.
- 2.13.5. Soils investigation.
- 2.13.6. Geotechnical hazard report, except as indicated in **Exhibit "A."**

Article 3. Architect Staff

- 3.1. The Architect has been selected to perform the Services herein because of the skills and expertise of key individuals.
- 3.2. The Architect agrees that the following key people in Architect's firm shall be associated with the Project in the following capacities *[All blanks below must be filled in by Architect and approved by District]*:

Principal In Charge: _____

Project Director: _____

Project Architect(s): _____

Project Architect(s): _____

Other: _____

Major Consultants: Electrical: _____

Mechanical: _____

Structural: _____

Civil: _____

Other: _____

- 3.3. Architect shall not change any of the key personnel listed above without prior written approval by the District, unless said personnel cease to be employed by Architect. In either case, the District shall be allowed to interview and approve replacement personnel.
- 3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice Architect shall have five (5) days to remove that person from the Project and replace that person with one acceptable to the District. All lead or key personnel for any Consultant

must also be designated by the Consultant and are subject to all conditions stated in this paragraph.

3.5. Architect represents that Architect has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of Services required under this Agreement and that no person having any such interest shall be employed by Architect.

3.6. Architect shall comply with Education Code section 17302(a) and agrees that any plans and/or specifications included in the Services shall be prepared under the supervision of licensed personnel, and that licensed personnel shall be in "responsible charge" of persons who observe the construction.

Article 4. Schedule of Services

Architect shall commence Services under this Agreement upon receipt of a notice to proceed and shall prosecute the Services diligently as described in **Exhibit "A,"** so as to proceed with and complete the Services in compliance with the schedule in **Exhibit "C."** Time is of the essence and failure of Architect to perform Services on time as specified in this Agreement is a material breach of this Agreement. It shall not be a material breach if a delay is beyond the Architect's or its Consultant(s)' reasonable control.

Article 5. Construction Cost Budget

- 5.1. Architect hereby accepts the District's established Construction Cost Budget and Project scope. In accordance with **Exhibit "A,"** the Architect shall have responsibility to further develop, review, and reconcile the Construction Cost Budget for the District at the beginning of the Project and at the completion of each design phase. The District and Construction Manager shall also have responsibility to develop, review, and reconcile the Construction Cost Budget with the Architect.
- 5.2. Architect shall complete all Services as described in **Exhibit "A,"** including all plans, designs, drawings, specifications and other Contract Documents, so that the cost to construct the work designed by the Architect will not exceed the Construction Cost Budget, as adjusted subsequently with the District's written approval. Architect shall maintain cost controls throughout the Project to deliver the Project within the Construction Cost Budget.
- 5.3. If any of the following events occur:
 - 5.3.1. The lowest responsive base bid received is in excess of five percent (5%) of the Construction Cost Budget; or
 - 5.3.2. If the combined total of base bid and all additive alternates come in ten percent (10%) or more under the Construction Cost Budget; or
 - 5.3.3. If the Construction Cost Budget increases in phases subsequent to the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the county in which the District is located, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy, then the District, in its sole discretion, has one or a combination of the following alternatives:
 - 5.3.2.1. Give Architect written approval on an agreed adjustment to the Construction Cost Budget.
 - 5.3.2.2. Authorize Architect to re-negotiate, when appropriate, and/or re-bid the Project within three (3) months time of receipt of bids (exclusive of District and other agencies' review time) at no additional cost to the District.
 - 5.3.2.3. Terminate this Agreement if the Project is abandoned by the District, without further obligation by either party.
 - 5.3.2.4. Within three (3) months time of receipt of bids, instruct Architect to revise the drawings and specifications (in scope and quality as approved by the District) to bring the Project within the Construction Cost Budget for re-bidding at no additional cost to the District.

Article 6. Fee and Method of Payment

6.1. The District shall pay Architect for all Services contracted for under this Agreement an amount equal to the following ("Fee"):

An amount equal to _____ Dollars
(\$ _____) based on the rates set forth in **Exhibit "D."**

6.2. The District shall pay Architect the Fee pursuant to the provisions of **Exhibit "D."**

6.3. Architect shall bill its work under this Agreement in accordance with **Exhibit "D."**

6.4. No increase in Fee will be due from CCDs and/or change orders generated during the construction period to the extent caused by Architect's error or omission.

6.5. The Architect's Fee set forth in this Agreement shall be full compensation for all of Architect's Services incurred in the performance hereof as indicated in **Exhibit "D."**

6.6. Regardless of the structure of Architect's Fee, the Architect's Fee may be adjusted downward if the Scope of Services of this Agreement is reduced by the District in accordance with this Agreement.

Article 7. Payment for Extra Services or Changes

District-authorized services outside of the scope in **Exhibit "A"** or District-authorized reimbursable not included in Architect's Fee are "Extra Services." Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** only upon certification that the claimed Extra Service was authorized as indicated herein and that the Extra Services have been satisfactorily completed. If any service is done by Architect without prior written authorization by the Construction Manager or the District's authorized representative, the District will not be obligated to pay for such service. The foregoing provision notwithstanding, Architect will be paid by the District as described in **Exhibit "B"** for Extra Services that the Construction Manager or the District's authorized representative verbally requests, provided that Architect confirms such request in writing pursuant to the notice requirements of this Agreement, and proceeds with such Extra Services not earlier than two business days after the District receives confirmation of the request from the Architect.

