

Agenda Item:	II A: Action Item
Date:	March 21, 2024
To:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (“ <b>MPS</b> ”) Board of Directors (the “ <b>Board</b> ”)
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead(s):	Patrick Ontiveros, General Counsel & Director of Facilities Mustafa Sahin, Project Manager Katrina Tomas, Assistant Project Manager
RE:	Approval of Silver Creek Modular to Provide Modular Design Services for the Magnolia Science Academy—5 (“ <b>MSA-5</b> ”) New Construction Project at 7111 Winnetka Street

1. **Action Proposed:**

MPS Staff recommends and moves that the MPS Board of Directors approve the selection of Silver Creek Modular (“**SCM**”) to provide modular design services for MSA-5’s new construction project at 7111 Winnetka Ave in Winnetka (the “**Project**”), and further approve that MPS Staff be authorized to negotiate and sign a professional services contract, in substantially the form of attached Exhibit A, for said services in such form as MPS Staff may deem appropriate and in the best interests of MPS.

2. **Purpose:**

The purpose of this proposed action is to approve the selection of SCM to provide modular design services for the Project. Building the Project using modular construction (that is, fabricating the buildings in parts at the factory and then later assembling them on-site) instead of traditional on-site construction will save time and money on the Project.

The Project will be funded with the proceeds of a Charter School Facilities Program (“**CSFP**”) award from the Office of Public School Construction (“**OPSC**”).

3. **Background:**

***Acquisition of Winnetka Ave Property***

At its December 19, 2021 meeting, the MPS Board approved MPS signing a purchase and sale agreement (“**PSA**”) for the purchase of the 7111 Winnetka Ave Property. Escrow for the purchase and sale of the Property was opened on December 22, 2021. At the June 16th meeting the Board approved a loan from CLI Capital to fund the acquisition of the Property.

MPS assigned to MPM Sherman Winnetka LLC (“**Winnetka LLC**”) the right to acquire and take title to the Property with a loan from CLI Capital. Winnetka Ave LLC is a subsidiary of Magnolia Properties Management, Inc., a 501(c)(3) support corporation. Concurrent with the

foregoing assignment, MPS entered into a lease for the Property with Winnetka Ave LLC. Escrow on the Property closed on October 21, 2022.

### ***CSFP Award***

MPS Staff applied for funding to the OPSC’s CSFP program during the application period held from May 2, 2022 to June 3, 2022. CSFP provides funding to charter schools for new school facilities. On October 26, 2022, the State Allocation Board (“**SAB**”) approved a preliminary apportionment in the amount of \$50,838,000. Awards made by CSFP are 50% loan and 50% grant. The loan portion is paid back by the award recipient and is amortized over 30 years. The CSFP award will be used to construct a new campus for MSA-5 which is currently co-located with MSA-1 on MSA-1’s campus. To date, MPS has received approximately \$4 million in advance design funds from the award. MPS is in the process of submitting a request for an additional \$10 million in advance site acquisition funds.

### ***Architect of Record Selection & Division of the State Architect Submission***

The DLR Group (“**DLR**”) was selected as the architect of record for the Project at the Board’s January 12, 2023 meeting. After working with MPS staff on the program and design intent, DLR prepared plans that it submitted to the Division of the State Architect (“**DSA**”).

### ***RFQ/P for Modular Design Services***

Due to projected construction cost overruns, Staff decided to pivot to consider other delivery options, including modular / prefab construction. Accordingly, working with Jim Bush, Staff contacted multiple modular construction companies to assess their capacity and interest in the Project and their schedule and budget projects. After speaking with numerous vendors, Staff determined with the assistance of its construction manager, Gateway Science & Engineering (“**GSE**”), that modular construction could save time and money without sacrificing quality. Of the vendors that Staff interviewed, SCM was the only one that represented that it could closely mimic the original DLR design.

On January 11, 2024 Staff issued a Request for Qualifications / Proposals (“**RFQ/P**”) for modular design services. Staff published it on its website and sent it directly to a number of modular vendors including Enviroplex, AMS, Silver Creek Modular, and iMod. The RFQ/P is attached as Exhibit B. Responses were due January 23, 2024. Staff received two (2) responses by the due date; one from Silver Creek Modular (“**SCM**”) and one from iMod Systems (“**iMod**”). Copies of the responses are attached as Exhibits C and D, respectively.

Staff assembled a Selection Committee, consisting of home office staff, the MSA5 principal, GSE, Jim Bush and DLR, to review the responses and interview the two candidates. The Committee interviewed the two candidates on February 21, 2024. In order to make an informed decision the Committee decided to visit projects constructed by each. Select Committee members and Board member Dr. Yapanel visited the iMod project at Gateway high school in Northern California. Select Committee members and Board member Sandra Covarrubias visited the

Beaumont High School project constructed by SCM. The Beaumont HS project consisted of two substantially identical buildings

4. **Analysis & Impact:**

Based on each vendor's response to the RFQ/P, the Selection Committee recommends that the Board approve SCM as the vendor to provide modular design services for the Project. The rationale for that recommendation is set forth below.

**Ability to Retain the DLR Design**

SCM is able to retain most of the original DLR Design. While SCM does have a "PC" for its modular classrooms which is a standardized design that DSA has already reviewed and approved, SCM is able to manufacture spaces that deviate from that PC design. SCM prepared a conceptual plan and overlaid it on the existing DLR Design. See page 15 of Exhibit C. iMod, on the other hand, cannot deviate from the standard footprint of its classrooms and so the overall design of the Project classroom building would deviate from the original DLR Design. See page 10 of Exhibit D.

**Financial Soundness**

Both vendors recently went through a bankruptcy: SCM in April 2023 (formerly known as Silver Creek Industries) and iMod in October 2021 (formerly known as Intermodal Structures Inc.). The current CEO of SCM is a partial owner while the remainder is owned by the Webb Companies, which is an established construction and development company. As a new company, SCM has new management in place. Its CEO, Steve Pontell, has a background in affordable housing development. Reed Walker is the new CEO of iMod. His partner in the new company is Victor Zayas, the Chief Executive Officer of Earthquake Protection Services. Notably iMod has stated that it would be willing to defer payment until MPS receives the complete CSFG Award monies. If true, MPS would save significant financing costs if it went with iMod. On balance, both iMod and SCM are sufficiently financially sound for purposes of the Project.

**History**

Silver Creek Industries was founded in 2004 and has completed more than 1,000 projects in the education, commercial, medical, military, government and multi-family housing markets. iMod, before its bankruptcy was known as Intermodal Structures, Inc., and had been around since 2014. Significantly, iMod, including its predecessor, has never built a complete campus despite being in business many years.

While it is a new company separate from the one that went bankrupt, SCM does retain the original facility and plant in Perris where it performs its manufacturing. Post bankruptcy it completed the project at Beaumont High School which Committee members visited on March 11th. iMod also retains its original factory and plant which is located in Vallejo (Northern California).

## Reference Checks

GSE, MPS’s construction manager, SCM’s reference checks generally had positive feedback for SCM’s performance and its product. GSE reached out to iMod’s references but to date none has responded to the queries.

When the Selection Committee visited the iMod project at Gateway High School in [-], numerous issues were identified by the occupants, including failure to adequately cool the classrooms. Unfortunately, iMod had not checked on this project in advance of the Selection Committee visiting the campus.

## Schedule

Both iMod and SCM, in their RFQ/P response, represented that they could each meet MPS’s desired schedule for completion and occupancy. It should be noted that the schedule depends on 3rd parties that may not fully cooperate with the timeline, most notably DSA.

The schedule prepared by GSE in collaboration with SCM, attached as Exhibit E, illustrates that there is a path to completion in time for a fall 2025 occupancy.

## Budget

Both iMod and SCM, in their RFQ/P response, provided proposed budgets for the design services that are the subject of the RFQ/P. SCM’s design services are substantially less than iMod’s. SCM’s proposal for design services is for \$358,000. iMod’s proposal is for \$708,000. Both also provided rough order of magnitude cost estimates for the construction portion of the Project. iMod’s cost estimate is \$19,877,062 while SCM’s is \$23,622,886. MPS Staff and GSE believe that at least \$3.5 million, and possibly more, can be saved by using SCM and modular fabrication as illustrated in the following budgets presented by GSE at the December 14, 2023 Board meeting.

	Original DLR Design with Site Built	Silver Creek Design with Factory Built
<b>Project Costs</b>		
<b>Acquisition Costs</b>	\$ 10,434,239.00	\$ 10,434,239.00
<b>Magnolia Soft Costs</b>	\$ 3,600,000.00	\$ 3,600,000.00
<b>Owner's Contingency</b>	\$ 2,000,000.00	\$ 2,000,000.00
<b>Financing Costs (CLI Capital)</b>	\$ 1,910,934.00	\$ 1,910,934.00
<b>Financing Costs (Banc of California)</b>	\$ 1,121,172.00	\$ 1,121,172.00
<b>Erikson Hall payment total</b>	\$ 296,577.00	\$ 296,577.00
<b>CM Costs</b>	\$ 2,182,550.00	\$ 2,257,550
<b>Subtotal</b>	\$ 21,545,472.00	\$ 21,620,482.00
<b>Sitework</b>	\$ 5,578,060.00	\$ 4,952,486.00
<b>Classroom Bldg (CM)</b>	\$ 29,978,961.00	\$-

	Original DLR Design with Site Built	Silver Creek Design with Factory Built
<b>Project Costs</b>		
Classroom Bldg (Modular)	\$ -	\$ 24,638,886.00
Classroom Building Estimate FF&E	\$ -	\$ 2,012,782.00
Gym Bldg	\$ 7,614,279.00	\$ 6,385,103.00
Play Area	\$ -	\$ 219,400.00
FF&E	\$ 453,575.00	\$ 453,575.00
Miscellaneous	\$ -	\$ 50,000.00
<b>Subtotal</b>	<b>\$ 43,624,875.00</b>	<b>\$ 38,712,232.00</b>
<b>Total Est Development Cost w/ Gym</b>	<b>\$ 65,170,347.00</b>	<b>\$ 60,332,714.00</b>
State Award Amount	\$ 50,832,332.00	\$ 50,832,332.00
<b>Surplus/Deficit w/ Gym</b>	<b>\$ (14,338,015.00)</b>	<b>\$ (9,500,382.00)</b>
<b>Total Est Development Cost w/o Gym</b>	<b>\$ 57,556,068.00</b>	<b>\$ 53,947,611.00</b>
Available Fund	\$ 50,832,332.00	\$ 50,832,332.00
<b>Surplus/Deficit with Gym Deferral</b>	<b>\$ (6,723,736.00)</b>	<b>\$ (3,115,279.00)</b>
MSA-5 Contribution or Additional State Funds to Close Deficit	\$ 6,723,736.00	\$ 3,115,279.00
<b>Final Balance</b>	<b>\$ -</b>	<b>\$ -</b>

Even with a less expensive modular or factory built and deferral of the construction of the gymnasium, as reflected in the table above Staff projects that there will be a deficit. Staff will be seeking additional funding from OPSC both to close that deficit without dipping into MSA-5 reserves and to construct the gymnasium.

