Los Angeles Unified School District

# Contract

[INSERT PROJECT TITLE]

SAMPLE

**ALTERNATIVE DESIGN-BUILD CONTRACT BETWEEN**

**DISTRICT AND DESIGN-BUILD ENTITY**

THIS ALTERNATIVE DESIGN-BUILD CONTRACT BETWEEN DISTRICT AND DESIGN-BUILD ENTITY ("Alternative Design-Build Contract") is entered into on this_____day of_, 2024 by and between the LOS ANGELES UNIFIED SCHOOL DISTRICT ("District") and_____, a___("Design-Build Entity").

The parties, for services in connection to the Project are identified below:

**OWNER:**
LOS ANGELES UNIFIED SCHOOL DISTRICT
333 South Beaudry Avenue
Los Angeles, California 90017

**DESIGN-BUILD ENTITY:**
[INSERT DESIGN-BUILD ENTITY'S NAME/ADDRESS]

**PROJECT:**
[INSERT PROJECT NAME/ADDRESS]

In consideration of the mutual covenants and obligations contained herein, District and Design-Build Entity agree as set forth herein.

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**CONDITIONS OF**

**THE ALTERNATIVE DESIGN-BUILD CONTRACT**


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## 1. ARTICLE 1 SCOPE OF WORK

**1.1.** This Alternative Design-Build Contract will utilize a progressive design-build approach authorized by Education Code sections 17250.60-17250.69 whereby Design-Build Entity shall work with District to progress toward a design and contract price based upon the District's Program and Project Scope of Work set forth in the RFP Documents issued by the District. A single contract will govern both design and pre-construction services (Phase 1) and final design and construction services (Phase 2). A general description of the services to be provided by Design-Build Entity in Phase 1 and Phase 2 is set forth in Exhibit __. Upon completion and approval of the final design, the Final Construction Documents shall be included in the Contract Documents as provided in Article 11 below.

**1.2.** Design-Build Entity shall execute the entire Work called for by the Contract Documents and reasonably inferable from the Contract Documents, except to the extent, if any, expressly and specifically enumerated in the Contract Documents to be the responsibility of District or another Project Team member retained or to be retained by District. District reserves the right in its sole discretion to modify the Scope of Work and/or remove any work from the Scope of Work for Design-Build Entity and assign this work or any portion of the Work to others.

**1.3.** The proposed project is located at [School Name] and will include, but is not limited to the following:

1.3.1. The Project Scope of Work as defined in the RFP which will include barrier removal and other Work outside of the development zone.

1.3.2. American with Disabilities Act (ADA), Division of State Architect (DSA), California Environmental Quality Act (CEQA), Department of Toxic Substances Control (DTSC), and any other required improvements or mitigations to ensure compliance with Local, State and/or Federal facilities and traffic requirements;

1.3.3. Utility agency approvals and connections; and

1.3.4. Coordinating Owner furnished furniture and equipment (FF&E).

**1.4.** General Summary: This scope of work is a general summary of the Work and is not meant to limit Design-Build Entity's obligations under the Contract Documents, including without limitation the Scope of Work as defined in the RFP Documents.

## 2. ARTICLE 2 STANDARD OF PERFORMANCE

**2.1.** In addition to and without limiting Design-Build Entity's other obligations under the Contract Documents, Design-Build Entity shall, at all times in its performance of its obligations under the Contract Documents, conform to the following general standards of performance:

2.1.1. comply with the requirements of the Contract Documents;

2.1.2. comply with Applicable Laws and perform in accordance with the requirements of the DSA;

2.1.3. conform to the standard of care applicable to those who provide and are experienced in providing design−build professional services and construction of the type called for by this Alternative Design−Build Contract for projects of a scope and complexity comparable to the Project;

2.1.4. furnish efficient business administration of the Work, utilizing sufficient senior level management and other qualified personnel to manage the Work; and

2.1.5. apply its best and highest skill and attention to completing the Work in an

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expeditious and economical manner, consistent with the expressed best interests of the District and within the limitations of the Contract Price and Contract Time.

2.1.6. all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project. And with the usual and customary professional standards of skill, care, diligence and timeliness applicable to architects, engineers and other design professionals who regularly perform similar services on projects of similar nature, size and complexity to the Project.

## 3. ARTICLE 3 CONTRACT TIME

**3.1. Notice to Proceed With Phase One (NTP No. 1).** The Contract Time for completion of the Work shall be measured from NTP No. 1. The Phase One Services shall commence within five (5) days of the Effective Date unless the Parties mutually agree otherwise in writing. The target date for Substantial Completion of the entire Project shall be no later than _____ calendar days after the Effective Date with the actual date for Substantial Completion to be included in the GMP Proposal and the GMP Amendment ("Project Substantial Completion"). Substantial Completion of portions of the Work shall be achieved no later than the dates set forth in a Phasing Plan to be developed by District and Design-Build Entity during Phase One ("Beneficial Occupancy Milestone Dates") and included in the GMP Amendment. . The parties shall also agree on a detailed schedule to be prepared by Design-Build Entity and approved by District during Phase One and prior to Notice to Proceed with Phase Two (NTP. No. 2) (the "Design-Build Schedule").

3.1.1. **NOT USED**

**3.2. NOT USED**

**3.3. Notice to Proceed With Phase Two (NTP No. 2).** The District shall have discretion to determine whether the Guaranteed Maximum Price for the Project (GMP) is set before or after NTP No. 2 based upon the timing of subcontractor bids and the open book evaluation of construction subcontracts by District. After the GMP is agreed upon, the Parties shall execute the GMP Amendment. If no agreement can be reached, District may terminate this Alternative Design-Build Contract in accordance with Article 7 below. After issuance of NTP No. 2, Design-Build Entity shall complete the design and Final Construction Documents in accordance with the Design-Build Schedule and Phasing Plan incorporated and agreed upon in the GMP Amendment. Design-Build Entity is responsible for completing the designs and submitting them to DSA in a timely fashion in order to obtain DSA approval and complete all of the Work prior to the Beneficial Occupancy Milestone Dates and Project Substantial Completion Date. All Work is to be performed in accordance with the requirements of the DSA and the Design-Build Entity shall be solely responsible for obtaining all approvals from DSA at no additional cost to District. Design-Build Entity is responsible for determining number, content and timing and schedule of DSA submissions. Design-Build Entity shall obtain acceptance by DSA and approval from the District of the number and content of these submissions. Design-Build Entity shall be solely responsible for any delays or other impacts arising from making separate submittals to DSA for different portions of the Work. Design-Build Entity is solely responsible for DSA review time unless it can establish an unforeseeable delay by DSA that was not caused by design deficiencies or other issues for which Design-Build Entity is responsible. .