Article 8. Ownership of Data

8.1. Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for the District to use, at its discretion, all plans including, but not limited to, record drawings, specifications, estimates and other documents that Architect or its Consultants prepare or cause to be prepared pursuant to this Agreement.

8.2. Architect retains all rights to all copyrights over designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that Architect or its

Consultants prepare or cause to be prepared pursuant to this Agreement.

- 8.3. Architect shall perform the Services and prepare all documents under this Agreement with the assistance of Computer Aided Design Drafting Technology (CADD) (e.g., AutoCAD). Architect shall deliver to District, on request, the tape and/or compact disc format and the name of the supplier of the software/hardware necessary to use the design file. As to any drawings that Architect provides in a CADD file format, the District acknowledges that anomalies and errors may be introduced into data when it is transferred or used in a computer environment, and that the District should rely on hard copies of all documents.
- 8.4. In order to document exactly what CADD information was given to the District, Architect and District shall each sign a "hard" copy of reproducible documents that depict the information at the time Architect produces the CADD information. The District agrees to release Architect from all liability, damages, and/or claims that arise due to any changes made to this information by anyone other than Architect or its Consultant(s) subsequent to it being given to the District.
- 8.5. Following the termination of this Agreement, for any reason whatsoever, Architect shall promptly deliver to the District upon written request and at no cost to the District the following items (hereinafter "Instruments of Service"), which the District shall have the right to utilize in any way permitted by statute:
 - 8.5.1. One set of the Contract Documents, including the bidding requirements, specifications, and all existing cost estimates for the Project, in hard copy, reproducible format.
 - 8.5.2. One set of fixed image CADD files in DXF format of the drawings that are part of the Contract Documents.
 - 8.5.3. One set of non-fixed image CADD drawing files in DXF or DWG or both formats of the site plan, floor plans (architectural, plumbing, structural, mechanical and electrical), roof plan, sections and exterior elevations of the Project.
 - 8.5.4. All finished or unfinished documents, studies, reports, calculations, drawings, maps, models, photographs, technology data and reports prepared by the Architect under this Agreement.
 - 8.5.5. The obligation of Section 8.5 of this Agreement shall survive the termination of this Agreement for any reason whatsoever.
- 8.6. In the event the District changes or uses any fully or partially completed documents without Architect's knowledge or participation or both, the District agrees to release Architect of responsibility for such changes, and shall hold Architect harmless from and against any and all claims on account of any damages or losses to property or persons, or economic losses, arising out of that change or use, unless Architect is found to be liable in a forum of competent jurisdiction. In the event

that the District uses any fully or partially completed documents without the Architect's full involvement, the District shall remove all title blocks and other information that might identify Architect and its Consultants.

Article 9. Termination of Contract

- 9.1. If Architect fails to perform Architect's duties to the satisfaction of the District, or if Architect fails to fulfill in a timely and professional manner Architect's material obligations under this Agreement, or if Architect shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement, in whole or in part, effective immediately upon the District giving written notice thereof to the Architect. In the event of a termination pursuant to this subdivision, Architect may invoice the District for all Services performed until the notice of termination, but the District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of Architect's actions, errors, or omissions that caused the District to terminate the Agreement.
- 9.2. District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, Architect may invoice District and District shall pay all undisputed invoice(s) for Services performed until the District's notice of termination.
- 9.3. Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 9.4. Architect has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement. Such termination shall be effective after receipt of written notice from Architect to the District. Architect may invoice the District and the District shall pay all undisputed invoice(s) for Services performed until Architect's notice of termination.
- 9.5. If, at any time in the progress of the Design of the Project, the governing board of the District determines that the Project should be terminated, Architect, upon written notice from the District of such termination, shall immediately cease Services on the Project. The District shall pay Architect only the fee associated with the Services provided since the last invoice that has been paid and up to the notice of termination.
- 9.6. If the District suspends the Project for more than one hundred twenty (120) consecutive days, Architect shall be compensated for Services performed prior to notice of that suspension. When the Project is resumed, the schedule shall be adjusted and Architect's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Architect's Services. If the District suspends the Project for more than two (2) years, Architect may terminate this Agreement by giving written notice.

Article 10. Indemnity/Architect Liability

- 10.1. To the furthest extent permitted by California law, Architect shall defend, indemnify, and

hold free and harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect, its officers, employees, subcontractors, consultants, or agents.

10.2. Architect's obligation pursuant to section 10.1 includes reimbursing the District for the cost of any settlement paid by the indemnified parties and for any and all fees and costs incurred by the indemnified parties to enforce the indemnity herein. Architect's obligation to indemnify shall not be restricted to insurance proceeds. District shall also have the right to accept or reject any legal representation that Architect proposes to defend the indemnified parties.