Because of the bidding requirements for the Project, MPS cannot lock in a vendor at this time for the manufacturing portion of the Project. MPS Staff and GSE are cautiously optimistic that when the Project goes out to bid, MPS will realize additional savings.

### Look and Feel of Existing Projects from Site Visits

The MPS Facilities Department first visited an iMod project on October 18, 2023. The project was at California State University Maritime Academy in Vallejo, California and consisted of six classrooms with an exterior hallway (single loaded corridor) arranged in a two story format. Subsequently, some Selection Committee members visited another iMod project located on a Long Beach Unified School District land. The facilities in Long Beach are not presently used as classrooms but rather are used as office space. Finally, on February 16, 2024 some Selection Committee members travelled to Sacramento to visit Gateway Higher Learning Academy. iMod's project there included 6 classrooms organized in a two story configuration. Pictures from the California State University Maritime Academy visit may be accessed via the following link: [California State University Maritime Academy](#). Pictures from the Gateway Higher Learning Academy visit may be accessed via the following link: [Gateway Higher Learning Academy](#).

On October 25, 2023 and prior to the issuance of the RFQ/P, MPS Staff with GSE visited Silver Creek’s project for Aspire Public Schools in Huntington Park (Aspire Antonio Maria Lugo Academy (TK-5)). MPS Staff liked the look and feel of the project—large classrooms, wide hallways, openings from the first floor classrooms to the courtyard. The Aspire staff noted that they enjoyed the building and have not had any problems with it aside from routine maintenance. Pictures may be accessed via the following link: [Aspire Huntington Park](#).

More recently, on March 11, 2024 MPS Staff toured the Beaumont High School project where SCM constructed two buildings—one delivered a year ago and one delivered two months ago. Pictures may be accessed via the following link: [Beaumont High School](#).

The overall impression that MPS Staff and the Selection Committee had was that the SCM buildings were more in line with the vision for the Project. The iMod classrooms are more rectangular in shape which gives the sense that the classrooms are smaller.

### **Experience with SCM in San Diego**

MPS did not have a positive experience with Silver Creek for the construction of the MSA-San Diego project. Complaints include lack of responsiveness, inability to meet schedule, lack of communication of regarding price. The management team at Silver Creek changed with the change of ownership. SCM understands that MPS has concerns with our prior experience and the quality of the Silver Creek buildings placed at MSA-San Diego. The CEO of SCM acknowledges the difficulties encountered with the MSA-San Diego project and has committed to not repeat the same difficulties with the Project, if selected. Significantly, MPS will have a construction manager on board to oversee SCM while MPS did not have a construction manager on board for the MSA-San Diego project.

### **Conclusion**

In conclusion, while the iMod product is less expensive than the SCM product and while iMod would be willing to defer payment until MPS receives its full State award, Staff and the Selection Committee have significant concerns about iMod, including the condition of the classrooms they built at the Gateway Higher Learning Academy campus and their lack of experience building a complete educational facility. The Selection Committee interviewed the vendors at the MPS home office on Staff and the Selection Committee, after performing significant due diligence on SCM, is comfortable that SCM can complete the Project such that MPS will save time and money and has a better chance of keeping the Project within the CSFP award.

In this first phase, MPS would hire SCM to provide design services in order to modularize the existing DLR design. The new drawings would then be submitted to DSA for review. MPS is required by California law to bid out the plans that are approved by DSA. Any company that can construct the building as approved in the drawings is able to bid on it. MPS and GSE expect that bidding will happen towards the end of 2024.

5. **Budget Implications:**

All costs related to the Project ultimately will be paid for with the proceeds from the CSFP award. However, the timing of receipt of the funds inevitably will require MPS to borrow in order to meet the target delivery date of July 2025. The cash flow projections for the Project are attached as Exhibit F and reflect the anticipated costs and cash needed for the Project. Revenue and expense projections for MSA-5, incorporating the cash flow projections, are attached as Exhibit G.

As the direction of the Project is further refined, including considering all value engineering options and alternative delivery methods, potential solutions for cost effective delivery will be presented to the Board. In the event the total project cost exceeds the award then MPS will have to make up the difference in some manner, probably through using school reserves. As the Project progresses, MPS Staff will report back to the Board about Project cost overruns, if any, and proposed measures for filling in the gap.

The CSFP Award is half grant and half loan so MSA-5 will be required to repay the loan portion commencing on the one year anniversary of the occupancy. Therefore, MPS Staff expects that it will commence repaying the loan of \$25,419,000 in August 2026

6. **Exhibits:**

Exhibit A.....Form of Design Services Agreement

Exhibit B.....RFQ/P

Exhibit C.....Silver Creek Modular RFQ/P Response

Exhibit D.....iMod RFQ/P Response

Exhibit E.....SCM Schedule

Exhibit F .....Cash Flow Projections – Project Costs

Exhibit G.....Cash Flow Analysis – MSA-5 Revenues and Expenses



## *Exhibit A*

# *Form of Design Services Agreement*



# ARCHITECTURAL SERVICES AGREEMENT

This AGREEMENT is made and entered into this [REDACTED] day of [REDACTED] in the year 2024 by and between MAGNOLIA PUBLIC SCHOOLS, hereinafter referred to as “OWNER” and [REDACTED], hereinafter referred to as “ARCHITECT.” This AGREEMENT shall include all terms and conditions set forth herein. The OWNER and the ARCHITECT are sometimes referred to herein individually as a “PARTY” and collectively as the “PARTIES.” This AGREEMENT is made with reference to the following facts:

**WHEREAS**, OWNER desires to obtain architectural services for the [REDACTED], hereinafter referred to as the “PROJECT”; and

**WHEREAS**, ARCHITECT is fully licensed to provide architectural services in conformity with the laws of the State of California;

**NOW, THEREFORE**, the PARTIES hereto agree as follows:

## **ARTICLE I - ARCHITECT’S SERVICES AND RESPONSIBILITIES**

1. The ARCHITECT’s services shall consist of those services performed by the ARCHITECT, ARCHITECT’s employees and ARCHITECT’s consultants, as enumerated in Articles II and III of this AGREEMENT.

2. The ARCHITECT’s services shall be performed in a manner which is consistent with professional skill and care and the orderly progress of the work. The ARCHITECT represents that it will follow the standards of its profession in performing all services under this AGREEMENT. The ARCHITECT shall submit for the OWNER’s approval a schedule for the performance of the ARCHITECT’s services. The schedule may be adjusted as the PROJECT proceeds by mutual written agreement of the PARTIES and shall include allowances for time required for the OWNER’s review and for approval by authorities having jurisdiction over the PROJECT. The time limits established by this schedule shall not, except for reasonable cause, be exceeded by the ARCHITECT.

3. The schematic design, design development and construction document services covered by this AGREEMENT shall be completed and submitted to the OWNER in accordance with the schedule of milestones set forth in Exhibit “B” of this AGREEMENT. Failure to meet the required milestones set forth in Exhibit “B” shall result in the ARCHITECT being assessed liquidated damages in the amounts set forth in Exhibit “B.”

4. If the PROJECT includes the replacement or repair of more than 25% of a roof or the replacement or repair of a roof that has a total cost of more than \$21,000, the ARCHITECT shall comply with the requirements set forth in Public Contract Code section 3000, et seq., including signing the required certification.

5. The ARCHITECT has been selected based on ARCHITECT’s knowledge of California charter schools and ARCHITECT’s knowledge of the educational system for funding

and construction and is thoroughly familiar with the requirements of the Charter School Facilities Program and funding, Office of Public School Construction (OPSC), DSA for approvals of plans and specifications, and of the educational requirements that are applicable to a charter school project.

6. The ARCHITECT shall coordinate its services with the Contractor, Project Inspector, its consultants and other parties to ensure that all requirements under DSA's Inspection Card (Form 152) and any subsequent revisions, supplements or updates thereto issued or required by DSA, or any other/alternate processes are being met in compliance with DSA requirements and in compliance with the PROJECT schedule. The ARCHITECT and its consultants shall take all action necessary as to not delay progress in meeting any DSA requirements. The ARCHITECT shall meet all requirements set forth in DSA's Construction Oversight Process Procedure (PR 13-01) and any subsequent revisions, supplements or updates thereto issued or required by DSA. Any references to the DSA requirements, DSA forms, documents, manuals applicable to the PROJECT shall be deemed to include and incorporate any revisions or updates thereto.

## **ARTICLE II - SCOPE OF ARCHITECT'S SERVICES**

1. The ARCHITECT shall provide to the OWNER, on the terms herein set forth, all of the architectural, design and/or engineering services necessary to complete the PROJECT. The ARCHITECT's services shall include those described in this AGREEMENT, and include all structural, civil, mechanical and electrical engineering and landscape architecture services and any other services necessary to produce a reasonably complete and accurate set of "Construction Documents" defined as including, but not limited to, the following: The contract between the OWNER and the "Contractor" awarded the PROJECT (the "Contract"), general and supplementary conditions of the Contract between the OWNER and Contractor, drawings, specifications, Addenda, Revisions and other documents listed in the Contract, and modifications issued after execution of the Contract between the OWNER and Contractor.

2. The ARCHITECT shall assist the OWNER in obtaining required approvals from governmental agencies (for both on and off-site approvals) and any other entities including, but not limited to, those responsible for electrical, gas, water, sanitary or storm sewer, telephone, cable/TV, internet providers, public utilities, the fire department, as well as the County Health Department, California Department of Education ("CDE"), the OPSC, State Water Resources Control Board (SWRCB), and DSA. If necessary, the ARCHITECT shall secure preliminary agency approvals and notify the OWNER in writing as to the actions the OWNER must take to secure formal approvals.