**3.4. Notice to Proceed With Construction.** No physical construction at the Site shall commence

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prior to the date fixed in NTP No. 2 for commencement of construction or in a separate Notice to Proceed with Construction to be issued by District after NTP No. 2. District, in its sole discretion, may issue a single Notice to Proceed with Construction for the entire Project or separate notices for different portions of the Work. Unless the District agrees otherwise, no construction or alteration shall commence for any Work prior to receipt of the written approval of the applicable plans for the Work from DSA and any other applicable required permits or approvals, including any required CEQA approval or exemption. Unless otherwise provided in the Contract Documents, Design-Build Entity shall be responsible for obtaining all required approvals and permits. As a condition precedent to commencement of construction activities by Design-Build Entity, Design-Build Entity, must also: ; (1) obtain the required payment and performance bonds in the forms provided by District and in amounts equal to at least 100 percent of the Contract Price as set forth in the GMP Amendment to be executed prior to start of construction; (2) submit Subletting and Subcontracting Fair Practices Act List for subcontractors identified to date; and (3) maintain all required insurance in accordance with the terms of the Contract Documents. District also hereby incorporates the terms of Education Code Section 17250.63, including the rights of the District set forth in Section 17250.63(b). Commencement of any activity by Design-Build Entity under the Alternative Design-Build Contract beyond the design phase of the Project is conditioned upon compliance with applicable laws, including the California Environmental Quality Act.

**3.5. The Work shall be completed as follows:**

3.5.1. **Design.** Design-Build Entity shall complete the Final Construction Documents sufficiently and far enough in advance to achieve the Beneficial Occupancy Milestone Dates for each phase of the Project and the Project Substantial Completion Date in accordance with the Contract and the Design−Build schedule approved by District's Representative.

3.5.2. **Construction and Substantial Completion**. Design-Build Entity shall achieve the Project Substantial Completion Date within (XXXX) days after issuance of NTP No. 1 or a different time period agreed upon by the Parties in the GMP Amendment and shall achieve the Beneficial Occupancy Milestones within the dates set forth in the Phasing Plan agreed to in the GMP Amendment. Design-Build Entity shall achieve Final Completion of the Work in accordance with Article 9.12 of the General Conditions to Alternative Design-Build Contract.

3.5.3. **Project Certification**. Design-Build Entity shall achieve Project Certification on the Work as expeditiously as reasonably practicable and no later than 60 days after Final Completion. For work submitted in multiple packages to DSA, Certification of any DSA Application shall be achieved no later than 60 days after District takes Beneficial Occupancy of the work in that DSA Application.

3.5.4. **Project Commissioning** The District will appoint a Commissioning Services Provider and provide the Owner's Project Requirements (OPR) template and District Commissioning Guide. The Design-Build Entity shall in coordination with District-Appointed Commissioning Services Provider maintain and update the OPR and Basis of Design at each design phase submittal. Prior to the District taking Beneficial Occupancy of any portion of the Work, Design-Build Entity shall fully commission all systems as required for that portion of the project to be occupied or used by the District and shall meet all requirements for Beneficial Occupancy Milestones as set forth in Article 17 of the General Conditions. At Project Substantial Completion, all systems on all phases shall have another full commissioning prior to final turnover of

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the project to the District.

3.5.5. **Warranty Manager**. Design-Build Entity shall provide a Warranty Manager as required by the Contract Documents commencing upon the first Beneficial Occupancy Milestone and continuing for 12 months following Substantial Completion of the Project. After Substantial Completion, the Warranty Manager shall remain reasonably available for the Project throughout this period.

**3.6. Time is of the Essence**. District and Design-Build Entity mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

**3.7. Liquidated Damages to District**

3.7.1. District and the Design-Build Entity acknowledge and agree that if Design-Build Entity fails to timely meet a Beneficial Occupancy Milestone or fails to meet the Project Substantial Completion Date, District will suffer substantial Losses, which would be both extremely difficult and impracticable to ascertain. On that basis they agree, as a reasonable estimate of those Losses and not a penalty, to the payment by Design-Build Entity of liquidated damages pursuant to this Section 3.8. Liquidated damages do not limit the District's other rights and remedies, including for damages associated with other breaches and for damages other than delay damages.

3.7.2. **Daily Rate**. If Design-Build Entity fails to achieve one or more Beneficial Occupancy Milestones or fails to meet the Project Substantial Completion Date, Design-Build Entity shall pay to District as liquidated damages an amount of $XXXX per Day specified in Specification Section 01 1219 [LD Amount to be specified based on estimated project cost].

3.7.3. **Extensions of Time**. Liquidated damages shall not be charged to Design-Build Entity for Delays to a Beneficial Occupancy Milestone or Delays to Substantial Completion for which the Design-Build Entity is entitled under the Contract Documents to receive a Contract Adjustment to the Contract Time.

3.7.4. **Partial Completion**. Liquidated damages shall not be reduced or apportioned for meeting one or more Beneficial Occupancy Milestones or for Substantial Completion of portions of the Work prior to Substantial Completion of the entirety of the Work.

3.7.5. **Remedies**. Liquidated damages are owed automatically and without notice of any kind upon the accrual of each day of delay. District may at any time deduct liquidated damages as are payable hereunder from money due or to become due to Design-Build Entity, or pursue any other legal remedy to collect such liquidated damages from Design-Build Entity and/or its Surety. Neither the District's failure or delay in deducting liquidated damages from payments otherwise due Design-Build Entity, nor District's failure or delay in notifying Design− Builder of the accrual of liquidated damages, shall be deemed a waiver of District's right to liquidated damages.

3.7.6. **Not a Limitation**. District's rights under this Section 3.8 shall not be interpreted as precluding or limiting: (1) any right or remedy of District arising from an Event of Design-Build Entity Default other than a failure to Substantially Complete the Work within the Contract Time allowed to achieve Substantial Completion; or (2) District's right to order an acceleration, at Design-Build Entity's Own Expense, of performance of the Work to overcome Delay, including, without limitation, a Delay for which District has the right to assess and/or accrue liquidated damages. The availability of liquidated damages shall not limit District's right to terminate the Design− Build Contract and accrual and/or assessment of liquidated damages does not constitute

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a waiver of such rights.

**3.8. Liquidated Damages to Design-Build Entity**

3.8.1. **Design-Build Entity's Right**. District and Design-Build Entity acknowledge and agree that if Design-Build Entity, due to Compensable Delay, is unable to Substantially Complete the Work within the Contract Time for Substantial Completion, Design-Build Entity and its affected Subcontractors and Subconsultants will suffer Losses, which would be both extremely difficult and impracticable to ascertain. On that basis they agree, as a reasonable estimate of those Losses and not a penalty, to the payment by District of liquidated damages pursuant to this Section 3.9.

3.8.2. **Daily Rate**. The GMP shall be increased by Change Order or Unilateral Change Order at the daily Liquidated Damage rate for each day of delay to the Project Substantial Completion date due to Compensable Delay, with no additional amount added thereto or calculated thereon for Allowable Markup or any other markup for overhead or profit. The sum of liquidated damages will not exceed $XXXX for each Day.