10.3. District may withhold any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect from amounts owing to Architect.

Article 11. Responsibilities of the District

11.1. The District shall examine the documents submitted by the Architect and shall render decisions so as to avoid unreasonable delay in the process of the Architect's Services.

11.2. The District shall verbally or in writing advise Architect if the District becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's documents. Failure to provide such notice shall not relieve Architect of its responsibility therefore, if any.

11.3. Unless the District and Architect agree that a hazardous materials consultant shall be a Consultant of the Architect, the District shall furnish the services of a hazardous material consultant or other consultants when such services are requested in writing by Architect and deemed necessary by the District or are requested by the District. These services shall include: asbestos and lead paint survey; abatement documentation; and specifications related to said matters, which are to be incorporated into bid documents prepared by Architect. If the hazardous materials consultant is furnished by the District and is not a Consultant of the Architect, the specifications shall include a note to the effect that they are included in the Architect's bid documents for the District's convenience and have not been prepared or reviewed by the Architect. The note shall also direct questions about the specifications related to asbestos and lead paint survey and/or abatement documentation to its preparer.

Article 12. Liability of District

- 12.1. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.
- 12.2. District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Architect, or by its employees, even though such equipment be furnished or loaned to Architect by District.

Article 13. Nondiscrimination

- 13.1. Architect agrees that no discrimination shall be made in the employment of persons under this Agreement because of the race, national origin, ancestry, religion, age, physical or mental disability, sex, or sexual orientation of such person.
- 13.2. Architect shall comply with any and all applicable regulations and laws governing nondiscrimination in employment.

Article 14. Insurance

- 14.1. Architect shall comply with the insurance requirements for this Agreement, set forth in **Exhibit "E."**
- 14.2. Architect shall provide certificates of insurance and endorsements to District prior to commencement of the work of this Agreement as required in **Exhibit "E."**

Article 15. Covenant against Contingent Fees

Architect warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Architect, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Architect, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the contract price or consideration or to recover the full amount of such fee, commission, percentage fee, gift, or contingency.

Article 16. Entire Agreement/Modification

This Agreement, including the Exhibits attached hereto, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. Architect shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. Architect specifically acknowledges that in entering this Agreement, Architect relies solely upon the provisions contained in this Agreement and no others.

Article 17. Non-Assignment of Agreement

In as much as this Agreement is intended to secure the specialized Services of the Architect, Architect may not assign, transfer, delegate or sublet any interest therein without the prior written consent of District and any such assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void. Likewise, District may not assign, transfer, delegate or sublet any interest therein without the prior written consent of Architect and any such assignment, transfer, delegation or sublease without Architect's prior written consent shall be considered null and void.

Article 18. Law, Venue

18.1. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.

18.2. To the fullest extent permitted by California law, the county in which the District administration office is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

Article 19. Alternative Dispute Resolution

All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. If this method proves unsuccessful, then all claims, disputes or controversies as stated above may be decided through arbitration, if agreed to in writing by all Parties.

Article 20. Attorneys' Fees

In the event either party shall bring any action or legal proceeding for damages for any alleged breach of any provision of or performance under this Agreement, to terminate this Agreement, or to enforce, protect or establish any term or covenant of this Agreement or right or remedy of either party, the prevailing party shall be entitled to recover, as a part of the action or proceeding, reasonable attorneys' fees and court costs, including consultants' fees, attorneys' fees and costs for appeal, as may be fixed by the court. The term "prevailing party" shall mean the party who received substantially the relief requested, whether by settlement, dismissal, summary judgment, judgment, or otherwise.

Article 21. Severability

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Article 22. Employment Status

- 22.1. Architect shall, during the entire term of Agreement, be an independent contractor and nothing in this Agreement is intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the District to exercise discretion or control over the professional manner in which Architect performs the Services that are the subject matter of this Agreement; provided always, however, that the Services to be provided by Architect shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 22.2. Architect understands and agrees that Architect's personnel are not and will not be eligible for membership in or any benefits from any District group plan for hospital, surgical or medical insurance or for membership in any District retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee.
- 22.3. Should the District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Architect, or any employee or Consultant of Architect, is an employee of the District for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Architect which can be applied against this liability). The District shall then forward those amounts to the relevant taxing authority.
- 22.4. Should a relevant taxing authority determine a liability for past services performed by Architect for the District, upon notification of such fact by the District, Architect shall promptly remit such amount due or arrange with the District to have the amount due withheld from future payments to Architect under this Agreement (again, offsetting any amounts already paid by Architect which can be applied as a credit against such liability).
- 22.5. A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Architect shall not be considered an employee of the District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Architect is an employee for any other purpose, then Architect agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the

court, arbitrator, or administrative authority determined that Architect or its employees of Consultants was not an employee.

22.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

Article 23. Certificate of Architect

23.1. Architect certifies that the Architect is properly certified or licensed under the laws and regulations of the State of California to provide the professional services that it has herein agreed to perform.

23.2. Architect certifies that it is aware of the provisions of the California Labor Code that require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with those provisions before commencing the performance of the Services of this Agreement.