3. The ARCHITECT shall be responsible for determining the capacity of existing utilities, and/or for any design or documentation required to make points of connection to existing utility services that may be located on or off the PROJECT site and which are required for the PROJECT.

4. The ARCHITECT shall provide a PROJECT description which includes the OWNER's needs, Program, and the requirements of the PROJECT prior to preparing preliminary designs for the PROJECT.

5. The ARCHITECT shall assist the OWNER in determining the phasing of the PROJECT that will most efficiently and timely complete the PROJECT. This includes phasing the PROJECT's construction and the inspection approval process so Incremental Approvals as required under DSA's Construction Oversight Process Procedure can be obtained during the completion of the PROJECT.

6. The ARCHITECT shall provide a written preliminary evaluation of the OWNER's PROJECT, schedule, and construction budget requirements. Such evaluation shall include alternative approaches to design and construction of the PROJECT, evaluation and application of any applicable educational specification requirements.

7. The ARCHITECT shall provide planning surveys, site evaluations and comparative studies of prospective sites, buildings, or locations.

8. The ARCHITECT shall attend regular PROJECT coordination meetings between the ARCHITECT, its consultants, the OWNER's representative(s), and other consultants of the OWNER during PROJECT development.

9. The ARCHITECT shall make revisions in Drawings, Specifications, the Project Manual, or other documents when such revisions are necessary due to the ARCHITECT's failure to comply with approvals or instructions previously given by the OWNER, including revisions made necessary by adjustments in the OWNER's Program or Budget as defined in Article IV.

10. The ARCHITECT shall provide services required due to programmatic changes in the PROJECT including, but not limited to, size, quality, complexity, method of bidding or negotiating the contract for construction. The ARCHITECT shall be prepared to prioritize and prepare a priority list to address critical Program and PROJECT needs as opposed to optional items that may be dropped if there is inadequate Budget for the PROJECT. In the case where there are Budget constraints, the ARCHITECT, shall prepare a priority list of critical programmatic needs and items that may be of lesser priority and review the Program with the OWNER.

11. The ARCHITECT shall provide services in connection with the work of a Construction Manager or separate consultants retained by OWNER.

12. The ARCHITECT shall provide detailed estimates of the PROJECT's Construction Costs at no additional cost to OWNER as further described in Articles V and VI.

13. The ARCHITECT shall provide PROJECT design data that may be necessary for use by the OWNER in the ownership and operating costs for the PROJECT.

14. The ARCHITECT shall provide interior design and other services required for, or in connection with, graphics and signage. All other interior design services are addressed under Article III as an Additional Service.

15. To the extent the ARCHITECT is not familiar or does not have experience with any buildings, materials, or systems designed for the PROJECT, the ARCHITECT shall visit the modular companies manufacturers' facilities to review the quality or status of items being produced for the PROJECT.

16. The ARCHITECT shall cooperate and consult with OWNER in use and selection of manufactured items on the PROJECT, including, but not limited to, paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials, and floor coverings. All such manufactured items shall be standardized to the OWNER's criteria to the extent such criteria do not interfere with PROJECT design standards of the manufactured buildings and are in compliance with the requirements of Public Contract Code §3400.

17. The ARCHITECT shall certify to the best of its knowledge pursuant to 40 Code of Federal Regulations §763.99(a)(7), that no asbestos-containing material was specified as a building material in any Construction Document for the PROJECT and will ensure that contractors provide the OWNER with a certification that all materials used in the construction of any school building are free from any asbestos-containing building materials ("ACBM's"). ARCHITECT shall include statements in the PROJECT's specifications that materials containing ACBM's shall not to be included or incorporated into the PROJECT. The ARCHITECT shall incorporate requirements into the PROJECT's specifications that indicate the above certification shall be part of the Contractor's final PROJECT submittal to the OWNER.

18. The ARCHITECT shall assist the OWNER in evaluating maintenance costs when any components, systems, or other options are available from the modular manufacturer. The ARCHITECT shall inform the OWNER if there are available grants and outside funding for the PROJECT.

19. The ARCHITECT shall prepare for and make formal presentations to the Governing Board of the OWNER, attend public hearings and other public meetings. The ARCHITECT shall be prepared to address concept and programmatic requirements for the PROJECT in such presentations, public hearings and public meetings. In addition, the ARCHITECT shall attend and assist in legal proceedings that arise from the errors or omissions of the ARCHITECT.

20. The duties, responsibilities and limitations of authority of the ARCHITECT shall not be restricted, modified, or extended without written agreement between the OWNER and ARCHITECT.

21. The ARCHITECT shall comply with all federal, state, city, and local laws, rules, regulations and ordinances that are applicable to the PROJECT.

22. The ARCHITECT shall have access to the work at all times.

23. The ARCHITECT shall commit the same PROJECT representatives from the commencement of services under this AGREEMENT through the completion of the Project Close-Out Phase. Any change in staff will require the written approval of the OWNER.

**24. Schematic Design Phase**

a. The ARCHITECT shall meet with the OWNER to understand and verify the OWNER's requirements for its Program. In the cases where a Program is furnished to the ARCHITECT by the OWNER, the ARCHITECT shall review the OWNER's Program and address if the Program, in the ARCHITECT's professional opinion, is realistic. If there

are issues with the Program that has been provided, as part of the Schematic Design Services, ARCHITECT shall rework the Program with the OWNER representative and the OWNER to establish a priority list of programmatic needs and items that may be within and outside of the OWNER's Budget. Once the Schematic Design, Program and Budget are reconciled with the OWNER representative, and the OWNER approves the Schematic Design, Program and Budget, the ARCHITECT may then move on to the Design Development Phase.

b. The ARCHITECT shall prepare, for approval by the OWNER, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of the PROJECT's components. The Schematic Design Documents shall comply with all applicable laws, statutes, ordinances, codes, rules, and regulations of the State and local governmental agencies and/or authorities having jurisdiction over the PROJECT, including, but not limited to, the OPSC, the CDE, DSA, the County Health Department and the local fire marshal/department, which are required for the final approval of the PROJECT's completed Construction Documents.

c. If directed by the OWNER at the time of approval of Schematic Design, the Construction Documents shall be prepared so that portions of the work of the PROJECT may be performed such that the construction of certain buildings, facilities, or other portions of the PROJECT may be staged or built under separate phases. Alternate construction schemes made by the OWNER subsequent to the Design Development Phase shall be provided as an additional service pursuant to Article III unless the alternate construction scheme arises out of the PROJECT exceeding the Budget constraint as a result of the ARCHITECT's services under this AGREEMENT.

d. The ARCHITECT shall submit a list of qualified engineers for the PROJECT for the OWNER's approval in conformance with Article XII. ARCHITECT shall ensure that each engineer places his or her name, seal, and signature on all drawings and specifications prepared by said engineer.

e. The ARCHITECT shall investigate existing conditions or facilities and verify drawings of such conditions or facilities.

f. The ARCHITECT shall perform Schematic Design services to keep the PROJECT within all Budget and scope constraints set by the OWNER, unless otherwise modified by written authorization by the OWNER.

g. The ARCHITECT shall prepare and submit to the OWNER a written estimate of the Construction Cost in conformance with Articles V and VI and shall advise the OWNER, in writing, of any adjustments to the estimate of Construction Cost.

## **25. Design Development Phase (Preliminary Plans)**

a. Upon approval by the OWNER of the Schematic Design services set forth above, the ARCHITECT shall prepare Design Development Documents based on the Schematic Design and based on the Program that has been approved by the OWNER. Such documents shall consist of site and floor plans, elevations, cross-sections, and other

documents necessary to depict the design of the PROJECT, and shall outline specifications to fix and illustrate the size, character, and quality of the entire PROJECT as to the Program requirements, landscapes, architecture, civil, structural, mechanical, and electrical systems, materials, and such other essentials as may be appropriate. The ARCHITECT shall prepare the Design Development Documents to comply with the requirements of all governmental agencies having jurisdiction over the PROJECT including, but not limited to, the OPSC, the CDE, DSA, the County Health Department and the local fire marshal/department.

b. The ARCHITECT shall prepare and submit to the OWNER a written estimate of the Construction Cost in conformance with Articles V and VI and shall advise the OWNER, in writing, of any adjustments to the estimate of Construction Cost.

c. The ARCHITECT shall perform all Design Development Services to keep the PROJECT within all Budget and scope constraints set by the OWNER, unless otherwise modified by written authorization by the OWNER.

**26. Construction Document Phase (Final Plans)**

a. The ARCHITECT shall prepare, from the Design Development Documents approved by the OWNER, Construction Documents (in an acceptable electronic format, such as Autodesk® Revit® and AutoCAD® Civil 3D®) including, but not limited to, all drawings and specifications for the PROJECT setting forth, in detail, the requirements for the construction of the entire PROJECT in conformity with all applicable (on and off site) governmental and code requirements including, but not limited to, the requirements of the OPSC, DSA, the local fire marshal/department, the County Health Department and any other governmental agency having jurisdiction over the PROJECT. All Construction Documents prepared by the ARCHITECT shall be properly coordinated including, but not limited to, the various disciplines, dimensions, terminology, details, etc.

b. The ARCHITECT shall prepare and file all documents required for, and obtain the required approvals of, all governmental agencies having jurisdiction over the PROJECT including, but not limited to, the OPSC, CDE, DSA, local fire marshal/department, City Design Review, County Health Department, Department of Public Works, and any other governmental agencies or authorities which have jurisdiction over the PROJECT. The OWNER shall pay all fees required by such governmental agencies and/or authorities. ARCHITECT shall, whenever feasible, establish beforehand the exact costs due any governmental agencies and/or authorities in order to submit such cost information to the OWNER so payments can be prepared by the OWNER.

c. The ARCHITECT shall identify all tests and special inspections on the Statement of Structural Tests and Special Inspections (Form DSA 103) that are required for the completion of the PROJECT as designed and submit such DSA 103 to DSA for approval along with all other Construction Documents. Upon DSA's approval of the Construction Documents, including the approved DSA 103 for the PROJECT, the ARCHITECT shall ensure that a copy of the approved DSA 103 for the PROJECT is provided to the OWNER, the Laboratory of Record, each Special Inspector working on the PROJECT, the Project Inspector and the Contractor.

d. When the ARCHITECT is preparing the Construction Documents, the ARCHITECT shall include provisions that require the Contractor to:

(1) Provide the OWNER with five (5) complete sets of operation manuals;

(2) Provide adequate training and consultation to OWNER personnel in the operation, testing, start-up, adjusting and balancing of mechanical, electrical, heating, air conditioning, and other systems installed by Contractor or its subcontractors; and

(3) Prepare a marked set of prints which indicate the dimensioned location of buried utility lines and which show changes in the work made during construction (“as-built documents”). All as-built documents shall be provided to the OWNER in a format approved by the OWNER.

e. The ARCHITECT shall immediately notify the OWNER of adjustments in previous estimates of the Construction Cost arising from market fluctuations or approved changes in scope or requirements.

f. The ARCHITECT shall perform Construction Document Services to keep the PROJECT within all Program scope constraints set by the OWNER, as well as approved Budget, unless otherwise modified by written authorization by the OWNER.

g. If the estimated PROJECT Construction Cost exceeds the Budget, the ARCHITECT shall make all necessary design revisions at no cost to the OWNER to comply with the Budget and scope set by the OWNER in conformance with Articles V and VI, unless otherwise modified by written authorization of the OWNER.