3.8.3. **Payment by District**. A Change Order or Unilateral Change Order setting forth a Contract Adjustment to the GMP for liquidated damages permitted by this Section 3.9 shall be executed following, and not before, actual Substantial Completion and prior to Final Completion. Notwithstanding any other provision of the Contract Documents to the contrary and without limitation to the District's rights of withholding payment permitted elsewhere in the Contract Documents or under Applicable Laws, amounts due to the Design-Build Entity pursuant to this Section 3.9 shall be payable as part of, and not prior to the due date for, Final Payment to Design-Build Entity.

3.8.4. **Exclusive Remedy**. Liquidated damages payable pursuant to this Paragraph constitute the Design-Build Entity's sole and exclusive right and remedy for recovery from District of Losses to Design-Build Entity and its Subcontractors and Subconsultants, of any Tier, that are attributable to Compensable Delay, regardless of the cause, duration or timing of the Compensable Delay.

3.8.5. **Deleted Work**. If, after the GMP Amendment is executed by the parties, Work is deleted by the District, a credit shall be given to District reducing the GMP due to Deleted Work that results in a shortening of the Contract Time for Substantial Completion. Such reduction shall be effected by means of a Contract Adjustment to the GMP that is based on the product derived by multiplying (I) the number of Days that the Contract Time is shortened by (2) the daily liquidated damages applicable to each such Day without any additional credit to District for Allowable Markups. District shall be entitled to the reasonable application of one or more of the specified liquidated damage rates to each day of delay that is most reasonable under the circumstances.

3.8.6. **Termination**. District shall have no liability to Design-Build Entity to pay any liquidated damages provided for under this Section 3.9, nor shall District have any other liability to Design-Build Entity or any Subcontractor or Subconsultant for any Loss due to Delay (including, without limitation, Compensable Delay) in the event there is a termination of the Design-Build Contract (whether such termination is a termination for cause or a termination for convenience by District pursuant to the General Conditions or a termination by District pursuant to Article 7 below ) prior to expiration of the period of time for Substantial Completion.

3.8.7. **Non-Compensable Delay**. No Contract Adjustment or other form of compensation

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or reimbursement, of any kind, to Design-Build Entity or any Subcontractor or Subconsultant, of any Tier, shall be permitted for any Loss resulting, directly or indirectly, from or attributable to any of the following: (1) Unexcused Delay or acceleration to overcome Unexcused Delay; (2) Excusable Delay or any acceleration not authorized by District in writing to overcome Excusable Delay; or (3) concurrency of a Compensable Delay with any different type or class of Unexcused Delay or Excusable Delay, whether such concurrency is a concurrency in cause or in effect.

## 4. ARTICLE 4 CONTRACT PRICE

**4.1. Total Compensation.** Pursuant to Education Code Section 17250.65, this Alternative Design-Build Contract shall be subject to further negotiation and amendment to set the Contract Price. During Phase One, Design-Build Entity shall provide detailed cost estimates that will be reviewed, updated and validated at all phases of design or as otherwise requested by District. Design-Build Entity shall work cooperatively with District to budget and control cost and schedule and acceptance of the GMP by District may be dependent upon the accuracy of the cost estimates and models prepared by Design-Build Entity during Phase One. The Contract Price shall be equal to the amount agreed upon in the GMP Amendment executed by District and Design-Build Entity after District's review of the proposal submitted by Design-Build Entity. Construction subcontracts shall be subject to an open book evaluation by District which shall be used to evaluate and calculate the GMP. District may, in its sole discretion, require the Design-Build Entity to rebid one or more subcontracts to try and reduce the amount of the GMP.

**4.2.** If the District and Design-Build Entity are unable to reach agreement on the GMP and execute the GMP Amendment, the District may terminate this Alternative Design-Build Contract pursuant to Article 7 below. As an alternative to termination, District may request that Design-Build Entity make modifications to its proposal and proposed GMP which may be accepted by District and Design-Build Entity. Unless the District agrees to further negotiations or amendments, the Contract Price, when set, is only subject to adjustment as permitted by the General Conditions for Contract Adjustments due to Compensable Changes, Deleted Work or Compensable Delay.

**4.3. Phase One Compensation.** District shall pay to Design-Build Entity in accordance with the General Conditions of Contract, the sum of Dollars ($XXX_____) representing the Design Fee included in Design-Build Entity's Proposal to District which includes full compensation for the services to be provided by Design-Build Entity during Phase One, subject to adjustments made in accordance with the General Conditions of Contract.

**4.4. Phase Two Compensation.** District shall compensate Design-Build Entity for Phase Two services, including construction, in accordance with the terms of the GMP Amendment and the General Conditions of Contract.

**4.5. All Inclusive Price.** The Contract Price is the total maximum amount payable by District to Design-Build Entity for performance of the Work under the Contract Documents and is deemed to cover all Losses arising out of or related to the performance of the Work, including without limitation, the effects of natural elements upon the Work, unforeseen difficulties or obstructions affecting the performance of the Work, and fluctuations in market conditions and price escalations (whether occurring locally, nationally or internationally) from any cause, including without limitation, causes beyond the control of and not foreseeable by the Design− Builder or its Subcontractors or Subconsultants. All Work is to be performed in accordance with the requirements of the DSA and the Design-Build Entity shall be solely responsible for obtaining all approvals from the DSA at no additional

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cost to District. The District will pay all DSA plan check and application fees directly to DSA. To the extent Design-Build Entity proposes alternatives that are not acceptable to DSA; Design-Build Entity shall bear all of the costs to complete the Work as required by DSA with no increase in the Contract Price and no right to additional time or compensation from the District.

**4.6.** Subcontractors. Design-Build Entity Subcontractors shall be procured in accordance with the Design-Build Schedule developed during Phase One. Design-Build Entity shall use a best value selection process for each Subcontractor who are performing Work in excess of one-half of one percent of the Contract Price ("Major Subcontractors"). All other Subcontractors shall be awarded to the lowest responsible bidder. In awarding all Subcontracts, Design-Build Entity must comply with the General Conditions and other Contract Documents, including GC-5.1, and all applicable laws, including Education Code Section 17250.65(b) and Public Contract Code Section 4100, et. seq. Any scope of work proposed to be self-performed by Design-Build Entity rather than by a Subcontractor shall be subject to approval of District on terms set forth in the General Conditions..

## 5. ARTICLE 5 REQUIRED MEETING ATTENDANCE

**5.1. NOT USED.**

**5.2. Community Meetings**: Design-Build Entity is required to attend a total of up to six (6) community meetings as determined and scheduled by the District. Design-Build Entity shall attend other staff, project advisory and community meetings as reasonably necessary during the Project.

**5.3. CA-CHPS:** Attend a minimum of one meeting/workshop per Design Phase and one meeting during construction at Pre−Construction, 40%, 80%, 100% and/or as required to satisfy CA−CHPS certification requirements.

**5.4. Building Commissioning:** Attend a minimum of one meeting per Design Phase and monthly meetings per LAUSD Commissioning Guide during construction or as required to satisfy building commissioning requirements.