23.3. Architect certifies that it is aware of the provisions of California Labor Code and California Code of Regulations that require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). Since the Architect is performing Services as part of "public works" or "maintenance" project, and since the total compensation is \$1,000 or more, the Architect agrees to fully comply with and to require its Consultant(s) to fully comply with all requirements of the Prevailing Wage Laws.

Article 24. Cost Disclosure - Documents and Written Reports

Architect shall be responsible for compliance with California Government Code section 7550, if the total cost of the Contract is over five thousand dollars (\$5,000).

Article 25. Notice & Communications

Notices and communications between the Parties to this Agreement may be sent to the following addresses:

District:
East Side Union High School District
830 North Capitol Avenue
San Jose, CA 95125__

Attn: _____

Architect:

Attn: _____

Any notice personally given shall be effective upon receipt. Any notice sent by facsimile shall be effective the day after transmission. Any notice sent by overnight delivery service shall be effective the day after delivery. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

Article 26. Disabled Veteran Business Enterprise Participation (If Applicable)

Pursuant to section 71028 of the Education Code and Public Contract Code section 10115, the District may have a participation goal for disabled veteran business enterprises (DVBEs) of at least three (3) percent per year of funds expended each year by the District on projects that use funds California Community College Chancellor's Office. This Project may use funds allocated under the Act. Therefore, to the extent feasible and pertaining to future hirings, the Architect, before it executes the Agreement, shall provide to the District certification of compliance with the procedures for implementation of DVBE contracting goals, appropriate documentation identifying the amount(s) intended to be paid to DVBEs in conjunction with the contract, and documentation demonstrating the Architect's good faith efforts to meet these goals.

Article 27. District's Right to Audit

- 27.1. District retains the right to review and audit, and the reasonable right of access to Architect's and any Consultant's premises to review and audit the Architect's compliance with the provisions of this Agreement ("District's Right"). The District's Right includes the right to inspect, photocopy, and to retain copies, outside of Architect's premises, of any and all Project-related records and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District shall keep this information confidential, as allowed by applicable law.
- 27.2. The District's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines is necessary to discover and verify whether Architect is in compliance with all requirements of this Agreement.
- 27.3. If there is a claim for additional compensation or for Extra Services, the District's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the District determines is necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.
- 27.4. Architect shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. Architect shall make available to the District for review and audit all Project-related accounting records and documents and any other financial data. Upon District's request, Architect shall submit exact duplicates of originals of all requested records to the District.
- 27.5. Architect shall include audit provisions in any and all of its subcontracts, and shall ensure that these sections are binding upon all Consultants.
- 27.6. Architect shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Architect's Project-related records and information.

Article 28. Other Provisions

28.1. Architect shall be responsible for the cost of reviewing CCDs and/or change orders caused by the Architect's willful misconduct, recklessness, or negligent acts, errors or omissions. Without limiting Architect's liability for indirect cost impacts, the direct costs for change orders which Architect shall be liable shall equal the difference between the cost of the change order and the reasonable cost of the work had that work been a part of the originally prepared Contract Documents. These amounts shall be paid by Architect to District or the District may withhold those costs from amounts owing to Architect.

28.2. Neither the District's review, approval of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Architect shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Architect's failure to perform any of the Services furnished under this Agreement to the standard of care of the Architect for its Services, which shall be, at a minimum, the standard of care of architects performing similar work for California school districts in or around the same geographic area as the District.

28.3. Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.

Article 29. Exhibits "A" through "E" [or Exhibits "A" through "F" or "G" if Exhibits "F" or "G" are applicable] attached hereto are hereby incorporated by this reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

EAST SIDE UNION HIGH SCHOOL DISTRICT

Date: _____, 20_____
By:
Title:

Date: _____, 20_____
By:
Title:

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to the Agreement shall be performed by Architect if needed and if authorized or requested by the District:

- A. Making revisions in drawings, specifications, or other documents when such revisions are required by the enactment or revisions of codes, laws, or regulations subsequent to the preparation of the Conforming Set.
- B. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of that work.
- C. Providing services made necessary by the default of contractor(s).
- D. In the absence of a final Certificate of Payment or Notice of Completion, providing services more than ninety (90) days after the date of completion of work by contractor(s) and after Architect has completed all of its obligations and tasks under the Agreement.
- E. Providing deliverables or other items in excess of the number indicated in **Exhibit "A."** Before preparing, providing, sending, or invoicing for extra deliverables, Architect shall inform the District that expected deliverables may be in excess of the number indicated in **Exhibit "A,"** so that the District can procure the additional deliverables itself or direct Architect to procure the deliverables at the District's expense or on the District's account at a specific vendor.
- F. Providing services as directed by the District that is not part of the Basic Services of this Agreement.
- G. Providing services as an expert and/or witness for the District in any mediation, arbitration, and/or trial in which the Architect is (1) not a party, and (2) did not in any way cause the dispute that is being adjudicated.
- H. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement.
- I. The mark-up on any approved reimbursable item of Extra Services shall not exceed five percent (5%).