## **27. Bidding & Award Phase**

a. The ARCHITECT, following the OWNER’s approval of the Construction Documents and of the latest estimate of Construction Cost, shall assist the OWNER in obtaining bids and awarding the Contract for the construction of the PROJECT.

b. The ARCHITECT shall prepare all the necessary bidding information and bidding forms required to bid the PROJECT. The ARCHITECT shall also assist the OWNER with the preparation of the Contractor’s Contract form, the general conditions, the supplementary conditions, and all other contract documents necessary to bid the PROJECT and award a complete Contract to the lowest responsible responsive bidder. The OWNER will provide the standard general conditions and supplementary conditions that must be incorporated into the Contract with the Contractor. The ARCHITECT shall review the general conditions, supplementary conditions, and all other contract documents provided by the OWNER for incorporation into the Contract with the Contractor and shall coordinate such documents with all other Construction Documents that are prepared by the ARCHITECT pursuant to this AGREEMENT. The ARCHITECT’s coordination obligations under this Section include, but are not limited to, verifying that any and all bid instructions and requirements set forth in the specifications prepared by the ARCHITECT

are also set forth in the Instructions to Bidders and the Bid Form that are distributed to the bidders in connection with the PROJECT. The ARCHITECT shall prepare and sign all written Addendums that are necessary to incorporate changes into the DSA approved Construction Documents prior to the award of the PROJECT. The ARCHITECT shall assist the OWNER in distributing all Addendums to each bidder that has obtained a set of the DSA approved Construction Documents. The ARCHITECT shall ensure that all Addendums are submitted to and approved by DSA prior to certification of the PROJECT.

c. The ARCHITECT shall deposit a reproducible set of Construction Documents including, but not limited to, all drawings and specifications for the PROJECT at a reprographics company specified by the OWNER for the bid and for printing of additional sets of the DSA approved Construction Documents during the PROJECT. In accordance with the requirements of this Section, the ARCHITECT shall forward all plans, drawings, specifications, record drawings, models, mock-ups, renderings and other documents (including all computer files) prepared by the ARCHITECT or the ARCHITECT's consultants during the course of the PROJECT to the reprographics company specified by the OWNER at no additional cost to the OWNER. The OWNER may request that such documents be delivered to the reprographics company selected by the OWNER in CADD, PLOT, TIFF or other format approved by the OWNER. For documentation purposes, one record set of the transmitted documents shall be placed on a CD (or other acceptable electronic media) properly labeled as the record set of documents transmitted to the OWNER. Reasonable costs for producing this record document shall be reimbursed to the ARCHITECT and ARCHITECT's consultants. ARCHITECT is also advised to make a record set of clash detection checks to record the clashes that are encountered on the set of documents distributed for future record purposes and this clash detection shall also be placed on the CD. This clash detection document is not a requirement but simply recommended.

d. Upon the OWNER's request, the ARCHITECT shall recommend an acceptable plan room, or blueprinting shop, or, in the alternative, ARCHITECT shall print the necessary bidding information, Contract forms, general conditions, supplementary general conditions and all other Construction Documents necessary to bid the PROJECT and award a complete Contract to a successful bidder and shall deliver/distribute such printed copies to all interested bidders.

e. The ARCHITECT shall make subsequent revisions to drawings, specifications, and other DSA approved Construction Documents that result from the approval of any substitution request, RFI, or submittal. All Revisions shall be prepared in writing and signed by the ARCHITECT. The ARCHITECT shall ensure that all Revisions are submitted to and approved by DSA prior to certification of the PROJECT.

f. If the lowest bid exceeds the Budget (or if a complete detailed estimate is prepared by a certified professional cost estimator from Construction Documents that are at least 90% completed) for the PROJECT, the ARCHITECT, in consultation with, and at the direction of, the OWNER, shall provide such modifications in the Construction Documents as necessary to bring the cost of the PROJECT within its Budget as set forth in Articles V and VI.



28. **Construction Phase**

a. Prior to the start of construction, the ARCHITECT shall certify that the following documents have been submitted to DSA:

(1) Contract Information Form DSA-102.

(2) Inspector Qualification Record Form DSA-5 should be submitted 10 days prior to the time of starting construction.

b. The Construction Phase will commence with the award of the Construction Contract to Contractor.

c. The ARCHITECT shall reproduce five (5) sets of Construction Documents and all progress prints for the OWNER's and the OWNER's consultant's use at the ARCHITECT's expense.

d. The ARCHITECT shall provide technical direction to a full-time Project Inspector employed by, and responsible to, the OWNER, as required by applicable law. The ARCHITECT shall direct and monitor the work of the Laboratory of Record as required by applicable law and provide code required supervision of Special Inspectors not provided by the Laboratory of Record. Upon the OWNER's award of a Construction Contract to the Contractor, the ARCHITECT shall obtain the necessary Project Inspection Cards ("PIC") (Form DSA 152) from the DSA that are needed for the Project Inspector's use in approving and signing off work on the PROJECT as it is completed by the Contractor. The ARCHITECT shall verify that the Project Inspector has the appropriate amount of PIC's that are needed for the inspection and completion of the entire PROJECT prior to the commencement of any work by the Contractor on the PROJECT. The ARCHITECT shall provide the Project Inspector, Laboratory of Record and each Special Inspector with a copy of the DSA approved Construction Documents including, but not limited to, the approved Statement of Structural Tests and Special Inspections (Form DSA 103) prior to the commencement of any work on the PROJECT at the ARCHITECT's expense.

e. The ARCHITECT shall meet with the Project Inspector, OWNER, Contractor, Laboratory of Record and Special Inspectors as needed throughout the completion of the PROJECT to verify, acknowledge and coordinate the testing and special inspection program required by the DSA approved Construction Documents.

f. The ARCHITECT shall prepare Interim Verified Reports (Form DSA 6-AE) and submit such Interim Verified Reports to DSA, the Project Inspector and the OWNER prior to the Project Inspector's approval and sign off of any of the following sections of the PROJECT's PIC's as applicable:

- (1) Initial Site Work and Foundations Preparation;
- (2) Vertical and Horizontal Framing;
- (3) Appurtenances;
- (4) Finish Site Work and Other Work;

(5) Final.

If the ARCHITECT has delegated responsibility for any portion of the PROJECT's design to other engineers, the ARCHITECT shall ensure that such engineers submit the necessary Interim Verified Reports (Form DSA 6-AE) to DSA, the Project Inspector and the OWNER during the course of construction and prior to the Project Inspector's approval and sign off of the above sections of the DSA Form 152 as they relate to the portions of the PROJECT that were delegated to such engineers.

g. The ARCHITECT shall be responsible for reviewing and ensuring, on a monthly basis, that the Contractor is maintaining an up-to-date set of as-built documents which will be furnished to the OWNER upon completion. The ARCHITECT shall review the as-built documents prepared by the Contractor on a monthly basis and report whether they appear to be up to date, based upon the ARCHITECT's observations of the PROJECT. If it appears the as-built documents are not being kept up to date by the Contractor, the ARCHITECT shall recommend to the OWNER, in writing, an appropriate withholding from the Contractor's monthly payment application to account for the Contractor's failure to maintain such as-built documents.

h. The ARCHITECT will endeavor to secure compliance by Contractor with the Contract requirements, but does not guarantee the performance of the Contractor's Contract.

i. The ARCHITECT shall provide general administration of the Construction Documents including, but not limited to, the following:

(1) Visiting the PROJECT site to maintain such personal contact with the PROJECT as is necessary to assure the ARCHITECT that the Contractor's work is being completed, in every material respect, in compliance with the DSA approved Construction Documents (in no case shall the number of visits be less than once every week or as necessary to observe work being completed in connection with each block/section of a PIC so the ARCHITECT can verify that the work does or does not comply with the DSA approved Construction Documents, whichever is greater) in order to:

i. Become familiar with, and to keep the OWNER informed about, the progress and quality of the portion of the work completed and for the preparation of the weekly written reports the ARCHITECT will prepare and submit to the OWNER for its review;

ii. Become familiar with, and to keep DSA and Project Inspector informed about, the progress and quality of the portion of the work completed and for the preparation of the necessary Interim Verified Reports the ARCHITECT will prepare and submit to DSA and Project Inspector as necessary for the timely inspection of the PROJECT and for the approval and sign off of each block/section of the PIC's during the course of the PROJECT's construction;

iii. Visit the location where the modular buildings are being manufactured on at least a monthly basis (or as otherwise mutually agreed upon by the PARTIES) during the manufacturing and assembly process to confirm the work is on schedule and in general conformance with the Construction Documents;

iv. Endeavor to guard against nonconforming work and deficiencies in the work;

v. Determine if the work is being performed in a manner indicating that the work, when fully completed, will be in accordance with the approved DSA Construction Documents;

vi. Attend weekly on-site construction meetings, and being otherwise available to the OWNER and the Project Inspector for site meetings on an “as-needed” basis;

vii. Examine Contractor applications for payment and to issue certificates for payment in amounts approved by the necessary parties; and

viii. Verify, at least monthly, in coordination with the Project Inspector, that all as-built documents are being updated pursuant to the Contract between the OWNER and the Contractor.