**5.5.** Validation Phase. During Validation Phase, Design-Build Entity shall meet with the District at least once every week to validate the scope and Direct Construction Cost Budget or as otherwise reasonably requested by District

**5.6. Schematic Design Phase:** During Schematic Design Phase, Design-Build Entity shall meet with the District at least once every two (2) weeks to review design progress or as otherwise reasonably requested by District.

**5.7. Design Development Phase:** During Design Development Phase, Design-Build Entity shall meet with the District at least once every two (2) weeks to review design progress or as otherwise reasonably requested by District.

**5.8. Construction Document Phase:** During Construction Document Phase, Design-Build Entity shall attend meetings with the District at least once every three (3) weeks to review design progress or as otherwise reasonably requested by District.

**5.9. Construction Phase:** During Construction Phase, Design-Build Entity shall attend a construction start/job start meeting, at least four (4) Sustainability (CHPS) coordination meetings, and weekly construction progress meetings with the District and other attendees. In addition to the meetings outlined above Design-Build Entity shall attend site meetings or site visits as necessary to discuss and resolve field issues in a timely manner and as required to support the progress of construction including the Design− Builder's final completion work.

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**5.10. Key Personnel Attendance:** The Design-Build Entity's Key Personnel shall attend all appropriate meetings with the District Representatives at each phase of the Project or as otherwise reasonably requested by District. (i.e. Design−Build Project Manager, Architect of Record, Key Subconsultants, Key Subcontractors at Design Phases)

## 6. ARTICLE 6 DESIGN AND CONSTRUCTION PHASE RESPONSIBILITIES

**6.1.** Unless modified by District and Design-Build Entity as part of the progressive design-build process, Design-Build Entity shall have the responsibilities and duties set forth below in addition to other responsibilities and duties provided in the Contract Documents, including without limitation, Sections 3.2 through 3.4 of the General Conditions.

**6.2. NOT USED.**

**6.3. Schematic Design Phase**

6.3.1. Upon receipt of Notice to Proceed with Design, the Design-Build Entity shall prepare the Schematic Design Documents in accordance with the Project Criteria and the Contract Documents, including the description of the RFP Documents, specifically Appendix 2 and the School Design Guide furnished by the District.

6.3.2. 6.3.2 Design-Build Entity shall prepare Schematic Design Documents consistent with and incorporating the Division 1 Specifications and Scope of Work identified in Appendix 2 of the RFP Documents. These documents shall include site plans, floor plans, elevations, sections, and other drawings, sketches or graphic materials needed to describe the Project in three dimensions as well as descriptions of the relationship of the project to on−and off−site improvements. Design-Build Entity shall also prepare descriptive outline specifications indicating proposed architectural, structural, mechanical and electrical systems and materials and other systems. The Schematic Design submittal shall be in accordance with the School Design Guidelines.

6.3.3. The Design-Build Entity shall, as required to inform the design process and at a minimum one (1) time during the Schematic Design Phase, conduct site visit(s) with the District's Authorized Representative to observe and verify existing conditions and validate the proposed design.

6.3.4. During the Schematic Design services, the Design-Build Entity, through its Architect of Record, shall conduct a Sustainability workshop with the District's project team, the Architect of Record's consultants, and any other necessary representative of the Design-Build Entity, and District's Sustainability Specialist, during which the participants will review and discuss potential options for the Sustainability Plan for Sustainability Certification(s); establish the Sustainability Objectives; discuss potential Sustainability Measures to be targeted; examine strategies for implementation of the Sustainability Measures; which parties shall be responsible for the completion of required tasks and attainment of each Sustainability Measure and discuss the potential impact of the measures to the project schedule and to the District's program and budget.

6.3.5. Following the sustainability workshop, the Design-Build Entity shall prepare a Sustainability Plan based on the Sustainability Objective and targeted Sustainability Measures. The Design-Build Entity shall provide to the District copies of project specific CHPS scorecard along with the Sustainability Plans part of the 100% Schematic Design Submittal. The Sustainability Plan and related materials are subject to District approval.

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6.3.6. As a part of the 100% Schematic Design submittal, the Design-Build Entity shall also furnish the District with documentation as required in the School Design Guidelines. The Design-Build Entity shall complete works and services required under the Schematic Design Phase of this Agreement, and submit such works to the District for their approval in accordance with the Project Schedule.

6.3.7. At the conclusion of the Schematic Design Phase, the Design-Build Entity shall prepare a fully rendered computer animation Virtual Tour experience of the project. The Virtual Tour shall include music and contain animation that is generally accepted to be of good quality to convey the spatial, material and natural lighting qualities of the project. The Virtual Tour experience shall include surrounding existing context where necessary to understand the relationship of new buildings with existing buildings and site features. Specialty interior spaces (i.e., gymnasiums, science labs, performing arts spaces, etc.) shall be showcased as fully rendered (2D or 3D). Resolution of the final animation shall be at least full HD (1920x1080 DPI).

6.3.8. The Design-Build Entity shall provide renderings per the checklist requirements and coordinate with the Design Manager on the views proposed prior to executing the finalized version of the renderings. Renderings shall be of good quality photorealistic representation of the proposed design and the existing condition. The Design-Build Entity shall coordinate with the Design Manager regarding project information required for the physical board deliverables prior to final production.

6.3.9. Due to the critical nature of this project, the Design-Build Entity will have on-going "over-the-shoulder" design reviews with LAUSD to expedite the approval of the Schematic Design Phase. These reviews are at the District's sole discretion, and Design-Build Entity shall not be entitled to any additional costs or time for participating in these reviews.

**6.4. Design Development Phase**

6.4.1. The Design-Build Entity through its Architect of Record shall prepare the Design Development Documents that shall comply with the applicable School Design Guide.

6.4.2. Design-Build Entity shall prepare presentation drawings acceptable to the District which shall consist of the following: a minimum of one (1) 20−inch x 30−inch perspective colored rendering of the project with a surrounding mat and frame bearing the Project name, project description and Design-Build Entity identification; one full size copy and six (6) 8 ½−inch x 11−inch colored copies of the rendering; and an electronic copy at a minimum 300dpi resolution.

6.4.3. The Design-Build Entity and its Architect of Record shall, as required to inform the design process and at a minimum one (1) time during the Design Development Phase, conduct site visit(s) with the District's Authorized Representative to observe and verify existing conditions and validate the proposed design.

6.4.4. The Design-Build Entity shall provide for District's review and approval a color/materials board illustrating interior and exterior finishes as proposed for the Project. Minimum size for the material board(s) shall be 24"x36".

6.4.5. As a part of the 100% Design Development submittal, the Design-Build Entity shall furnish the District with documentation as required in the School Design Guidelines including required documents for the completion of the Preliminary Plan Review Submission to the California Department of Education (CDE). CDE required documents include but are not limited to: SP−2A Diagrams, copies of Design Development Documents, Project Summary, Breakdown of Physical Education (PE) Teaching Stations, etc. The Design-Build Entity shall prepare CDE Form - School

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Facilities Planning Division (SFPD) 4.07 or 4.08 and SFPD Plan Summary Form.