Job Title	Hourly Rate
Principal In Charge:	
Project Director:	
Project Architect(s):	
Project Architect(s):	
Other	
Other	
Other	

EXHIBIT "C"

SCHEDULE OF SERVICES

- A. Promptly after the execution of this Agreement, Architect shall prepare and submit for approval to the District a Schedule of Services showing the order in which Architect proposes to carry out Architect's Services ("Schedule of Services"). The Schedule of Services shall apply to the completion of all Services listed hereunder within the times established by this Agreement. The Schedule of Services shall be in the form of a progress chart clearly delineating all important increments and review dates. Architect shall update the Schedule of Services on a monthly basis and deliver two (2) copies to the District along with the monthly billing.
- B. Architect shall complete Services required under the Development of Architectural Program section within **TBD** **calendar days** after written authorization from the District to proceed.
- C. Architect shall complete Services required under the Schematic Design Phase within **TBD** **calendar days** after written authorization from District to proceed.
- D. Architect shall complete Services required under the Design Development Phase within **TBD** **calendar days** after receipt of a written authorization from District to proceed.
- E. Architect shall complete Services required under Construction Documents Phase within **TBD** **calendar days** after written authorization from District to proceed, and as more specifically indicated below. Excluded from this duration is the time associated with the Construction Documents back-check stage.
- 1 50% Submittal Package **calendar days**
 - 2 100% Submittal Package **calendar days**
 - 3 Final Contract Documents after Final Back-Check Stage **calendar days**
- F. The durations stated above include the review periods required by the District and all other regulatory agencies.
- G. All times to complete tasks set forth in this Exhibit are of the essence, as indicated in the Agreement. If delays in the Schedule of Services are incurred as a result of the District's inability to comply with requested meeting schedules, Architect shall maintain the right to request an adjustment in the Schedule of Services if deemed necessary to meet the deadlines set forth in this Exhibit. If approved, those extensions shall be authorized in writing by the District.

EXHIBIT "D"

PAYMENT SCHEDULE

A. Compensation

1. The payment of consideration to Architect as provided herein shall be full compensation for all of Architect’s Services incurred in the performance hereof, including, without limitation, all costs for personnel, travel within two hundred (200) miles of a Project location, offices, per diem expenses, printing and shipping of deliverables in the quantities set forth in **Exhibit "A,"** or any other direct or indirect expenses incident to providing the Services. Except as expressly set forth in the Agreement and **Exhibit "B,"** there shall be no payment for extra costs or expenses.
2. The total compensation to Architect shall be as stated in Article 6 of the Agreement.
3. District shall pay Architect as follows for all Services contracted for under this Agreement:

PERCENTAGE OF TOTAL FEE PER PHASE	
Phase	Phase Amount
Pre-Design/Architectural Program Development Phase	2%
Schematic Design Phase	15%
Design Development Phase	13%
Construction Documents Phase-Submittal to DSA Approval by DSA	37%
Bidding Phase	3%
Construction Administration Phase	20%
Close Out Phase	10%
Generate Punch List 2%	
Sign Off On Punch List 2%	
Receive and Review All M & O Documents 2%	
Filing All DSA Required Close Out Documents 2%	
Receiving DSA Close Out, including DSA approval of the final set of Record Drawings 2%	
TOTAL BASE COMPENSATION	100%

B. Method of Payment

1. Invoices shall be on a form approved by the District and are to be submitted in triplicate to the District via the District’s authorized representative.
2. Architect shall submit to District on a monthly basis documentation showing proof that payments were made to its consultant(s).
3. Architect shall submit to the District for approval a copy of the Architect’s monthly pay request format.

4. Upon receipt and approval of Architect's invoices, except as provided in subdivision 4.g. herein, the District agrees to make payments of undisputed amounts within thirty (30) days of receipt of the invoice as follows:

a. Pre- Design/Architectural Program Development Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the PreDesign/Architectural Program.

b. For Schematic Design Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Schematic Design Phase by the District.

c. For Design Development Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Design Development Phase by the District.

d. For Construction Documents Phase:

Monthly payments for percentage of all Services complete up to ninety-five percent (95%) of the fee for the phase; one hundred percent (100%) payment upon acceptance and approval of the Construction Documents Phase by the District.

e. For Bidding Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the phase; one hundred percent (100%) payment upon the District's award of the bid.

f. For Construction Administration Phase:

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the phase; one hundred percent (100%) payment upon the District's notice of completion.

g. For Close Out:

Lump sum payment no sooner than thirty-five (35) days and no later than forty-five (45) days after completion of all items in this phase.

h. Format and Content of Invoices:

Architect acknowledges that the District requires Architect's invoices to include detailed explanations of the Services performed. For example,

a six hour charge for "RFIs and CORs" is unacceptable and will not be payable. A more detailed explanation, with specificity, is required. This includes a separate entry for each RFI, PCO, CCD and change order. For example, the following descriptions, in addition to complying with all other terms of this Agreement, would be payable. The times indicated below are just placeholders:

Review RFI 23; review plans and specifications for response to same; prepare responses to same and forward to contractor, district, construction manager, and project inspector.	.8 hours
Review COR 8; review scope of same and plans and specifications for appropriateness of same; prepare draft change order and language for same.	.7 hours
Review COR 11; review scope of same and plans and specifications for appropriateness of same; prepare rejection of COR 11 for review by district, CM, IOR.	1.2 hours

EXHIBIT "E"

INSURANCE REQUIREMENTS (confirm coverage with risk management)

- A. Architect shall procure prior to commencement of the Services of this Agreement 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 Services hereunder by the Architect, his agents, representatives, employees and consultant(s). Architect's liabilities, including but not limited to Architect's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Architect's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement, as required or when requested, may be treated by the District as a material breach of contract.
- B. **Minimum Scope and Limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:
- 1 **Commercial General Liability.** __TWO million dollars (\$__2,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to each project/location or the general aggregate limit shall be twice the required occurrence limit.
 - 2 **Commercial Automobile Liability, Any Auto.** One million dollars (\$_1,000,000) per accident for bodily injury and property damage.
 - 3 **Workers' Compensation Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, Architect shall keep in full force and effect, a Workers' Compensation policy. Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 - 4 **Employment Practices Liability.** For all of the Architect's employees who are subject to this Agreement, Architect shall keep in full force and effect, an Employment Practices Liability policy. That policy shall provide employers' liability coverage with minimum liability coverage of _Two million dollars (\$_2,000,000) per occurrence. Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 - 5 **Professional Liability.** This insurance shall cover the prime design professional and his/her consultant(s) on a Claims Made basis for Two million dollars (\$_2,000,000) aggregate limit subject to no more than _____ thousand dollars (\$____,000) per claim deductible, coverage to continue through completion of construction plus two (2) years thereafter.
- C. The District reserves the right to modify the limits and coverages described herein.

D. Deductibles and Self-Insured Retention: Architect shall inform the District in writing if any deductibles or self-insured retention exceeds _____thousand dollars (\$____,000). At the option of the District, either:

- 1 The District can accept the higher deductible;
- 2 Architect's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or
- 3 Architect shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. Other Insurance Provisions: The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1 The District, its representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Architect; Instruments of Service and completed operations of the Architect; premises owned, occupied or used by the Architect; or automobiles owned, leased, hired or borrowed by the Architect. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.

2 For any claims related to the projects, Architect's insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of Architect's insurance and shall not contribute with it.

3 Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.

4 Architect's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5 Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.

F. Acceptability of Insurers: Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. Architect shall inform the District in writing if any of its insurer(s) have an A.M. Best's rating less than A:VII. At the option of the District, the District may either:

- 1 Accept the lower rating; or
- 2 Require Architect to procure insurance from another insurer.

G. Verification of Coverage: Architect shall furnish District with:

- 1 Certificates of insurance showing maintenance of the required insurance coverages; and
- 2 Original endorsements affecting general liability and automobile liability coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverages on its behalf. All endorsements are to be received and approved by the District before Services commence.

EXHIBIT "F"

ROOFING PROJECT CERTIFICATION (delete if not applicable)

This form shall be executed by all architects, engineers, or roofing consultants who provide professional services related to the repair or replacement of a roof of a public facility where the project is for repair of more than 25% of the roof or that has a total cost more than \$21,000 ("roofing project") and submitted to the District prior to the time professional services are engaged.

Architect Engineer Certification of: Roofing Consultant Other

I, [Name], [Name of Firm], certify that I have not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the roofing project contract. As used in this certification, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Furthermore, I, [Name], [Name of Firm], certify that I do not have, and throughout the duration of the contract, I will not have, any financial relationship in connection with the performance of this contract with any architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I, [Name], [Name of Firm], have the following financial relationships with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roofing project contract (provide Name and Address of Building, and Contract Date and Number):

By my signature below, I hereby certify that, to the best of my knowledge, the contents of this disclosure are true, or are believed to be true. I further certify on behalf of the Firm that I am aware of section 3000 *et seq.* of the California Public Contract Code, and the sections referenced therein regarding the penalties for providing false information or failing to disclose a financial relationship in this disclosure. I further certify that I am authorized to make this certification on behalf of the Firm.

Date:

Proper Name of Firm: Signature: Print Name:

Title:

[END OF DOCUMENT]

EXHIBIT "G"

IRAN CONTRACTING ACT CERTIFICATION (Public Contract Code sections 2202-2208)
(delete if not applicable)

Prior to bidding on or submitting a proposal for a contract for goods or services of \$1,000,000 or more to the District, the Respondent must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code section 2203(b) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d).

To comply with this requirement, please insert your vendor or financial institution name and Federal ID Number (if available) and complete **one** of the options below. Please note: California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Public Contract Code section 2205.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

<i>Vendor Name/Financial Institution (Printed)</i>		<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in</i>	

OPTION #2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or to enter into or to renew, a contract for goods and services.