(2) Making regular reports as may be required by all governmental agencies or authorities having jurisdiction over the PROJECT;

(3) Reviewing schedules and shop drawings for compliance with design;

(4) Approving substitution of materials, equipment, and the laboratory reports thereof for conformance to the OWNER’s standards subject to OWNER knowledge and approval;

(5) Responding to DSA field trip notes;

(6) Preparing Construction Change Documents for approval by DSA;

(7) Preparing change directives to the Contractor as needed or directed by the OWNER

(8) Preparing change orders for written approval by the OWNER;

(9) Making Punch List observations when the PROJECT reaches Substantial Completion;

(10) Determining date of Substantial Completion and the date of final completion of the PROJECT;

(11) Providing a color schedule of all materials for the PROJECT for the OWNER's review and approval;

(12) Assembling and delivering to the OWNER written guarantees, instruction books, diagrams, charts, and as-built documents that will be provided by the Contractor pursuant to the Contract between the OWNER and the Contractor;

(13) Issuing the ARCHITECT's Certificate of Substantial Completion, Certificate of Completion and final certificate for payment; and

(14) Providing any other architectural services to fulfill the requirements of the Construction Documents and this AGREEMENT.

j. ARCHITECT shall provide the OWNER with written reports, as necessary, to inform the OWNER of any problems arising during construction, changes contemplated as a result of each problem, and the progress of work.

k. The ARCHITECT, as part of the ARCHITECT's Basic Services, shall advise the OWNER of any deficiencies in construction following the acceptance of the work and prior to the expiration of the guarantee period of the PROJECT.

l. The ARCHITECT shall be the interpreter of the requirements of the Construction Documents and advise the OWNER as to the performance by the Contractor thereunder.

m. The ARCHITECT shall make recommendations to the OWNER on claims relating to the execution and progress of the work and all matters and questions relating thereto. The ARCHITECT's recommendations in matters relating to artistic effect shall be consistent with the intent of the Construction Documents.

n. The ARCHITECT shall advise the OWNER to reject work which does not conform to the Construction Documents. The ARCHITECT shall promptly inform the OWNER whenever, in the ARCHITECT's opinion, it may be necessary to stop the work to avoid the improper performance of the Construction Agreement. The ARCHITECT has authority to require additional inspection or testing of the work in accordance with the provisions of the Construction Documents, whether work is fabricated, installed, or completed.

o. The ARCHITECT shall not issue orders to the Contractor that might commit the OWNER to extra expenses, or otherwise amend the Construction Documents, without first obtaining the written approval of the OWNER.

p. The ARCHITECT shall be the OWNER's representative during construction and shall advise and consult with the OWNER. The ARCHITECT shall have authority to act on behalf of the OWNER only to the extent provided in this AGREEMENT, unless otherwise modified in writing.

q. The ARCHITECT shall prepare all documents and/or drawings made necessary by errors and omissions in the originally approved drawings or specifications, and such modifications therein as may be necessary to meet unanticipated conditions encountered during construction, at no additional cost or expense to the OWNER. In addition, the ARCHITECT shall, at no additional cost, provide services made necessary by defect or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the ARCHITECT and promptly reported to the OWNER and Contractor, but which ARCHITECT failed to do.

r. The ARCHITECT shall examine, verify, and approve the Contractor's applications for payment and issue certificates for payment for the work and materials provided by the Contractor which also reflect the ARCHITECT's recommendation as to any amount which should be retained or deducted from those payments under the terms of the Construction Documents or for any other reason. The ARCHITECT's certification for payment shall constitute a representation to the OWNER, based on the ARCHITECT's observations and inspections at the site, that the work has progressed to the level certified, that quality of the work is in accordance with the DSA approved Construction Documents, that the as-built documents are up to date, and that the Contractor is entitled to payment in the amount certified.

s. The ARCHITECT shall review and approve, or take other appropriate action, upon the Contractor's submittals of shop drawings, product data, and samples for the purpose of checking for conformance with the Construction Documents. The ARCHITECT's actions shall not delay the work, but should allow for sufficient time, in the ARCHITECT's professional judgment, to permit adequate review. The ARCHITECT shall ensure that all deferred approval submittals are resolved and approved by DSA prior to incorporation in the PROJECT.

t. After the PROJECT has been bid, all changes to the DSA approved Construction Documents shall be made by means of a Construction Change Document ("CCD") unless otherwise approved by the OWNER in writing. The ARCHITECT shall be responsible for preparing each CCD related to the PROJECT and shall determine which changes affect the Structural, Access or Fire & Life Safety (collectively "SAFLS") portions of the PROJECT and ensure that such changes are documented and implemented through a written CCD-Category A (Form DSA 140). All CCD-Category A's must be submitted to DSA by the ARCHITECT with all supporting documentation and data and must be approved by DSA before such work can commence on the PROJECT. The ARCHITECT shall obtain the OWNER's approval of all CCD-Category A's before they are submitted to DSA for review and approval. All other changes to the DSA approved Construction Documents not involving SAFLS portions of the PROJECT are not required to be submitted to DSA unless DSA specifically requires such changes to be submitted to DSA in the form of a written CCD (Form DSA 140) inclusive of all supporting documentation and data. Changes that are not determined by the ARCHITECT and/or DSA to require documentation through an approved CCD-Category A/B shall be documented through an alternative CCD form or other document approved by the OWNER or required by DSA.

u. The ARCHITECT shall prepare and issue change directives to the Contractor when directed by the OWNER to complete the work that is necessary due to the Contractor's failure to complete the PROJECT in accordance with the DSA approved Construction Documents. The ARCHITECT shall provide the Project Inspector with a copy of the change directive and direct the Project Inspector to inspect the work as it is completed in accordance with the change directive.

v. All changes to the DSA approved Construction Documents, whether set forth in a CCD, change directives, or any other document approved by the OWNER, shall be incorporated into change orders by the ARCHITECT for the OWNER's approval. Each change order shall identify: (1) the description of the change in the work; (2) the amount of the adjustment to the Contractor's Contract sum, if any; and (3) the extent of the adjustment in the Contractor's Contract Time, if any. The ARCHITECT shall prepare change orders, with supporting documentation and data, for the OWNER's review in accordance with the Construction Documents, and may authorize minor changes in the work not involving an adjustment in the contract sum or an extension of time. The ARCHITECT shall evaluate and make written recommendations regarding Contractor's proposals for possible change orders.

w. The ARCHITECT shall, at the ARCHITECT's expense, prepare a set of reproducible record drawings showing significant changes in the work made during construction based on the marked-up prints, drawings and other data furnished by the Contractor to the ARCHITECT.

x. The ARCHITECT shall inspect the PROJECT to determine the date or dates of Substantial Completion and final completion. The ARCHITECT shall receive and forward to the OWNER for the OWNER's review all written warranties and related documents required by the Construction Documents, and issue a final certificate for payment upon Contractor compliance with the requirements of the Construction Documents. In the event the approved schedule for the PROJECT has been exceeded due to the fault of the Contractor, the ARCHITECT shall issue a written notice to the OWNER and the Contractor evaluating the cause of the delay(s) and shall advise the OWNER and the Contractor of the commencement of liquidated damages under the Contract between the OWNER and Contractor.

y. The ARCHITECT shall provide written evaluation of the Contractor's performance under the requirements of the Construction Documents when requested in writing by the OWNER. When the ARCHITECT has actual knowledge of any defects, errors, or deficiencies with respect to the Contractor's performance on the PROJECT, the ARCHITECT shall provide the OWNER and the Contractor with written notification of such defects, errors, or deficiencies.

z. The ARCHITECT shall:

(1) Review all requests for information ("RFI"), submittals, and substitution requests that are submitted by the Contractor in connection with the PROJECT;

(2) Determine the data criteria required to evaluate requests for substitutions; and

(3) Be responsible for ensuring that all RFI's, submittals and substitution requests by the Contractor are responded to not later than fourteen (14) days, or as soon as the circumstances require.

aa. The ARCHITECT shall be responsible for gathering information and processing forms required by any applicable governing agencies and/or authorities having jurisdiction over the PROJECT including, but not limited to, the County Health Department, the local building departments, local fire departments, the OPSC, and DSA, in a timely manner and ensure proper close-out of the PROJECT.

bb. The ARCHITECT shall obtain the OWNER's approval of all CCD's immediately following the request for such changes by the Contractor or upon any other circumstances necessitating a change. Furthermore, the ARCHITECT shall maintain a log of all CCD's, change directives, change orders or any other OWNER approved form documenting changes to the DSA approved Construction Documents (the "Changes Log"), including status, for the OWNER's review and approval. The ARCHITECT shall submit the Changes Log to the OWNER with its monthly invoice. Submission of the Changes Log is a requirement for payments to the ARCHITECT during the course of construction.

cc. The ARCHITECT shall evaluate and render written recommendations within a reasonable time on all claims, disputes, or other matters at issue between the OWNER and Contractor relating to the execution or progress of the work as provided in the Contract between the OWNER and the Contractor. Under no circumstances should this evaluation take longer than 20 calendar days from the date the claim is received by the ARCHITECT.

dd. The ARCHITECT shall provide assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.

ee. The ARCHITECT shall review the list of minor defects, deficiencies, and/or incomplete items (hereinafter the "Punch List") and the fully executed Verified Report (Form DSA-6) that are submitted to the OWNER by the Contractor when the Contractor considers the PROJECT to be Substantially Complete. The ARCHITECT shall inspect the PROJECT, in conjunction with the Contractor, in order to verify the Contractor's Punch List, add any other items to the Punch List and to confirm that Substantial Completion has been reached on the PROJECT. In the event the Contractor does not submit a fully executed Verified Report with its proposed Punch List, the ARCHITECT shall reject the Contractor's Punch List, in writing, as premature. If Substantial Completion of the PROJECT is verified by the ARCHITECT and the required Verified Report has been submitted to the OWNER for review, the ARCHITECT shall finalize the Punch List and notify the Contractor in writing that all Punch List items must be corrected prior to acceptance of the PROJECT and final payment, and that all Punch List items must be completed within the duration

set forth in the Contract between the OWNER and the Contractor. The OWNER shall also be notified in writing of all Punch List items identified by the ARCHITECT and the Contractor. The ARCHITECT shall notify the OWNER when all Punch List items have been corrected by the Contractor for the OWNER's final acceptance of the PROJECT and final payment. In the event the Contractor fails to correct any Punch List item(s) within the duration set forth in the Contract between the OWNER and the Contractor, the ARCHITECT shall inform the OWNER of such default and provide the OWNER with a reasonable valuation of the cost to correct each outstanding Punch List item for deduction from the Contractor's final payment and/or retention. For purposes of this AGREEMENT, "Substantial Completion" shall mean the following five (5) conditions have been met: (1) all contractually required items have been installed with the exception of only minor and incomplete items on the Punch List; (2) All Fire/Life Safety Systems have been installed, and are working and signed off on the DSA Form 152 Inspection Card; (3) all building systems including mechanical, electrical and plumbing are functioning; (4) all other items DSA Form 152 Inspection Card requirements for the Project have been approved and signed off; and (5) the PROJECT is fit for occupancy and its intended use.

