

May 11, 2020

REVISED May, 12, 2020

Mr. Michael Otavka,
Director of Facilities, Planning & Construction
William S. Hart Union High School District
21380 Centre Pointe Parkway
Santa Clarita, CA 91350

Re: Proposal for Architectural and Engineering Services
Sierra Vista Junior High School's Multi-Purpose Building and Kitchen Renovation Site
Analysis Phase
WSHUHSD Project #xxxxx
HMC #3439005000

Dear Mr. Otavka

HMC GROUP (HMC) is pleased to submit the following Proposal to provide Architectural and Engineering Services for the above-mentioned project.

A. Scope of Work:

Task 1 - Existing Facilities Assessment of Multi-Purpose Building and Kitchen:

1. HMC shall provide a Facilities Assessment Narrative containing the following:
 - a. HMC shall field verify through non-invasive and non-destructive visual observations all conditions as depicted in the record drawings and perform an infrastructure analysis to quantify the adequacy, capacities and point of connection locations of existing utilities on and serving the project's existing Multi-Purpose Building and Kitchen. Analysis shall include the following systems: fire water, domestic water, irrigation water, electrical power, sanitary sewer, storm sewer, natural gas, electrical communications, telephone systems, fire alarm and public address systems, computer networking, energy management system (EMS), and security/intrusion alarm system.
 - i. Upon the discovery of discrepancies, conflicts, and/or ambiguities within those areas affecting the project, Architect-Engineer shall document such conditions and notify and address all discrepancies, conflicts and/or ambiguities with the District in writing.
 - b. HMC shall, in consultation with the WSHUHSD's Director of Facilities, investigate the following items at existing school sites: established circulation paths, access compliance, existing site conditions including plan layouts for existing Multi-Purpose Building and Kitchen, utility and equipment locations and capacities, analysis of any off-site run-on, storm-water mitigation concepts and/or existing features that may be relevant to the compliance of the project with the City of Santa Clarita Low Impact Development (LID) ordinance.

Task 2 - Seismic Assessment:

1. Review district provided as-built construction drawings including original and as-built drawings, prior reports including geological and engineering assessments.
2. Identify and recommend if the existing multi-purpose building is a candidate for a seismic evaluation.

3. Perform site visit to visually observe the conditions of the buildings, as required, to properly respond to the “checklist” items for Tier 1 evaluation per ASCE 41-17 and note any noticeable deviations from the available construction documents.
4. Research and obtain the latest seismic safety element report and any other publications that may describe the seismic hazard and geologic condition of the site.
5. Determine if site is in close proximity to known active fault(s) and/or in “no-built zone” based on review of provided geotechnical reports and/or regional geological maps (i.e. USGS, Alquist-Priolo, etc.).
6. Perform a preliminary evaluation of the existing buildings based on the prescribed guidelines noted for Tier 1 and Tier 2 evaluation per ASCE 41-17.
7. Perform limited structural calculations of critical structural components as applicable to Tier 1 and Tier 2 evaluation to assess their adequacy and determine capacity regarding their expected seismic performance. Detailed analysis and computer modeling of any building is not included.
8. Complete the appropriate structural “checklist” items and determine whether the buildings comply with the “Basic Performance Objective for Existing Building (BPOE)” criteria using BSE-1E and BSE-2E hazard level.
9. Based on findings on Tier 1 and Tier 2 evaluation, validate if the buildings are seismically deficient and determine if building is to be further evaluated in accordance with Task 2 Scope of Work.
10. Virtually present findings and conclusions in a Preliminary Seismic Assessment Report along with completed “checklist” with recommendation for the mitigation.
11. Provide diagrammatic plans/details for proposed retrofit for cost estimator’s use.