If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing Date Executed</i>	

END OF DOCUMENT

Project Brief –

Project Name: Music, Art and Administration New Building & Central Quad Modernization Project



I. Project Description

W.C. Overfelt High School is committed to the intellectual development of their students. The school's vision is to graduate critical and creative thinkers with the resilience to achieve in college and career. Overfelt creates a learning environment in which students can master the knowledge essential for developing higher level thinking skills.

The design objective of the capital improvement project is not only to illustrate these values through physical form, but also to re-align the school's presence and point of arrival for the students and the community. The design solution for the project will embrace these opportunities with a highly functional and prominent structure that respects the existing architectural vernacular in massing, compliments and enhances campus circulation, supports the fundamental spirit of the school, and is responsive to the environment by incorporating sustainable design in a visible manner. The improvements will provide the elevated 21st Century identity to which the campus aspires. The project will also be a major driving force in the future modernization efforts of the surrounding buildings.

The subcomponents of this project include:

1. Demolition of Building H, Building I, and quad food service building

The programs in buildings H & I will relocate to the new building and allow greater potential for growth at the courtyard. The design solution for the food service building will allow food service to serve more students simultaneously, by providing a new structure with an open environment integrated into the planning.

2. Classroom Modernization

The piano and guitar rooms will provide a venue for students to rehearse and read music, use musical vocabulary, focus on quality (rather than volume), and produce and create music individually or in an ensemble. The design intent is to create a flexible environment that will fit within the instructional models of a technology enabled studio.

Project Brief –

Project Name: Music, Art and Administration New Building & Central Quad Modernization Project

3. Art Classrooms

The art rooms will provide environments that allow students a space for impassioned creative exploration. The art rooms will promote visual literacy while providing an opportunity for students to discover their own unique style, artistic expression, and creativity. These core skills help improve artistic capabilities and provide the necessary background for students to formulate and express opinions about their own work, their peers' work, and the work of the masters.

The areas of study will include: traditional film photography, ceramic arts, and (3) visual arts studios.

4. Theater / Great Hall

The objective of the theater program is to provide a setting for students to excel in a small format venue. The Great Hall will be a 200-seat venue in which both the stage and seating configuration can be arranged in a variety of ways—suited to the creative choices of the artistic team with practically limitless versatility. The Great Hall will include all of the support spaces necessary to produce quality productions.

5. Administrative Workplace

The W.C. Overfelt Administrative Workplace will be organized to effectively lead the school, fulfill its educational vision, and to serve students, faculty, alumni and friends of the school.

The Administrative Workplace will provide an atmosphere of well-distributed spaces that support frequent interaction and are blended into areas for both individual and group work. This will make it comfortable for staff to shift quickly between modes of work. An administrator may need to focus deeply while meeting with a teacher, move to a nearby project room to collaborate, and afterward break away with one other person to concentrate on a task. Physical proximity of these spaces facilitates quick switching between work modes.

Key design features will include: An open plan that encourage natural interactions, common areas that encourage workers to leave confined offices, an emphasis on areas that hold two or more people, and spaces which encourage workers to do their thinking in the presence of other people, rather than alone.

6. Central Quad Modernization

Since the school opened in 1962, there has been ample time for the trees to grow and spread their shade. The Overfelt campus is an assemblage of mature trees, with pleasant connections to the surrounding buildings and the campus core. The courtyard design will provide a thoughtful response to the

Project Brief –

Project Name: Music, Art and Administration New Building & Central Quad Modernization Project

existing topography and take visual cues from the eastern hills of San Jose, native plants of California, and provide strategic opportunities for shade. The courtyard will be developed with individual focal points connected by receding landscape forms and outdoor art. The landscape and hardscape will create a sense of community and a cooperative atmosphere for outdoor gathering and learning. The entire project will depend on successfully integrating natural features and new features with ease.

The courtyard will create an environment where events can be staged, and where Overfelt students can gather informally outside of the classroom. A successful design will create an environment that will retain students on campus and encourage their involvement in student life.

7. Associated temporary or permanent space for programs and/or programs displaced by construction (if necessary), for a turnkey project.

II. **Budget:** Note that budgets listed for Items 1-2 below are fluid, but the total project budget is fixed

		Project Budget	Construction Budget
1	Music, Art and Administration Building	\$21,483,651	\$16,112,739
2	Central Quad Modernization	\$2,164,651	\$1,623,488
3	Totals	\$23,648,302	\$17,736,227

III. Delivery Method

The District is considering a **Design Build** delivery method. The District will entertain consideration of other delivery methods.

IV. Schedule

- Construction should be scheduled to minimize the need for temporary housing.
- The District is interested in commencing with these projects immediately, to deliver upgraded facilities to the site as soon as possible.

Project Brief –

Project Name: Music, Art and Administration New Building & Central Quad Modernization Project

- Completion dates for planning and design for the Music, Art and Administration New Building and Central Quad Modernization:
 - Construction Management (CM) Proposals due: July, 2016
 - Interview (if needed) short list CM proposers: Aug., 2016
 - Construction Management Services Award: Sept., 2016
 - Bridging/programming documents Complete by end of: May, 2017
 - Design/Build Entity Award: Aug., 2017
 - Construction Complete by end of: May, 2018
 - Move-in Complete by end of: July, 2018

- These dates are approximate and may change due to project phasing and/or financing issues. The selected firm shall provide a schedule that demonstrates achievement of services within these overall time frames, but may modify intermediate dates to fit the proposing firm's methodology.