ff. Once the ARCHITECT has verified the Substantial Completion of the PROJECT, the ARCHITECT shall issue a Certificate of Substantial Completion to the Contractor and the OWNER. Upon the issuance of the Certificate of Substantial Completion, the ARCHITECT shall prepare and submit to DSA, Project Inspector and the OWNER a written Verified Report, on Form DSA 6AE, pursuant to Section 4-336 of Title 24 of the California Code of Regulations. The ARCHITECT shall also submit a signed Verified Report to DSA, Project Inspector and the OWNER upon any of the following events:

- (1) Work on the PROJECT is suspended for a period of more than one month;
- (2) The services of the ARCHITECT are terminated for any reason prior to the completion of the PROJECT;
- (3) DSA requests a Verified Report.

gg. The ARCHITECT and its consultants shall verify that all defective, deficient, or incomplete work identified in any Notice(s) of Deviation or similar notice(s) issued by the ARCHITECT, Project Inspector, Special Inspector(s), Laboratory of Record and/or any governmental agency or authority, is fully corrected and closed before the ARCHITECT approves any final Punch List by the Contractor. As part of the ARCHITECT's Basic Services under this Section, the ARCHITECT shall direct the applicable Inspectors, Special Inspectors, and/or engineers on the PROJECT to visually verify that each defective, deficient and/or incomplete item of work referenced in each Notice of Deviation have been rectified and closed prior to the approval of the final Punch List and the issuance of any Certificate of Substantial Completion by the ARCHITECT. In the event the ARCHITECT and/or its consultants fail to verify that such work has been corrected by the Contractor before the ARCHITECT approves the final Punch-List and such work has in fact not been corrected, the ARCHITECT shall be responsible for



performing all the architectural and/or engineering services necessary, at no additional cost to the OWNER, to ensure such open and outstanding items in the Notice(s) of Deviation are addressed accordingly and that all work related to such notices is corrected in a manner acceptable to the OWNER and DSA.

**29. Project Close-Out**

a. Within thirty (30) days after the completion of the PROJECT's construction and the ARCHITECT's receipt of as-built documents from the Contractor, ARCHITECT will review the as-built documents prepared by the Contractor and revise the record drawings and specifications so that they include all material changes made necessary by CCD's, change directives, change orders, RFI's, change order requests ("COR's"), Bulletins, clarifications as noted by the Contractor in its as-built documents and/or any other OWNER approved document which details the changes that were made to the DSA approved Construction Documents. The ARCHITECT shall incorporate such changes into a complete AutoCAD as-built file, in the original, executable, software format, and PDF files, and provide all such documents, including five (5) hard copies, to the OWNER at no additional cost. In the event the Contractor fails to provide its as-built documents within 30 days of the PROJECT's completion, the ARCHITECT shall notify the OWNER, in writing, of the Contractor's failure and recommend the appropriate withholding from the Contractor's final payment under the Contract with the OWNER.

b. The ARCHITECT shall assist the OWNER in securing the delivery of any and all applicable documents described in Sections c and d below, to DSA for review prior to issuance of a "Certificate of Completion." The ARCHITECT shall submit all documents prepared by, or in control of, the ARCHITECT to DSA without delay.

c. During the period the PROJECT is under construction, the ARCHITECT shall certify that the following documents have been submitted to DSA:

- (1) Addenda, deferred approvals and revisions;
- (2) Copies of the Project Inspector's semi-monthly reports;
- (3) Construction deviation notices;
- (4) Copies of the laboratory reports on all tests or laboratory inspections as returned and done on the PROJECT;
- (5) Special inspection reports;
- (6) Construction Change Directives;
- (7) Copies of all the necessary PIC's which have been approved and signed off by the Project Inspector for the submission to and certification by DSA; and

(8) All other documents required to be submitted to DSA in accordance with Title 24 and the Construction Oversight Process Procedure set forth in DSA's PR 13-01.

The ARCHITECT shall notify the OWNER, in writing, if any of the above forms are not promptly submitted to DSA by the responsible parties. If necessary, the ARCHITECT shall assist the OWNER in obtaining the delivery of the above documents to DSA.

d. Upon the completion of all construction, including all Punch List items, the ARCHITECT shall assist the OWNER in securing the delivery of the following documents to DSA:

(1) Copy of the Notice of Completion.

(2) Final Verified Report Form DSA-6A/E certifying all work is 100% complete from the ARCHITECT, structural engineer, mechanical engineer, and electrical engineer.

(3) Final Verified Report Form DSA-6 certifying all work is 100% complete from the Contractor or Contractors, Project Inspector, and Special Inspector(s).

(4) Verified Reports of Testing and Inspections as specified on the approved drawings and specifications, i.e., Final Laboratory Report, Welding, Glued-Laminated Timber, etc.

(5) Weighmaster's Certificate (if required by approved drawings and specifications).

(6) Copies of the signature page of all Addenda as approved by DSA.

(7) Copies of the signature pages of all deferred approvals as approved by DSA.

(8) Copies of the signature pages of all Revisions as approved by DSA.

(9) Copies of the signature page of all applicable Construction Change Documents as approved by DSA.

(10) Verification by the Project Inspector that all items noted on any "Field Trip Notes" have been corrected.

The ARCHITECT shall notify the OWNER, in writing, if any of the above items are not promptly submitted to the ARCHITECT and/or the OWNER by the responsible parties for submittal to DSA. If necessary, the ARCHITECT shall assist the OWNER in obtaining the above documents for delivery to DSA.

### **ARTICLE III - ADDITIONAL ARCHITECT'S SERVICES**

1. The ARCHITECT shall notify the OWNER in writing of the need for additional services required due to circumstances beyond the ARCHITECT's control ("Additional Services"). The ARCHITECT shall obtain written authorization from the OWNER before rendering Additional Services. Compensation for all valid Additional Services shall be negotiated and approved in writing by the OWNER before such Additional Services are performed by the ARCHITECT. No compensation shall be paid to the ARCHITECT for any Additional Services that are not previously approved by the OWNER in writing. Additional Services may include:

a. Making material revisions in drawings, specifications or other documents when such revisions are required by the enactment or revision of laws, rules, or regulations subsequent to the preparation and completion of the Construction Documents;

b. Preparing drawings, specifications and other documentation and supporting data, and providing other services in connection with change orders required by causes beyond the control of the ARCHITECT which are not the result of the direct or indirect negligence, errors, or omissions on the part of the ARCHITECT;

c. Providing consultation concerning the replacement of work damaged by fire and furnishing services required in connection with the replacement of such work;

d. Providing services made necessary by the default of the Contractor, which does not arise directly or indirectly from negligence, errors, or omissions of ARCHITECT;

e. If the OWNER requests the PROJECT be let on a segregated basis after the completion of Design Development Phase where segregation does not arise from ARCHITECT exceeding the estimated Budget constraint, then plan preparation and/or contract administration work to prepare the segregated plans is an Additional Service subject to prior negotiation and written approval by the OWNER;

f. Providing contract administration services after the construction Contract time and any applicable float has been exceeded through no fault of the ARCHITECT, where it is determined that the fault is that of the Contractor, and liquidated damages are collected therefor. The ARCHITECT's compensation is expressly conditioned on the lack of fault of the ARCHITECT and payment will be made upon collection of liquidated damages from the Contractor. Payment of the ARCHITECT shall be made from collected liquidated damages; and

g. Providing any other services not otherwise included in this AGREEMENT or not customarily furnished in accordance with generally accepted architectural practice.

2. If authorized in writing by the OWNER, the ARCHITECT shall provide one or more PROJECT representatives to assist in carrying out more extensive representation at the site than is described in Article II. The PROJECT representative(s) shall be selected, employed, and directed by the ARCHITECT, and the ARCHITECT shall be compensated as agreed by the OWNER and ARCHITECT. Through the observations of such PROJECT representative(s), the ARCHITECT shall endeavor to provide further protection for the OWNER against defects and deficiencies in the work, but the furnishing of such PROJECT representation shall not modify the rights, responsibilities, or obligations of the ARCHITECT as described elsewhere in this

AGREEMENT. Such services shall be negotiated and approved in writing by the OWNER.

#### **ARTICLE IV - OWNER'S RESPONSIBILITIES**

1. The OWNER shall provide to the ARCHITECT information regarding requirements for the PROJECT, including information regarding the OWNER's objectives, schedule, and budget constraints, as well as any other criteria provided by the OWNER.

2. Prior to the Schematic Design Phase, the ARCHITECT shall prepare a current overall budget for the PROJECT which shall include the Construction Cost budget for the PROJECT. The overall budget shall be based upon the OWNER's objectives, schedule, budget constraints, and any other criteria that are provided to the ARCHITECT by the OWNER pursuant to Article IV, Section 1, above. The OWNER shall approve the Construction Cost budget prepared by the ARCHITECT pursuant to this Section and this shall be the "Budget" for the PROJECT as set forth in this AGREEMENT.

3. The OWNER shall notify the ARCHITECT of administrative procedures required and name a representative authorized to act on its behalf. The OWNER shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the PROJECT. The OWNER shall observe the procedure of issuing any orders to Contractors only through the ARCHITECT.

4. The OWNER shall give prompt written notice to the ARCHITECT if the OWNER becomes aware of any fault or defect in the PROJECT or nonconformance with the Construction Documents. However, the OWNER's failure or omission to do so shall not relieve the ARCHITECT of the ARCHITECT's responsibilities under Title 21, Title 24, and the Field Act hereunder. The OWNER shall have no duty to observe, inspect, or investigate the PROJECT.

5. The proposed language of certifications requested of the ARCHITECT or ARCHITECT's consultants shall be submitted to the ARCHITECT for review and approval at least fourteen (14) days prior to execution.

6. The OWNER shall provide a topographical survey to the ARCHITECT upon request.

#### **ARTICLE V - COST OF CONSTRUCTION**

1. During the Schematic Design, Design Development, and Construction Document Phases, the ARCHITECT's estimates of Construction Cost shall be reconciled against the OWNER's Budget pursuant to Article IV, Section 2.