6.4.6. The Design-Build Entity shall advise and consult with the District regarding any potential deviations from approved District Project Criteria, including the School Design Guide, Technical Specifications, Educational Specifications, and Standard Technical Drawings. Any deviations from District Project Criteria require formal approval from the District.

6.4.7. Due to the critical nature of this project, the Design-Build Entity will have on-going "over-the-shoulder" design reviews with LAUSD to expedite the approval of the Design Development Phase. These reviews are at the District's sole discretion, and Design-Build Entity shall not be entitled to any additional costs or time for participating in these reviews.

**6.5. Construction Document Phase**

6.5.1. The Design-Build Entity shall prepare and submit to the District Construction Document submittals at 50% completion of Construction Documents and at 100% completion of Construction Documents.

6.5.2. 6.5.2. As a part of the 100% Construction Document submittal, the Design-Build Entity shall furnish the District with the required documentation in accordance with the School Design Guide, the LAUSD CAFM Guidelines and the LAUSD BIM Guidelines, including required documents for the completion of the Final Submission to CDE. CDE required documents include but are not limited to: SP3A Diagrams, copies of Construction Documents, Project Summary, Breakdown of PE Teaching Stations, etc.. The Design-Build Entity shall prepare CDE Form SFPD 4.07 or 4.08 and SFPD Plan Summary Form.

6.5.3. The Design-Build Entity shall, as required to inform the design process and at a minimum one (1) time each during the 50% and 100% Construction Document Phase, conduct site visit(s) with the District's Authorized Representative to observe and verify existing conditions and validate the proposed design.

6.5.4. No later than the conclusion of the Construction Document services, the Design–Builder, through its Architect of Record, shall conduct a second sustainability workshop with the District's project team, the Architect's consultants, District's Sustainability Specialist, and any other necessary representatives of Design-Build Entity, during which the participants will review and discuss the updated Sustainability Plan for Sustainability Certification(s), Sustainability Objectives, Sustainable Measures, and any potential impact of the updates to the project schedule, District's program and budget.

6.5.5. As part of the 50% and 100% Construction Document submittals the Design-Build Entity shall provide copies of the updated Sustainability Plan and the CHPS scorecard for the project. At 100% Construction Document submittals, credit–by–credit supporting documentation shall be submitted to the District Sustainability Specialist in electronic and hard copy formats.

6.5.6. The Design-Build Entity shall collect the Sustainability Certification design documentation; organize, manage and submit to the Certifying Authority as required for the Sustainability Certification in a timely manner. The Design-Build Entity, through its Architect of Record, shall prepare responses to and submit additional design documentation required by comments or questions received from the Certifying Authority. The Design-Build Entity at its own cost and expense, through its Architect of Record, shall prepare and file necessary design documentation with the Certifying Authority to appeal a ruling or other

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interpretation denying a requirement, prerequisite, credit or point necessary to achieve the Sustainability Certification.

6.5.7. Due to the critical nature of this project the Design-Build Entity will have on-going "over-the-shoulder" design reviews with LAUSD to expedite the approval of the Construction Document Phase. These reviews are at the District's sole discretion, and Design-Build Entity shall not be entitled to any additional costs or time for participating in these reviews.

6.5.8. Design-Build Entity shall in coordination with the Design Manager prepare updates to the Campus Conceptual Master Plan (MP) to reflect and incorporate the Project Scope of Work, including updated versions of documents MP - 2.0: Existing Site and MP - 3.0: Conceptual Master Plan in PowerPoint including all notes and annotations in an editable format utilizing a template provided by the District.

6.5.9. Design-Build Entity shall update the Virtual Tour.

**6.6. Construction Phase**

6.6.1. The Design-Build Entity shall advise and consult with the District in all matters, and shall quickly relay all observations to the District's Authorized Representative relative to the construction of the project.

6.6.2. The Design-Build Entity shall provide general direction to the Inspector of Record (in accordance with DSA requirements) and provide technical assistance to District's Authorized Representative who shall be employed by and responsible to the District.

6.6.3. The Design-Build Entity, through its Architect of Record shall advise and consult the District regarding the progress of the project toward the achievement of the Sustainability Measures and/or Sustainability Certification(s). The Architect shall promptly notify the District's Authorized Representative and the District Sustainability Specialist of contemplated or known deviations from the Contract Documents and defects or deficiencies in the work that the Design-Build Entity and/or its Architect of Record recognize could impact achievement of the Sustainable Measures and/or Sustainability Certification(s). In such case, the Design-Build Entity's Architect of Record shall meet with the District Sustainability Specialist, District's Authorized Representative and Design-Build Entity to discuss and implement alternatives to remedy the condition, subject to District approval.

6.6.4. Design-Build Entity and its Architect of Record shall evaluate whether proposed changes to the Work could materially impact a Sustainability Measure. If the Design-Build Entity or its Architect of Record determine that the implementation of a proposed change in the Work could materially impact a Sustainability Measure and/or Sustainability Certification(s), the Design-Build Entity through its Architect of Record shall notify the District's Authorized Representative and the District Sustainability Specialist, who may coordinate further investigation of such change. Such proposed changes require approval from the District.

6.6.5. 6.6.5. The Design-Build Entity shall furnish electronic copies of the complete working drawings on a CD/DVD or USB drive to the project District's Authorized Representative. Drawings shall be unbound files in the latest version of AutoCAD and include all required X−references and peripheral files. If root files are BIM/Revit, then a central file with all other linked files shall also be included.

6.6.6. 6.6.6. The Design-Build Entity shall advise and consult with the District regarding any potential deviations from District Standards including the School Design Guide, Technical Specifications, Educational Specifications, and Standard Technical Drawings proposed by the Design-Build Entity or any subcontractors. Any deviations

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from the District Standards requires prior written approval from the District per Section 3.2.9

6.6.7. Design-Build Entity shall attend at least four (4) CHPS coordination meetings during construction at Pre−construction, 40%, 80%, 100% and/or as required to satisfy Sustainability Certification requirements, and maintain the project CHPS Scorecard.

6.6.8. 6.6.8. Prior to District's Authorized Representative review and approval of construction Design-Build Entity's payment requests, the Design-Build Entity shall receive and review the field marked Design-Build Entity's set of As−Built Drawings describing the complete project as constructed. Upon the filing of the Notice of Completion, the Design-Build Entity shall forward the completed set of as−built drawings and specifications to the District's Authorized Representative who will review and then transmit any comments to be incorporated back to the Design-Build Entity. The Design-Build Entity shall be responsible for transferring markings and attachments from the Design-Build Entity's record set of prints, including RFC/RFI responses and change order drawings, into the original CAD drawings by standard drafting methods. Each drawing sheet shall be prominently entitled Record Drawings and dated. Upon approval of the District, the Design-Build Entity shall furnish the District with the required Record Drawings in accordance with the School Design Guidelines and Specifications. The District will not approve the Design-Build Entity's final payment prior to receiving and accepting the Record Drawings.

6.6.9. Design-Build Entity shall, at the completion of construction, furnish to the District complete post−construction water balance tabulations based on the as−built conditions, and maintenance plan for these BMPs based on the template available in the District Specifications.