END OF DOCUMENT

**Exhibit 1 –
Consultant Information/Signature Page
Page 1 of 2**

The Consultant shall furnish the following information. Failure to comply with this requirement will render the proposal incomplete and may cause its rejection. Please fill out the un-shaded sections in the form below. Also, additional sheets may be attached if necessary. "You" or "your" as used herein refers to the consultant's firm and any of its officers, directors, shareholders, parties and principals.

Consultant Information/Signature Page	
Firm Name	
Firm Address	
Firm Telephone	
Firm Fax Number	
Firm Email	
Type of Firm (Mark an 'X' for the appropriate one)	Individual
	Partnership
	Corporation
	Joint Venture
Firm's Tax Identification Number	
Primary Contact Name	
Primary Contact's Telephone	
Primary Contact's Email	
Are you currently or within the past five (5) years been involved in litigation with any public agency particularly any school district? (Please answer Yes or No)	
If Yes, explain, and provide case name and number:	
Have you ever failed to complete a project in the last three years? (Please answer Yes or No)	
If yes, give owner and details:	

**Exhibit 1 –
Consultant Information/Signature Page
Page 2 of 2**

Consultant's Representations

Consultant understands, agrees, and warrants:

1. That Consultant has carefully read and fully understands the information that was provided by ESUHSD to serve as the basis for submission of this proposal.
2. That Consultant has the capability to successfully undertake and complete the responsibilities and obligations of the proposal being submitted.
3. That all information contained in the proposal is true and correct to the best of Consultant's knowledge.
4. That Consultant did not, in any way, collude, conspire or agree, directly or indirectly, with any person, firm, corporation or other Consultant in regard to the amount, terms, or conditions of this proposal.
5. That Consultant did not receive unauthorized information from: Any ESUHSD staff member or Consultant during the Proposal period except as provided for in the Request for Qualifications package, addenda thereto, or the pre-proposal conference, if applicable.
6. That by submission of this proposal, the Consultant acknowledges that ESUHSD has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by Consultant and Consultant hereby grants ESUHSD permission to make said inquiries, and to provide any and all requested documentation in a timely manner.
7. That funding for any resulting contract is contingent on adequacy and availability.
8. To comply with ESUHSD's insurance provisions, to provide appropriate indemnification for ESUHSD and to hold ESUHSD harmless from Consultant's performance of the contract.
9. Receipt and acceptance of the following addenda is hereby acknowledged:

No. _____, Dated _____

No. _____, Dated _____

No. _____, Dated _____

Consultant's Signature

No Proposal shall be accepted which has not been signed in ink in the appropriate space below:

Print Name

Print Title

Signature

Date

Corporate Seal If applicable



CONFLICT OF INTEREST STATEMENT East Side Union High School District (Consultants)

[This form must be filled out, signed, dated and submitted by all persons seeking to serve as a consultant to the District]

Board Policy 3600 of the East Side Union High School District provides in part:

“Independent contractors applying for a consultant contract shall submit a written conflict of interest statement disclosing financial interests as determined necessary by the Superintendent or designee, depending on the range of duties to be performed by the consultant. The Superintendent or designee shall consider this statement when deciding whether to recommend the consultant's employment.”

The Superintendent has determined that all persons seeking to serve as a consultant to the District shall fill out truthfully, sign, date and submit this Conflict of Interest Statement prior to performing any consultant work or services for the District.

I, _____ [NAME OF CONSULTANT], hereby certify the following:

1. I am not an employee of the District.
2. Within the past year I have not been a member of the District Board of Trustees of the District.
3. Neither I nor any member of my immediate family (includes parent, spouse, domestic partner, or child) or member or resident of my household is a member of the District's Citizens Bond Oversight Committee for the District's Measure G or Measure E bond programs.
4. Within the past year I have not provided or made, and will not provide or make, any promise of any gift¹ of any kind (money, meals, goods, services, entertainment tickets, etc.), in-kind services, commission, or fully or partially expense-paid trips to any District Board Member or District employee whose responsibilities include the selection of District consultants or the evaluation, supervision or oversight of District consultants (a “**Responsible Employee**”), except:

¹ “Gifts” do not include promotional or advertising items such as calendars, desk pads, notebooks and other office items valued less than \$25.00 and which are of the type usually offered by business concerns free of charge to all as part of their public relations programs.



5. I do not employ or retain, and will not employ or retain, any current District **Responsible Employee** as a consultant, independent contractor or employee during the term of my consultancy agreement with the District.

6. I am authorized to make, and do make, this certification on behalf of _____
[CONSULTANT].

The foregoing certifications are true and correct. I make this certification under penalty of perjury under the laws of the State of California.

Signature of Consultant

Signature Date