Task 3 - Program Validation & Test Fits:

1. HMC shall provide Scope Validation services to analyze, study, and present a maximum of (2) two site and food service layout options describing potential improvements to address critical physical conditions and support the school’s food service project and multi-purpose room usage.
 - a. Virtually attend, facilitate and document discussion with District staff, stakeholders and Campus Staff as required.
 - b. Assist as required to confirm and finalize the District’s food service and multi-purpose building’s space program.
 - c. HMC shall prepare and virtually present site organization diagrams and “test-fits” as required, including layout of food services and spaces in modernized multi-purpose building and the general massing of proposed new buildings.
2. HMC shall develop a cost estimate for each District approved Test Fit Option, including the facility assessment findings and agreed upon direction.

B. Project Approach & Schedule:

Refer to Attachment “A” for Site Analysis Phase Project Approach and Attachment “B” for proposed detailed Site Analysis Phase schedule.

C. Deliverables:

Task 1 - Existing Facilities Assessment:

- HMC shall provide a Facilities Assessment Narrative document as described above, which will include Civil, Landscape, Architectural, Mechanical, Plumbing, Electrical and Low Voltage, Fire Protection, and Food Service narratives.

Task 2 - Seismic Assessment:

- HMC shall provide a Preliminary Seismic Assessment Report for Tier 1 Findings

Task 3 - Program Validation & Test Fits:

- HMC shall provide site organization diagrams and “test-fits” as required, including layout of food service area and spaces in modernized auditorium building and the general massing of proposed new building/addition.
- HMC shall provide Cost Estimates for a maximum of (2) Test Fit Options and Facility Assessment Findings.

Final Deliverable for Site Analysis Phase will be an 11x17 or 8.5 x 11 booklet containing all the deliverables from Tasks 1, 2, and 3 noted above. HMC will provide the District with the booklet in PDF Electronic format.

D. Compensation:

HMC will provide the services outlined in the Scope of Work above for a fixed fee of Eighty-Six Thousand and Eight Hundred Dollars and 00 Cents (\$86,800.00).

Architectural / Engineering Fee Breakdown:

Task 1 - Existing Facilities Assessment of Multi-Purpose Building and Kitchen

Architectural Fee (HMC Architects) \$ 8,000.00

Civil Engineering Fee (VCA) \$ 5,000.00

Landscape Architectural Fee (EPT) \$ 5,000.00

Structural Engineering Fee (IMEG) \$ 6,000.00

Mechanical/Plumbing/Electrical & Fire Protection/Fire Alarm/Low

Voltage Engineering Fee (Budlong) \$ 8,000.00

Sub-Total \$36,000.00

Task 2 - Seismic Assessment (Tier 1 & Tier 2)

Structural Engineering Fee (IMEG) \$21,300.00

Sub-Total \$21,300.00

Task 3 - Program Validation & Test Fits (includes Final Report + Cost Estimating)

Architectural Fee (HMC Architects) \$20,000.00

Structural Engineering Fee (IMEG) \$ 2,000.00

Food Service Design (Webb Design) \$ 6,500.00

Cost Estimating (MTI) \$ 5,000.00

Sub-Total \$33,500.00

Grand Total Architectural / Engineering Fee \$86,800.00

E. Assumption(s):

1. A/E shall provide the following services as part of the Site Analysis Phase: Civil, Landscape, Architectural, Structural, Mechanical, Plumbing, Electrical and Low Voltage, Fire Protection, Food Service, and Cost Estimating.
2. The “test-fits” described in Task 3 are only to show box-type massing for programmatic adjacencies, and no “design” features shall be included on test fits.

3. HMC assumes a maximum of one (1) virtual formal review by the District of the Site Analysis Phase deliverable booklet. HMC will review and reply to one (1) round of District comments. Should there be additional comments from the District after the one (1) round of comments, additional services shall apply.
4. HMC shall attend a maximum of 9 meetings with Site and/or District staff, as described below:
 - a. One (1) Virtual Pre-Proposal Kickoff Meeting
 - b. Task 1 - One (1) Site Observation Walk (Entire A/E Team)
 - c. Task 1 - One (1) Virtual Meeting with Site and/or District Staff to review findings from Facilities Assessment (Entire A/E Team)
 - d. Task 2 - One (1) Virtual Meeting with District Staff regarding Seismic Assessment (Architect & Structural Only)
 - e. Task 3 - Three (3) Virtual Meetings with Site and/or District Staff to review Test Fits and Program Validation (Architect & Food Service Only)
 - f. Task 3 – One (1) Virtual Meeting with District Staff to review Draft Cost Estimates (Architect Only)
 - g. One (1) Virtual Meeting to review Site Analysis Phase deliverable with District Staff (Entire A/E Team)