6.6.10. As requested by District, Design-Build Entity shall assist the District in preparing rebuttal for any claims filed against the District and attend arbitration and/or litigation hearings, except in the case where the Design-Build Entity is a party to the suit. Such services and work by Design-Build Entity shall be privileged and confidential and protected by the attorney−client privilege and attorney work product protection where applicable. Unless otherwise directed by the District in writing, Design-Build Entity shall assure that such services and work product are created and maintained in a manner to protect the confidentiality and privileges applicable to such services and work product. Additional compensation, if any, shall be provided in accordance with the Contract.

6.6.11. Upon completion of the Work by the Design-Build Entity, the Design-Build Entity shall be responsible for accomplishing the following tasks prior to Final Payment:

6.6.11.1. Design-Build Entity shall prepare and submit the Final Verified Progress Report (Title 24 California Code of Regulations, Section 4−336) to DSA and obtain their final acceptance of the project.

6.6.11.2. Design-Build Entity shall submit SP4A's area diagrams in AutoCAD and .pdf formats to match the Record Drawings per the CAFM guide requirements.

6.6.11.3. The Design-Build Entity shall collect the Sustainability Certification construction documentation; organize, manage and submit to the Certifying Authority as required for obtaining the Sustainability Certification in a timely manner.

6.6.11.4. The Design-Build Entity shall prepare and timely file necessary documentation with the Certifying Authority to appeal a ruling or other

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interpretation denying a requirement, prerequisite, credit or point necessary to achieve the Sustainability Certification.

6.6.11.5. The Design-Build Entity shall coordinate with the District's Authorized Representative and Sustainability Specialist to do a sustainability presentation to the school staff, CPM and M&O representatives to educate them about the sustainable goals and Sustainability Measures implemented in the Project, the post−construction storm water management plan, and the storm water best management practices (BMP's).

6.6.11.6. The Design-Build Entity shall, utilizing site survey documentation provided by the District and As-Built documentation provided by the Design-Build construction contractors for the Project, prepare site utility as-built plans locating all known new and existing utilities for the entire campus. Plans shall be prepared in the latest version of AutoCAD with each utility drawn on a distinct layer.

**6.7. Design Review by District**

6.7.1. The District will review the Design-Build Entity design deliverables using Bluebeam® software at each design phase of the design. Bluebeam® will be the method used for tracking and consolidating all District comments from all LAUSD Departments to the Design-Build Entity. Bluebeam® will be used to track the Design-Build Entity's response and/or implementation of comments as denoted below and in Electronic Review Process (Vol #2) Guidelines for Design Teams (Bluebeam). The Districts review timeframes will be as follows:

6.7.1.1. Schematic Design (SD) within ten (10) working days of receipt of complete SD package.

6.7.1.2. Design Development within fifteen (15) working days of receipt of the complete DD package.

6.7.1.3. 50% Construction Documents (CD) within fifteen (15) working days of receipt of the 50% package.

6.7.1.4. 100% Construction Documents within fifteen (15) working days of receipt of the complete package.

6.7.2. The District is not responsible for design impacts associated with incorporating review comments in the event the DB contractor chooses to move forward with the design in advance of the review. The Design-Build Entity shall respond in writing to the District comments within five (5) working days of receipt of the comments. The District's comments or approvals of any deliverables shall not relieve Design-Build Entity of responsibility for all aspects of the design and construction, for complying with all applicable laws and permits and for obtaining DSA approval.

**6.8. Miscellaneous Requirements**

6.8.1. In addition to the duties and responsibilities set forth above and elsewhere in the Contract Documents, the Design-Build Entity shall: (i) attend meetings with appropriate Authorities and Agencies and other third parties as reasonably requested by District; (ii) assist in preparing design presentations to, and responding to questioning by appropriate Authorities and Agencies; (iii) complete and submit required submissions to appropriate Authorities and Agencies in a timely manner and in accordance with the provisions of this agreement, (iv) provide necessary follow−up to ensure that recommendations or directions of appropriate Authorities and Agencies related to design matters are appropriately addressed; and (v) provide

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all necessary reports including but not limited to Verified Progress Reports and any other reports or communications required under California Education Code section 17309 and Title 24 of the California Code of Regulations.

6.8.2. Design-Build Entity shall attend design progress meetings as well as any other design related conferences deemed necessary by District. Design-Build Entity will record the discussions in these meetings and provide a draft copy of the minutes to the District within three (3) working days. District's Authorized Representative may require review and approval of meeting notes or minutes prepared by Design−Builder prior to distribution and District shall have a right but not an obligation to correct, clarify or supplement any minutes or notes prepared by Design-Build Entity. If any comments or changes are made by District, the Design-Build Entity shall then incorporate them and sign, publish, and distribute the final minutes of the meeting within (3) working days of the receipt of the District comments.

6.8.3. Design-Build Entity shall, as directed and/or requested by District, confer with the school community in the development of the project design.

6.8.4. Design-Build Entity shall request and review all District−provided record documents or data relative to the Project site including ACU Accessibility Survey Document.

6.8.5. Design-Build Entity shall research and procure any record documents and/or related information, which are available through reasonable investigation, and data not in possession of District including but not limited to street improvements, easements, utilities and other on and off−site improvements.

6.8.6. Design-Build Entity shall submit electronic copies of all files/documents outlined in the LAUSD School Design Guidelines and required CAFM and BIM Documents at the end of each design phase (Schematic Design, Design Development, 50% Construction Documents, 100% Construction Documents, DSA−Approved Construction Documents, and Final or Proposal Documents). In addition to the required printed documents both AutoCAD and .Pdf file versions (as applicable) of all required deliverables shall be furnished on a CD/DVD or USB drive.

6.8.7. The Design-Build Entity shall perform its services in accordance with Los Angeles Unified School District's sustainability goals and shall achieve California Collaborative for High Performance Schools (CA−CHPS) Verified Certification per the most current version of the CHPS Criteria as of the date of the execution of the Contract.

6.8.8. Design-Build Entity shall assist in pursuing any incentive and rebate programs that will benefit the District.

6.8.9. Design-Build Entity shall coordinate with District's Sustainability Group in identifying Sustainability Measures and strategies and in finalizing the Sustainability (CHPS) Certification and Design-Build Entity shall be responsible for submitting and finalizing all required documentation.

6.8.10. Design-Build Entity shall collect the required documentation for the Sustainability Certification(s) and organize, submit and manage the documentation as necessary, including all required submissions as described above. Design-Build Entity shall submit both electronic and hard copies of the supporting documentation at the end of design, construction and certification completion. In addition, (2) wall plaques and (10) original framed certificates, (for each Sustainability Certification) shall be provided to the District upon certification.