2. The PROJECT's "Construction Cost," as used in this AGREEMENT, means the total cost to the OWNER of all work designed or specified by the ARCHITECT, which includes the total award from the initial construction Contract(s) plus the work covered by approved change orders and/or any alternates approved by the OWNER. The Construction Cost shall not include any costs that are not specifically referenced in this Article V, Section 2, as approved costs. Costs excluded from the Construction Cost include, but are not limited to, payments to the ARCHITECT

or other OWNER consultants, costs of inspections, surveys, tests, and landscaping not included in PROJECT.

3. If the PROJECT is using the multiple-prime delivery method of construction, the Construction Manager's fees and/or general conditions will only be included in the total Construction Cost used to calculate the ARCHITECT's fee only if agreed upon in writing by the OWNER. Absent any written agreement, the Construction Manager's fees or general conditions shall not be included in the total Construction Cost used to calculate the ARCHITECT's fee.

4. When labor or material is furnished by the OWNER below its market cost, the Construction Cost shall be based upon current market cost of labor and new material.

5. The Construction Cost shall be the acceptable estimate of Construction Costs to the OWNER as submitted by the ARCHITECT until such time as bids have been received, whereupon it shall be the bid amount of the lowest responsible responsive bidder.

6. Any Budget or fixed limit of Construction Cost shall be adjusted if the bidding has not commenced within ninety (90) days after the ARCHITECT submits the Construction Documents to the OWNER to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the OWNER and the date on which bids are sought for the PROJECT.

7. If the lowest bid received exceeds the Budget:

a. The OWNER may give written approval of an increase of such fixed limit and proceed with the construction of the PROJECT;

b. The OWNER may authorize rebidding of the PROJECT within a reasonable time;

c. If the PROJECT is abandoned, the OWNER may terminate this AGREEMENT in accordance with Article VIII, Section 2;

d. The OWNER may request the ARCHITECT prepare, at no additional cost, deductive change packages that will bring the PROJECT within the Budget; or

e. The OWNER may request the ARCHITECT cooperate in revising the PROJECT scope and quality as required to reduce the Construction Cost.

8. If the OWNER chooses to proceed under Article V, Section 7(e), the ARCHITECT, without additional charge, agrees to redesign the PROJECT until the PROJECT is brought within the Budget set forth in this AGREEMENT. Redesign does not mean phasing or removal of parts of the PROJECT unless agreed to in writing by the OWNER. Redesign means the redesign of the PROJECT, with all its component parts, to meet the Budget set forth in this AGREEMENT.

## **ARTICLE VI - ESTIMATE OF PROJECT CONSTRUCTION COSTS**

1. Estimates referred to in Article II shall be prepared on a square foot/unit cost basis, or more detailed computation if deemed necessary by the OWNER, considering prevailing construction costs and including all work for which bids will be received. It is understood that the PROJECT Construction Cost is affected by the labor and/or material market as well as other conditions beyond the control of the ARCHITECT or OWNER.

2. The ARCHITECT shall prepare and review the ARCHITECT's estimates of Construction Cost at each phase of the ARCHITECT's services. The ARCHITECT shall provide the OWNER with a written evaluation of the estimates at each phase of the ARCHITECT's services. The ARCHITECT's written evaluations shall, among other things, evaluate how the estimates compare to the Budget. If such estimates are in excess of the Budget, the ARCHITECT shall revise the type or quality of construction to come within the Budget at no additional cost to the OWNER. The ARCHITECT's initial budget and scope limitations shall be realistic and be reviewed with the OWNER prior to formalization.

3. The ARCHITECT, upon request of the OWNER, shall prepare a detailed estimate of Construction Costs at no additional cost.

#### **ARTICLE VII - ARCHITECT'S DRAWINGS AND SPECIFICATIONS**

1. All documents including, but not limited to, plans, drawings, specifications, record drawings, models, mock-ups, renderings and other documents (including all computer files and/or AutoCAD files) prepared by the ARCHITECT or the ARCHITECT's consultants for this PROJECT, shall be and remain the property of the OWNER pursuant to Education Code section 17316 for the purposes of repair, maintenance, renovation, modernization, or other purposes as they relate to the PROJECT. The OWNER, however, shall not be precluded from using the ARCHITECT's or ARCHITECT's consultant's documents enumerated above for the purposes of additions, alignments, or other development on the PROJECT site.

2. If OWNER intends to reuse ARCHITECT's plans, specifications, or other documents for a project or projects other than that which is the subject of this AGREEMENT, and for which the ARCHITECT is not the architect of record, a fee of three percent (3%) of the Construction Costs shall be paid to the ARCHITECT for such reuse. In the event of such reuse or modification of the ARCHITECT's drawings, specification, or other documents by any person, firm, or legal entity, the OWNER agrees to indemnify, defend, and hold the ARCHITECT harmless from and against any and all claims, liabilities, suits, demands, losses, costs, and expenses, including, but not limited to, reasonable attorneys' fees accruing to, or resulting from, any and all persons, firms, or any other legal entity, on account of any damage or loss to property or persons including, but not limited to, death arising out of such unauthorized use, reuse or modification of the ARCHITECT's drawings, specifications, or other documents. The OWNER further agrees to remove the names and seals of the ARCHITECT and the ARCHITECT's consultants from the title block and signature pages. The OWNER, however, may use the ARCHITECT's plans and documents as enumerated in this Article as reference documents for the purposes of additions, alignments, or other development on the PROJECT site. Prior to reuse of the ARCHITECT's documents for any project other than an addition, alignment, or other development on the PROJECT site, the OWNER agrees to notify the ARCHITECT in writing of

such reuse.

### **ARTICLE VIII - TERMINATION**

1. This AGREEMENT may be terminated by either PARTY upon fourteen (14) days' written notice to the other PARTY in the event of a substantial failure of performance by such other PARTY, including insolvency of the ARCHITECT, or if the OWNER should decide to abandon or indefinitely postpone the PROJECT.

2. In the event of a termination based upon abandonment or postponement by OWNER, the OWNER shall pay the ARCHITECT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records and expense reports, up until the date of the abandonment or postponement, plus any sums due the ARCHITECT for Board approved Additional Services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents, whether delivered to the OWNER or in the possession of the ARCHITECT. In the event termination is for a substantial failure of performance, all damages and costs associated with the termination, including increased consultant and replacement architect costs, shall be deducted from payments due the ARCHITECT.

3. In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience in accordance with Article VIII, Section 4, below, and ARCHITECT shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense, or liability may be claimed, requested, or recovered by ARCHITECT.

4. This AGREEMENT may be terminated without cause by the OWNER upon fourteen (14) days' written notice to the ARCHITECT. In the event of a termination without cause, the OWNER shall pay the ARCHITECT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records and expense reports, up until the date of notice of termination plus any sums due the ARCHITECT for Board-approved Additional Services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents, whether delivered to the OWNER or in the possession of the ARCHITECT. In addition, ARCHITECT will be reimbursed for reasonable termination costs through the payment of 3% beyond the sum due the ARCHITECT under this Section through 50% completion of the ARCHITECT's portion of the PROJECT and, if 50% completion is reached, payment of 3% of the unpaid balance of the contract to ARCHITECT as termination cost. This 3% payment is agreed to compensate the ARCHITECT for the unpaid profit ARCHITECT would have made under the PROJECT on the date of termination and is consideration for entry into this termination for convenience clause.

5. In the event of a dispute between the PARTIES as to performance of the work or the interpretation of this AGREEMENT, or payment or nonpayment for work performed or not performed, the PARTIES shall attempt to resolve the dispute. Pending resolution of this dispute,

ARCHITECT agrees to continue the work diligently to completion. If the dispute is not resolved, ARCHITECT agrees it will neither rescind the AGREEMENT nor stop the progress of the work, but ARCHITECT's sole remedy shall be to submit such controversy to determination by a court having competent jurisdiction of the dispute after the PROJECT has been completed, and not before.

#### **ARTICLE IX - ACCOUNTING RECORDS OF THE ARCHITECT**

1. Records of the ARCHITECT's direct personnel and reimbursable expenses pertaining to the services performed on this PROJECT and records of accounts between the OWNER and Contractor shall be kept on a generally recognized accounting basis and shall be available to the OWNER or his authorized representative at mutually convenient times.

#### **ARTICLE X - COMPENSATION TO THE ARCHITECT**

The OWNER shall compensate the ARCHITECT as follows:

1. The ARCHITECT's fees for performing Additional Services related to change orders are paid as approved by the OWNER's Board. If a change order is approved without ARCHITECT fee, no fee will be paid to the ARCHITECT unless negotiated and approved prior to commencing the change order-related services.

2. The ARCHITECT's compensation for performing all the Basic Services required by this AGREEMENT including, but not limited to, those services detailed in Article I and II, shall be as follows:

Schematic Design Phase:	No more than 10% of the estimated Architect Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion
Design Development Phase:	No more than 15% of the estimated Architect Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion
Construction Docs Phase	No more than 35% of the estimated Architect Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion
DSA Approval Phase:	No more than 5% of the estimated Architect Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid upon DSA approval of the PROJECT including incorporation and approval of any back-check comments
Bidding Phase:	No more than 2% of the estimated Architect Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion



Construction Admin. Phase: No more than 25% of the actual Architect Fee, as determined under Exhibit "A" to this AGREEMENT and the accepted bid, to be paid monthly based on actual level of completion

Project Close-Out Phase: Balance of actual Architect Fee to be paid after the all the Project Close-Out Phase requirements set forth in Article II have been completed and the PROJECT is certified by DSA and the Notice of Completion has been recorded.

3. The ARCHITECT and its consultants shall maintain time sheets detailing information including, but not limited to, the name of the employee, date, a description of the task performed in sufficient detail to allow the OWNER to determine the services provided, and the time spent for each task. The OWNER and ARCHITECT may otherwise mutually agree, in writing, on alternative types of information and levels of detail that may be provided by the ARCHITECT and its consultants pursuant to this Article X.