F. Exclusion(s):

1. Specialty Consultants not listed above.
2. Design of Interim Housing, Construction Phasing and Identification of Staging Location(s) for the Project.
3. Development of As-Built Documents
4. Assistance with DSA Closeout/Certification for any A#s on existing Site and/or Buildings.
5. Preliminary Schematic Design, Schematic Design, Design Development, Construction Documents, Agency, Bidding & Negotiations and Construction Administration Phases.
6. Special studies.
7. Topographical Surveys.
8. Geotechnical investigations.
9. Test and Inspections.
10. Renderings.
11. Permit/Agency Fees
12. Special or additional renderings are excluded
13. All services not specifically described in the Scope of Work above.

G. Additional Services:

If Additional Services are required beyond the original scope of work (reference Attachment "D"), HMC will bill on an hourly basis per Attachment "C", HMC Rate Schedule, or as mutually agreed upon as a fixed fee.

H. Reimbursable Expenses:

Reimbursable expenses are in addition to compensation for Basic and Owner approved Additional Services, including printing, plotting, delivery and other expenses related to Agency review, Bidding, Construction or other Owner requested costs. Expense of transportation (including mileage) in connection with the Project; Expenses in connection with authorized out-of-town travel, including travel time; and fees paid for securing

approval of authorities having jurisdiction over the Project. The Architect's compensation shall be computed based on (1.10) times the amounts invoiced to the Architect.

I. Other Terms and Conditions of This Proposal/Agreement:

Reference Attachment "E" of this Proposal / Agreement.

J. Authorization / Agreement to Proceed:

HMC Group is hereby requested and authorized by [Owner/District Name] to provide Architectural and Engineering Services as described above. All the forgoing is agreed to and authorized by:

[Contact Name]

Date

[Contact Title]

Please review this Proposal and if you have any questions, please contact me at (213) 505-2295.

Sincerely,

HMC Group



Virginia E. Marquardt, AIA
Principal In Charge

Encl(s): Attachment "A" – Implementation Plan / Workplan
Attachment "B" – Schedule
Attachment "C" – A/E Billing Rates
Attachment "D" – Additional Services
Attachment "E" – Other Terms and Conditions

cc: File-CN-AOA

**William S Hart UHSD – Sierra Vista Junior High School
Multi-Purpose Building and Kitchen Renovation**

Site Analysis Phase Implementation/Work Plan

May 11, 2020














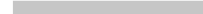





HMC #34339005000

1. Task 1 - Existing Facilities Assessment:
 - A. HMC shall review all existing documentation provided from WSHUHSD for the existing Multi-Purpose Building and Kitchen Addition, including programming, accessibility, site and utility surveys and as-built documents, in order to become familiarized with the existing campus.
 - B. HMC shall analyze the existing room sizes and counts, based on as-built documentation, to prepare an existing program for the project's scope of work.
 - C. On Site Verification/Job Walk: Over the course of 1 day, as identified in project schedule, HMC and the engineering team will review and document the items noted in the proposal's scope of work. As discussed with the Site Principal, all on-site verification must take place either before or after school hours.
 - D. After the On-Site Verification, the A/E team shall develop existing facilities assessment report.
 - E. We propose one (1) virtual meeting with the District to review progress of our findings & ask any questions as identified in the project schedule.
2. Task 2 – Seismic Assessment:
 - A. IMEG shall review all existing as-built documentation provided from WSHUHSD for the existing Multi-Purpose building, in order to become familiarized with the existing building
 - B. IMEG shall perform on-site assessment with the A/E team as noted in Task 1 to visually observe the conditions of the buildings to help develop Tier 1 analysis.
 - C. IMEG shall prepare Tier 1 Assessment and Preliminary Report as identified in proposal scope of work.
 - D. We propose one (1) virtual meeting with the District to review our findings and ask any questions as identified in the project schedule.
3. Task 3 – Program Validation & Test Fits:
 - A. HMC anticipates 3 virtual meetings with Site and/or District Staff during the development of program validation and "test fits." HMC anticipates these meetings to occur as identified in the project schedule.
 - B. After Stakeholder Meeting #1, HMC shall prepare a space program for the project, including the designation of any new structure/addition as needed.
 - C. Based on the Space Program approved by the District, HMC will develop "test fits" to identify new structure/addition and modernization to existing structure.