6.8.11. The Design–Builder shall maintain adequate staff, including a project manager, acceptable to the District. Design-Build Entity shall retain, at the expense of the

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Design-Build Entity and subject to approval by the district, a California Licensed Architect, California Licensed Landscape Architect, and California Licensed Engineers for structural, electrical, mechanical, fire protection and civil portions including off-site improvements of the Project. Project Civil Engineer shall hold California QSD (Qualified SWPPP Developer) certification, Acoustical Consultant (as required to comply with CHPS Verified Certification, District Standards and other project specific requirements). In addition, and as required for the design of the specific Project, the Design-Build Entity shall retain other specialty consultants such as Qualified Historic Architect, traffic engineering, etc. as required by the Project.

6.8.12. Modernization of buildings identified as historically significant and new buildings designed for addition to existing campuses shall conform with the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties (Standards) to the maximum extent practicable. During the 100% Construction Document phase, Design-Build Entity shall complete and document a Secretary of the Interior's Standards conformance review, with a Standard-by-Standard analysis of the principal project components (those with the possibility of directly or indirectly affecting historical resources), per the Secretary of the Interior's Standards Review Memorandum Template. Design-Build Entity to describe and analyze the principal project components in a table and submit a Standard-by-Standard narrative for review by the District. Principal project components include, but are not limited to, the Character Defining Features identified in the Historic Features Memo, Appendix 3, Exhibit 3.13, as well as the Exhibit 3.40 Protection of Historic Features. Additionally, the Design-Build Entity is to prepare a Temporary Protection Plan (TPP) as described below:

6.8.12.1. **100% CD Phase**: Design-Build Entity to provide a TPP that identifies potential risks to historic resources and principal project components that may be potentially damaged by any major alteration to or adjacent to a historic resource. The TPP shall be prepared in coordination with the District and may include, but not be limited to, the following components:

- Notation of the historic resource on construction documents.
- Pre-construction survey to document the existing physical condition of the historic resource.
- Procedures and timing for the placement and removal of temporary protection features, around the historic resource.
- Requirements for the monitoring of the installation and removal of temporary protection features by the Historic Architect, or designee.
- Post-construction survey to document the condition of the historic resource after Project completion.
- Preparation of a technical memorandum documenting the pre-construction and post-construction conditions of the historic resource and compliance with protective measures outlined TPP.

6.8.12.2. **Construction Phase:**

- The Design-Build Entity shall coordinate with the OAR regarding the TPP and the identified potential risks to historic resources and principal project components, that may be potentially damaged by any major alteration to or adjacent to a historic resource.

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- The Design-Build Entity is required to fully implement the TPP including all planning, preparation of TPP, and implementation of the TPP including removal, storage, protection, and reinstallation or relocation of items as required by the TPP, all in compliance with the Secretary of Interior standards.

6.8.13. Design-Build Entity shall prepare and present (in Power Point format) the project's design at Community Meetings as outlined in Article 5. The presentation content for each meeting shall be developed in consultation with the District and approved by the Design Manager. Presentation boards, models, or other materials prepared per the District's Design Guide for the project design phases shall be utilized as appropriate to supplement the presentation.

6.8.14. Design-Build Entity shall provide planning for Interim Facilities to house those functions that are affected by the phasing of construction (as required but not limited to classrooms, core facilities spaces, food service, sanitary facilities, etc.). Services as related to the documentation of the Interim Facilities including design/document preparation, temporary utilities and submission to DSA as a stand-alone project for plan review and approval shall be part of the work.

6.8.15. Design-Build Entity shall coordinate with current separate LAUSD projects as applicable. Such projects may be located within or outside of the Project Limits of Work and may require coordination in utility connections, construction logistics, agency approvals/certifications, etc.

6.8.16. Design-Build Entity shall prepare a project specific Staging/Site Utilization Plan(s) in conjunction with the Design Manager, OAR and School Administration. The Plan shall: i. Identify locations for contractor staging space and construction fencing on campus. ii. Illustrate sequencing of construction for the Project including the modification of existing buildings/spaces and temporary swing space(s) as required by the construction. iii. Locate/specify modifications as necessary to the Site Egress/Emergency Evacuation paths and Safe Dispersal areas as required both for construction of the Project and upon Project completion. Safe Dispersal areas shall be approved by the Office of Environmental Health & Safety (OEHS).

6.8.17. The Design-Build Entity shall prepare and provide a Logistics Plan and Schedule in consultation with the Design Manager, OAR, and School Administration. The Plan shall address coordination of school operations and include a site plan and existing building floor plans with notations describing as applicable the sequence of demolition, work on existing spaces, construction of new structures, and related temporary facilities as required to implement the Project on Campus.

6.8.18. Design-Build Entity in conjunction with the Design Manager, OAR, and School Administration prepare a Move Plan documenting a sequence of functional and occupant relocations as required to maintain the functional and educational operations of the campus throughout the course of construction. In addition, the Design-Build Entity shall identify modifications to existing facilities as required to support the Move Plan.

6.8.19. As part of the Design Development submittal, the Design-Build Entity shall furnish the District with documentation as required in the School Design Guidelines including required documents for the completion of the Preliminary Submission to California Department of Education (CDE).

6.8.20. In accordance with the referenced LAUSD Commissioning Guide, Design-Build Entity shall provide assistance to the Commissioning Agent appointed by the District but

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Design-Build Entity is responsible for meeting these goals.

## 7. ARTICLE 7 – TERMINATION BY DISTRICT IF PARTIES UNABLE TO AGREE ON GMP

**7.1.** In addition to the termination rights and remedies set forth in the General Conditions, District shall have the right to terminate this Alternative Design-Build Contract if District and Design-Build Entity are unable to agree on the GMP for the Project and/or timely execute the GMP Amendment. The decision whether to terminate under this provision shall be in the District's sole discretion. Unless the District agrees otherwise, Design-Build Entity's remedy shall be limited to payment for services performed in Phase One prior to termination by the District. District may exercise its right to terminate under this provision upon three days written notice to Design-Build Entity.

**7.2.** District shall have the right to use all drawings, specifications and other documents and electronic data, including documents identified in the Contract Documents, furnished by Design-Build Entity to District under this Agreement in order to complete the Project if the District elects to do so. These materials shall become sole property of the District and Design-Build Entity shall receive no further compensation from District. Design-Build Entity shall reasonably cooperate with District if District exercises its termination right and elects to proceed with another architect, contractor and/or Design-Build Entity to advance the Project.

**7.3.** Design-Build Entity shall not be responsible for damage caused by subsequent changes to or uses of the Work Product by District or third parties, if the subsequent changes or uses are not authorized or approved by Design-Build Entity, provided that Design-Build Entity was not also a proximate cause of the damage due to defects in the original design or otherwise. A licensed subcontractor that provides design services for the Project is not responsible for liability arising from that subcontractor's design if the construction subcontract for that design is not performed by that subcontractor.

## 8. ARTICLE 8 ELECTRONIC DATA

**8.1. Electronic Data.**

8.1.1. Design-Build Entity is required to utilize Computer−Aided Design and Drafting (CADD) and Building Information Models (BIM). Design-Build Entity may use Bentley, Revit or other industry 3−D modeling program.