- D. Once WSHUHSD's approval of Test Fit Options has been obtained, HMC will develop cost estimate(s) of test fit options, facility assessment findings, and proposed seismic upgrades.
 - E. We propose one (1) virtual meeting with the District to review our draft cost estimates & any ask any questions as identified in the project schedule.
4. Prepare Final Site Analysis Deliverable:
- A. After completion and District approval of Task 1, Task 2, and Task 3, HMC shall prepare a Final Site Analysis Deliverable booklet containing the results of Tasks 1, 2 and 3. HMC shall provide this document in PDF electronic format to the District as noted in proposal.
 - B. The A/E team will meet with the district to present the booklet and discuss any comments the District may have. HMC anticipates this meeting to occur as identified in the project schedule.

ATTACHMENT "B"

[illegible]

<div> <div>Project: Site Analysis Phase Sch</div> <div>Date: Mon 5/4/20</div> </div>										
Task		Project Summary		Manual Task		Start-only		Deadline		
Split		Inactive Task		Duration-only		Finish-only		Progress		
Milestone		Inactive Milestone		Manual Summary Rollup		External Tasks		Manual Progress		
Summary		Inactive Summary		Manual Summary		External Milestone				

ATTACHMENT "C"

HMC Rate Schedule
Standard Hourly Rate by Professional Category
 (Not all categories need apply to this contract)

Description	Rates
Principal in Charge	\$ 235
Sr Project Manager/Sr Project Architect/Sr Technical Manager	\$ 210
Project Manager/Project Architect/Technical Manager	\$ 190
Project Leader/Technical Leader	\$ 170
Project Coordinator	\$ 140
Senior Construction Administrator	\$ 210
Construction Administrator	\$ 160
Construction Administration Support	\$ 105
Design Principal	\$ 235
Senior Project Designer	\$ 210
Project Designer	\$ 190
Design Leader	\$ 170
Designer II	\$ 125
Designer	\$ 105
Senior Interior Designer	\$ 210
Senior Interior Project Designer	\$ 210
Senior Estimator	\$ 205
Sustainable Design	\$ 205
Senior Specifications Writer	\$ 205
Specifications Writer	\$ 190
Visualization Arts	\$ 180
Agency Compliance	\$ 135
Senior Education Facilities Planner	\$ 195
Education Facilities Planner	\$ 160

These are the current hourly rates effective July 1, 2019 through June 30, 2020 and are subject to change one time annually effective July 1st

2020 VCA ENGINEERS SCHEDULE OF FEES

PROFESSIONAL STAFF

HOURLY RATE

Principal	\$210.00
Project Manager	\$180.00
Lead/Senior Project Engineer	\$165.00
Project Engineer	\$150.00
Engineer	\$140.00
BIM Modeler	\$120.00
Senior CADD Technician	\$100.00
CADD Technician	\$90.00
Clerical/Admin	\$65.00

EPTDESIGN

Hourly Rates

Principal	\$ 200.00
Senior Associate	\$ 145.00
Associate	\$ 120.00
Project Manager	\$ 100.00
Project Captain	\$ 85.00
Designer	\$ 75.00
Administrative	\$ 60.00

Rates are effective through 31 December 2020 and are subject to escalation each year thereafter.



HOURLY COMPENSATION RATES:

Principal	\$200.00
Associate Principal	\$175.00
Design/Project Manager	\$150.00
Associate Project Manager	\$135.00
Equipment Specialist	\$135.00
Job Captain	\$120.00
Administration	\$80.00



	<u>Hourly Rate</u>
Principal	\$ 250.00
MEP Cost Planner	\$ 180.00
Senior Cost Planner	\$ 175.00
Cost Planner	\$ 165.00
Administrative/Clerical	\$ 85.00

2020 STANDARD HOURLY RATES - SMEPT/MEQ/Cx
(rates adjusted annually)

Client Executive / Market Director	\$250
Project Executive	\$225
Senior Engineer Technical Specialist	\$210
Senior Engineer III	\$200
Senior Engineer II	\$185
Senior Engineer	\$160
Project Engineer II	\$150
Project Engineer	\$130
Engineer	\$120
Senior Designer Technical Specialist	\$190
Senior Designer III	\$180
Senior Designer II	\$165
Senior Designer	\$150
Project Designer II	\$140
Project Designer	\$130
Designer IV	\$120
Designer III	\$115
Designer II	\$110
Designer	\$100
Senior Medical Equipment Planner	\$195
Medical Equipment Planner	\$140
Sr. Commissioning Authority/Engineer	\$185
Project Commissioning Authority/Engineer	\$140
Commissioning Authority/Engineer	\$120
Senior Construction Administrator	\$155
Construction Administrator	\$125
Senior Virtual Design Coordinator	\$105
Virtual Design Coordinator	\$100
Virtual Design Technician	\$85
Administrative Assistant	\$75

*These rates are for staff located in the office providing the rates. Staff based in one of IMEG's other offices may have different billing rates. These rates can be provided upon request.



PROFESSIONAL FEE SCHEDULE

January 1, 2020

CLASSIFICATIONS	HOURLY RATE
Principal	\$185
Project Manager/Sr. Engineer/Sr. Designer	\$175
Designer	\$160
BIM / Revit	\$120
CAD	\$105
Administrative	\$80
 Commissioning (Cx)	 \$160

Budlong & Associates, Inc. will furnish monthly billings for all services rendered and supplies furnished in accordance with the above compensation provisions.

Rates subject to general revision 01/01/2021

ATTACHMENT "D"

ADDITIONAL SERVICES

The Additional Services described in this Attachment are not included in Basic Services and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. Additional Services may only be provided if authorized or confirmed in writing by the Owner and Architect.

Project Representation Beyond Basic Services:

1. **Revisions:** Making revisions in Drawings, Specifications, Project Manual or other documents when such revisions are:
 - a. Inconsistent with approvals or instructions previously given by the Owner;
 - b. Required by the enactment, revised interpretation, jurisdictional differences in interpretation, or revision of codes, laws or regulations subsequent to the preparation of such documents, or additional costs caused by delays resulting from such.
2. **Project Changes:** Providing services required because of changes in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction.
3. **Change Orders:** Preparing Drawings, Specifications and other documentation, analysis and supporting data, evaluating Contractor's proposals, and providing other services in connection with Change Orders and directives.
4. **Default:** Providing services made necessary by the default or termination of the Contractor, by defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner, Contractor or others performing services or providing work on the Project.
5. **Contractor's Submittals:** Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect.
6. **Contractor's RFI:** Responding to the Contractor's requests for information where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.
7. **Claims:** Providing services in connection with claims submitted by Contractor or others.
8. **Hearings, Proceedings:** Providing services in connection with the preparation for, or attendance at, public hearings or other meetings, or legal proceedings, except where the Architect is a party thereto.