**8.2. Transmission of Electronic Data.**

8.2.1. District and Design-Build Entity shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to access the agreed−upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

8.2.2. Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

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8.2.3. By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in the Agreement and General Conditions. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

**8.3. Electronic Data Protocol.**

8.3.1. The parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error. Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this Section 8.3.

8.3.2. Electronic Data will be transmitted in the format agreed upon in Paragraph 8.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

8.3.3. The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

8.3.4. The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless the Electronic Data in question is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration and the change or alteration causes or results in damage or defect to the Project.

## 9. ARTICLE 9 MISCELLANEOUS

**9.1. Confidential Information**.

9.1.1. Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (1) the transmitting party identifies as either confidential or proprietary; (2) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (3) the document is not otherwise available in or considered to be in the public domain. To the extent permitted by Applicable Law, including the California Public Records Act, the receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project.

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**9.2. Headings.**

9.2.1. The headings used in the General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

## 10. ARTICLE 10 LEVELS OF AUTHORITY

**10.1.** The District's primary point of contact for this Agreement is the designated District's Authorized Representative, or his/her authorized designee. The Design-Build Entity shall direct all communications to the District through the District's Authorized Representative. The Chief Procurement Officer or designee are the sole individuals who can execute any amendment to this Agreement. No other employee or representative of the District has authority to give instructions or authorizations to the Design-Build Entity, and no authorizations or approvals from any other person or party shall be binding on the District.

## 11. ARTICLE 11 ENUMERATION OF CONTRACT DOCUMENT

**11.1. List of Contract Documents.**

The Contract Documents, as defined in Article 1 of the General Conditions, include, without limitation, the following:

11.1.1. **Project Criteria.** The Contract Documents include the Project Criteria as set forth in the RFP Documents.

11.1.2. **RFP Documents,** Design-Build Entity Proposal, Best and Final Offer. The Contract Documents include (1) the RFP Documents and (2) either (a) if no Best and Final Offers have been Submitted, Design-Build Entity Proposal or (b) if Best and Final Offers have been submitted, Design-Build Entity's last submitted Best and Final Offer, including, in the case of a Best and Final Offer that is an amendment to a Design− Builder Proposal, any portion of Design-Build Entity's Proposal expressly stated to be a part of Design-Build Entity's Best and Final Offer; provided, however, that, with the exception of Approved Deviations, the Contract Documents shall not include any portion of Design-Build Entity Proposal or a Best and Final Offer that deviates from the Project Criteria.

11.1.3. **Alternative Design-Build Contract.** The Contract Documents include this executed Design−Build Contract between District and Design-Build Entity, the executed GMP Amendment and all other executed amendments and change orders..

11.1.4. **General Conditions.** The Contract Documents include the General Conditions to the Design−Build Contract.

11.1.5. **General Requirements, Supplemental and/or Special Conditions.** The Contract Documents include the following General Requirements and Supplemental and/or Special Conditions:

| Document Title | Date | Pages |
|---|---|---|
| | | |
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11.1.6. **Final Construction Documents**. The Contract Documents include the Final Construction Drawings prepared by Design-Build Entity and its Subconsultants,



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which have been reviewed and accepted by District in accordance with the terms of the Contract Documents; provided, however, that, the Contract Documents shall not include any portion of the Final Construction Documents that deviates from the Project Criteria.

11.1.7. **Addenda, Workshop, Final Confidential Comments/Confirmation and Submittals.** The Contract Documents include the Addenda, Workshop and Final Confidential Comments/Confirmation listed below:

| Addendum Number | Date | Pages |
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| Workshops/Technical Reviews /Submittals Received | Comments Issued / Submittals Received | Pages |
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11.1.8. **Reference Documents.** The Contract Documents include the Reference Documents identified in Exhibit ___:

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**11.2.** Capitalized Terms used in the Contract Documents shall have the meanings assigned to them in the General Conditions. If not defined in the General Conditions, they shall have the meanings assigned to them elsewhere in the Contract Documents. If not defined in the General Conditions or elsewhere, they shall have the meanings reasonably understood to apply to them by the context in which they are used.

**11.3.** Prior to execution of this Agreement, Design-Build Entity shall carefully review all of the Contract Documents and advise District of any claimed conflicts or ambiguities. Notwithstanding the order of precedence listed in Paragraph 1.3.12 of the General Conditions, in the event of any ambiguity, difference, discrepancy or purported conflict between any of the Contract Documents, the provision placing a more stringent requirement or greater burden on the Design-Build Entity or requiring the greater quantity and/or higher quality of material or the higher standard of workmanship shall prevail, unless otherwise directed by the District Representative in writing.

## 12. ARTICLE 12 FINGERPRINTING

**12.1.** **Fingerprinting**. Design-Build Entity, its employees, agents, subcontractors, subcontractor employees, sub−consultants and sub−consultant employees who go to school sites when students are present will be required to comply with the requirements of the California Education Code Sections 45125.1 and 45125.2 at no cost to the District. In accordance with Section 45125.1 (d) all personnel going to the school site(s) must submit his or her fingerprints to the California Department of Justice (DOJ) in a manner authorized by the DOJ to determine whether the employee has been arrested or convicted of any crime. All personnel who may come in contact with students must be cleared by DOJ (Section 42125.1(f)). Any person who has been arrested or convicted of any serious or violent felony, as defined by California Penal Code Sections 667.5 and 1192.7 will not be allowed on LAUSD property. The Design-Build Entity is responsible for the administration and all costs relating to the fingerprinting and screening by the DOJ of all candidates for positions with the District. Confirmation of the DOJ clearance or confirmation that the fingerprints have been submitted to DOJ must be submitted to the District prior to employees visiting the school site. If the above time requirements cannot be met a letter of explanation must be submitted for the District's approval prior to visiting the school site.

## 13. ARTICLE 13 KEY STAFF

**13.1.** Key Staff. In addition to other requirements of the Contract Documents, including Section 3.8 of the General Conditions, Design-Build Entity shall submit to the District and obtain written approval of the resumes of the proposed Project staff of Design-Build Entity and its sub−consultants who will be the responsible point of contact throughout the duration of the Project. Design-Build Entity shall submit for approval by the District in writing, the name of one person on the Design-Build Entity staff and one person on each of its consultants' staff who will be the responsible point of contact throughout the duration of the Project. If changes must be made due to unavoidable circumstances, the Design− Builder shall submit the name(s) and resume(s) of the person(s) to the District in writing for approval prior to making the replacement. District shall have the right to request replacement of any consultant or project staff.

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**CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTOR'S STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST DESIGN-BUILD ENTITIES IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS STATE LICENSE BOARD, and P.O. BOX 26000, SACRAMENTO, CALIFORNIA, 95826.**

In executing this Agreement, District and Design-Build Entity each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary Board of Education or corporate approvals to execute this Agreement, and perform the services described herein.

WHEREFORE, This Alternative Design–Build Contract is entered into as of the day and year first written above.

| OWNER: | DESIGN-BUILD ENTITY: |
|---|---|
| *Signature* | *Signature* |
| *Printed Name* | *Printed Name* |
| *Title* | *Title* |
| *Date* | *Date* |

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