Contingent Additional Services

1. **Existing or Other Facilities:** Providing services to investigate facilities or existing conditions or to make measured drawings thereof.
2. **Detailed Estimates:** Providing detailed estimates of Construction Cost.
3. **Providing Other Consultants:** Providing services of consultants, if any other than those specified as Basic Services under this Agreement.
4. **Client-Provided Front-End Specifications:** Providing services made necessary due to process or scope changes resulting from the inclusion of Client-provided front end specifications section.
5. **Post Completion/Extended Construction:** Providing services after the original completion date not due to the fault of the Architect/Engineer or after issuance to the Owner of the final Certificate for Payment, or thirty (30) days after the date of Substantial Completion of the Work, whichever is earlier.
6. **Project Hold/Resumption:** If the Project is placed on hold by the Owner for more than 90 days due to circumstances beyond the direct control of the Architect, the schedule shall be adjusted and the Architect's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Architect's services.
7. **Other Additional Services:** Providing any other services not otherwise included in this Agreement.

ATTACHMENT "E"

OTHER TERMS AND CONDITIONS

Retainer

An initial payment of zero (-0-) shall be made upon execution of this Agreement and credited to the fee earned at final payment.

Standard of Care

Architect shall perform its services consistent with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances ("Standard of Care"). Architect makes no warranties or guarantees, express or implied, under this Agreement or otherwise in connection with Architect's services. Notwithstanding any other representations made elsewhere in this Agreement or in the execution of the Project, this Standard of Care shall not be modified.

Cost Evaluation

Evaluations of Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work, and updated estimates of the Cost of the Work prepared by Architect, represent Architect's judgement as a design professional. It is recognized, however, that neither Owner nor Client has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by Architect.

Invoicing

The Architect shall invoice its time and reimbursable expenses monthly, and invoices are due and payable upon receipt. Amounts unpaid thirty (30) days after the receipt of the invoice will be subject to a service charge of eighteen percent (18%) per annum, pursuant to Civil Code §3320. Should the Owner fail to pay current invoices for more than sixty (60) days, the Architect may stop work on the Project until payment is received or terminate this Agreement with the Owner. The Architect shall not be held liable for any damages or losses that may result from such suspension or termination of services according to the provisions set forth in this proposal.

The Owner agrees to return disputed invoices within fifteen (15) days of that invoice with a clear description of the nature of the dispute.

Project Suspension/Resumption

If the Project is suspended by the Owner for more than thirty (30) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Architect's services. If the project is suspended by the Owner for more than ninety (90) consecutive days, the Architect may terminate the Agreement, by giving not less than seven (7) days written notice.

Project Scope Changes

When compensation is based on percentage of Construction Cost and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the progress payment schedule as set forth in this Agreement, based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received and/or awarded, the most recent preliminary estimate of Construction Cost or detailed estimate of Construction Cost for such portions of the Project. If the scope of the Project or of the Architect's services is increased, the Architect's fees shall be increased accordingly. If the scope of the Project and the Architect's services is reduced, the Architect's fee shall be reduced only as applicable to the portions of the Architect's services that were not performed as of the date of such changes, and that would be reduced by such change in scope.

Termination

Either the Owner or Architect may, for any reason, terminate this Agreement upon not less than seven (7) days written notice to the other party. In the event of termination, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due. Termination Expenses are in addition to compensation for Basic and Additional Services and shall be computed as five percent (5%) of the Basic Services and Additional Service Fees.

Owner's Responsibility

The Owner shall provide full information, including a program which sets forth the Owner's objectives, schedule, constraints, and budget, with reasonable contingencies and criteria. The Owner shall also furnish any reports, tests, surveys, permits, inspection or other documentation of information or consultants reasonably requested by the Architect. All of foregoing shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

Electronic Files

When requested by Owner, the Architect may transfer documents in electronic file formats to the Owner. The creation of the computer files shall be considered an additional service and the Architect shall be compensated on an hourly basis. By accepting these files/disks and the above stipulations, the Owner agrees to indemnify and hold the Architect harmless including its agents and all consultants against all claims, resulting from the use of these files and the information they contain, by the Owner or their own Consultants, Contractor, Subcontractors, suppliers and all others who receive these files or data. In no event shall the Architect be liable for any loss of profit or any consequential damages as a result of the Clients use or reuse of the electronic files. Owner understands and agrees the Architect relies on various forms of data transmission by an uninterrupted delivery of electrical and telephone service as a means of conducting Architect's business, including the Internet, and that the Internet may be used for intentional and malicious purposes, including transmission of electronic applications commonly referred to as computer "viruses" or "worms". While the Architect endeavors to eliminate the propagation of such applications through its systems and network, the Architect has no control over the actions of third-party internet service providers or users of the Internet or similar systems. Consequently, the Owner agrees to waive all claims against the Architect for the propagation of virus applications that may cause damage of any kind to the Owner unless the Architect was the creator of the virus.

Software and Data Exchange Protocols

The Owner and Architect shall, at the earliest practical moment, meet and delineate the types of software to be used on the Project and establish protocols, standards and tolerances as may be required for the proper execution of the Work. If applicable, the Owner and Architect shall work together to establish the permitted uses for all digital information, including the Model, to be exchanged on the Project. Such determination shall be set forth in the BIM Addendum, or other similar document, that shall be incorporated by reference into all agreements for services or construction of the Project.

Limitation of Liability

Due to the nature of the Services performed by the Architect, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to release and hold harmless the Architect from all liability for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes so that the total aggregate liability of the Architect and his or her subconsultants to all those named shall not exceed the Architect's total fee for services rendered on this Project. This release includes, but is not limited to, a release from any liability related to project site safety, injuries to any persons involved in construction and related to the contractor's means, methods, techniques, equipment and sequencing. Further, Architect shall have no responsibility for anticipating climate changes or protecting against natural disasters.

Dispute Resolution

In an effort to resolve any conflicts that arise during the design or construction of the Project or following the completion of the Project, the Owner and the Architect agree that all disputes between them shall first be attempted to be resolved between an in-person meeting between a representative of Owner and a principal of the Architect. Should this meeting not resolve the dispute in its entirety, any dispute arising out of or relating to this Agreement shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

The Owner and the Architect further agree to include a similar mediation provision in all agreements with independent contractors and consultant retained for the Project and require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

If the parties do not resolve a dispute through mediation, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction. Architect shall make no claim against Owner without first providing Owner with a written notice of damages and providing Owner thirty (30) days to cure before an action is commenced. The Owner shall make no claim either directly or in a third-party claim, against Architect unless the Owner has first provided Architect with a written certification executed by an independent architect currently practicing in California. This certification shall a) contain the name and license number of the certifier; b) specify each and every act or omission that the certifier contends is a violation of the standard of care expected of an architect performing architectural services under similar circumstances; and c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to Architect not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any judicial proceeding. No action shall be initiated against any individual employee or principal of Architect's firm, but only against the firm itself after following the protocol established in this provision.

Hazardous Materials

It is acknowledged by both parties that the Architect's scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event the Architect or any other party encounters asbestos or hazardous or toxic materials or toxic mold at the jobsite, or should it become known in any way that such materials at the jobsite, or any adjacent areas that may affect the performance of the Architect's services, the Architect may, at the Architect's option and without liability for consequential or any other damages, suspend performance of services on the project until the Owner retains appropriate specialist consultant(s) or contractor(s) to identify, abate, and/or remove the asbestos or hazardous or toxic materials, and warrant the jobsite is in full compliance with the applicable laws and regulations.

Assignment

Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party.

Consequential Damages

The Architect and the Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement, including but not limited to damages related to delays. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination.

LEED Certification

If required within the attached scope of work, the Architect shall make every professional effort, within its reasonable control consistent with industry standards, to obtain LEED Certification. In recognition of the fact the LEED Certification depends on other parties that the Architect cannot control, the Owner agrees that the Architect cannot warrant, represent or guarantee that LEED Certification will be subsequently awarded. In addition, any building simulation analysis performed as part of the services provided reflects the Architect's best judgment as a design professional familiar with the industry but cannot be assumed to be an accurate portrayal of, and may vary from, actual building performance.