4. The ARCHITECT shall invoice all fees and/or costs monthly for the Basic Services that are provided in accordance with this AGREEMENT from the time the ARCHITECT begins work on the PROJECT. The ARCHITECT shall submit one (1) invoice monthly to the OWNER detailing all the fees associated with the applicable progress to completion percentage, reimbursable expenses (if any), and Additional Services (if any) incurred for the monthly billing period. Invoices requesting reimbursement for expenses incurred during the billing period must clearly list items for which reimbursement is being requested and be accompanied by proper documentation (e.g., receipts, invoices), including a copy of the OWNER's authorization notice for the invoiced item(s), if applicable. Invoices requesting payment for Additional Services must reflect the negotiated compensation previously approved by the OWNER and include a copy of the OWNER's written authorization notice approving the Additional Services and the additional compensation approved by the OWNER. No payments will be made by the OWNER to the ARCHITECT for monthly invoices requesting reimbursable expenses or Additional Services absent the prior written authorization of the OWNER. The OWNER's prior written authorization is an express condition precedent to any payment by the OWNER for Additional Services or reimbursable expenses and no claim by the ARCHITECT for additional compensation related to Additional Services or reimbursable expenses shall be valid absent such prior written approval by the OWNER.

5. When ARCHITECT's Fee is based on a 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 actual services are performed, in accordance with the schedule set forth in Article X, Section 2, above, based on the lowest responsive bid price.

6. To the extent that the time initially established for the completion of ARCHITECT's services is exceeded or extended through no fault of the ARCHITECT, compensation for any services rendered during the additional period of time shall be negotiated and subject to the prior written approval of the OWNER. Assessment and collection of liquidated damages from the Contractor is a condition precedent to payment for extra services arising from Contractor-caused delays.

## **ARTICLE XI - REIMBURSABLE EXPENSES**

1. Reimbursable expenses are in addition to compensation for basic and extra services, and shall be paid to the ARCHITECT at one and one-tenth (1.1) times the expenses incurred by the ARCHITECT, the ARCHITECT's employees and consultants for the following specified items:

a. Approved reproduction of drawings and specifications in excess of the copies provided by this AGREEMENT which includes all the sets of the Construction Documents and all progress prints; and

b. Approved agency fees.

2. Approved reimbursable expenses are estimated to be [REDACTED] Dollars (\$ [REDACTED]) and this amount shall not be exceeded without the prior written approval of the OWNER.

3. Reimbursable Expenses shall not include the following specified items or any other item not specifically identified in Article XI, Section 1 above:

a. Travel expenses;

b. Check prints;

c. Prints or plans or specifications made for ARCHITECT's consultants and all progress prints;

d. Preliminary plans and specifications;

e. ARCHITECT's consultants' reimbursables;

f. Models or mock-ups; and

g. Meetings with Cities, planning officials, fire departments, DSA, State Allocation Board or other public agencies.

4. The OWNER's prior written authorization is an express condition precedent to any reimbursement to ARCHITECT of such costs and expenses for items not included in Article XI, Section 1 above as an allowable reimbursable expense, and no claim for any additional compensation or reimbursement shall be valid absent such prior written approval by OWNER. Payment for these reimbursable expenses shall be made as set forth in Article X.

## **ARTICLE XII - EMPLOYEES AND CONSULTANTS**

1. The ARCHITECT, as part of the ARCHITECT's basic professional services, shall furnish the consultant services necessary to complete the PROJECT including, but not limited to: landscape architects; theater and acoustical consultants; structural, mechanical, electrical and civil engineers; and any other necessary design professionals and/or consultants as determined by the ARCHITECT and acceptable to the OWNER. All consultant services shall be provided at the ARCHITECT's sole expense. The ARCHITECT shall be responsible for the coordination and cooperation of all architects, engineers, experts or other consultants employed by the ARCHITECT. The ARCHITECT shall ensure that its engineers and/or other consultants file the required Interim Verified Reports, Verified Report and other documents that are necessary for the

PROJECT's timely inspection and close-out as required by the applicable governmental agencies and/or authorities having jurisdiction over the PROJECT including, but not limited to, DSA. The ARCHITECT shall ensure that its engineers and consultants observe the construction of the PROJECT during the course of construction, at no additional cost to the OWNER, to maintain such personal contact with the PROJECT as is necessary to assure such engineers and consultants that the Contractor's work is being completed, in every material respect, in compliance with the DSA approved Construction Documents (in no case shall the number of visits be less than once every week or as necessary to observe work being completed in connection with each block/section of a PIC so such engineers and consultants can verify that the work does or does not comply with the DSA approved Construction Documents, whichever is greater).

2. The ARCHITECT shall submit, for written approval by the OWNER, the names of the consultants and/or consultant firms proposed for the PROJECT. The ARCHITECT shall notify the OWNER of the identity of all design professionals and/or consultants in sufficient time prior to their commencement of services to allow the OWNER a reasonable opportunity to review their qualifications and object to their participation on the PROJECT if necessary. The ARCHITECT shall not assign or permit the assignment of any design professionals, engineers, or other consultants to the PROJECT to which OWNER has a reasonable objection. Approved design professionals and/or consultants shall not be changed without the prior written consent of the OWNER. Nothing in this AGREEMENT shall create any contractual relation between the OWNER and any consultants employed by the ARCHITECTS under the terms of this AGREEMENT.

3. ARCHITECT's consultants shall be licensed to practice in California and have relevant experience with California school design and construction during the last five years. If any employee or consultant of the ARCHITECT is not acceptable to the OWNER, then that individual shall be replaced with an acceptable competent person at the OWNER's request.

4. The construction administrator or field representative assigned to the PROJECT by the ARCHITECT shall be licensed as a California Architect and able to make critical PROJECT decisions in a timely manner and shall be readily available and provide by phone, facsimile, and through correspondence, design direction and decisions when the construction administrator is not at the site.

### **ARTICLE XIII – MISCELLANEOUS**

1. The ARCHITECT shall make a written record of all meetings, conferences, discussions, and decisions made between or among the OWNER, ARCHITECT, and Contractor during all phases of the PROJECT and concerning any material condition in the requirements, scope, performance and/or sequence of the work. The ARCHITECT shall provide a copy of such record to the OWNER.

2. To the fullest extent permitted by law, ARCHITECT agrees to indemnify and hold the OWNER harmless from all liability arising out of:

a. Workers' Compensation and Employer's Liability. Any and all claims under Workers' Compensation acts and other employee benefit acts with respect to

ARCHITECT's employees or ARCHITECT's subcontractor's employees arising out of ARCHITECT's work under this AGREEMENT; and

b. General Liability. To the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the ARCHITECT, the ARCHITECT shall indemnify, defend and hold the OWNER harmless from any liability for damages for (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law; or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the ARCHITECT or the OWNER, or any person, firm or corporation employed by the ARCHITECT or the OWNER upon or in connection with the PROJECT, except for liability resulting from the sole or active negligence, or willful misconduct of the OWNER, its officers, employees, agents, or independent Architects who are directly employed by the OWNER. The ARCHITECT, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings (other than professional negligence covered by Section c below) that may be brought or instituted against the OWNER, its officers, agents, or employees, to the extent such claims, actions, suits, or other proceedings arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the ARCHITECT, and shall pay or satisfy any judgment that may be rendered against the OWNER, its officers, agents, or employees, in any action, suit or other proceedings as a result thereof. Any costs to defend under this Section b shall not exceed the ARCHITECT's proportionate percentage of fault; and

c. Professional Liability. To the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the ARCHITECT, the ARCHITECT shall indemnify and hold the OWNER harmless from any loss, injury to, death of persons, or damage to property caused by any act, neglect, default, or omission of the ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm, or corporation, including the OWNER, arising out of, or in any way connected with, the PROJECT, including injury or damage either on or off OWNER property; but not for any loss, injury, death, or damages caused by sole or active negligence, or willful misconduct of the OWNER. With regard to the ARCHITECT's obligation to indemnify for acts of professional negligence, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought against the OWNER, but rather to reimburse the OWNER for attorneys' fees and costs incurred by the OWNER in defending such actions or proceedings brought against the OWNER, and such fees and costs shall not exceed the ARCHITECT's proportionate percentage of fault.

d. The PARTIES understand and agree that Article XIII, Section 2, of this AGREEMENT shall be the sole indemnity, as defined by California Civil Code § 2772, between the OWNER and the ARCHITECT related to the PROJECT. Any other indemnity that is attached to this AGREEMENT as part of any EXHIBIT shall be void and unenforceable between the PARTIES.

e. Any attempt to limit the ARCHITECT's liability to the OWNER in any of the exhibits or attachments to this AGREEMENT shall be void and unenforceable between the PARTIES.

3. ARCHITECT shall purchase and maintain policies of insurance with an insurer or insurers qualified to do business in the State of California and acceptable to OWNER, which will protect ARCHITECT and OWNER from claims which may arise out of, or result from, ARCHITECT's actions or inactions relating to the AGREEMENT, whether such actions or inactions be by themselves or by any subconsultant, subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

a. The ARCHITECT shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California. However, such amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).

b. Commercial general and auto liability insurance, with limits of not less than TWO MILLION DOLLARS (\$2,000,000.00) combined single limit, bodily injury and property damage liability per occurrence, including:

1. Owned, non-owned, and hired vehicles;
2. Blanket contractual;
3. Broad form property damage;
4. Products/completed operations; and
5. Personal injury.

c. Professional liability insurance, including contractual liability, with limits of TWO MILLION DOLLARS (\$2,000,000.00) per claim. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that ARCHITECT subcontracts any portion of ARCHITECT's duties, ARCHITECT shall require any such subcontractor to purchase and maintain insurance coverage as provided in this Section. Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

d. Valuable Document Insurance. The ARCHITECT shall carry adequate insurance on all drawings and specifications as may be required to protect the OWNER in the amount of its full equity in those drawings and specifications, and shall file with the OWNER a certificate of that insurance. The cost of that insurance shall be paid by the ARCHITECT, and the OWNER shall be named as an additional insured.

e. Each policy of insurance required under Article XIII, Section 3(b), above, shall name the OWNER and its officers, agents, and employees as additional insureds; shall state that, with respect to the operations of ARCHITECT hereunder, such policy is primary and any insurance carried by OWNER is excess and non-contributory with such primary insurance; shall state that not less than thirty (30) days' written notice shall be given to

OWNER prior to cancellation, except for ten (10) days' written notice for nonpayment; and, shall waive all rights of subrogation. ARCHITECT shall notify OWNER in the event of material change in, cancellation, or failure to renew or make payment, each policy. Prior to commencing work, the ARCHITECT shall deliver to OWNER certificates of insurance as evidence of compliance with the requirements herein. In the event the ARCHITECT fails to secure or maintain any policy of insurance required hereby, the OWNER may, at its sole discretion, secure such policy of insurance in the name of, and for the account of, ARCHITECT, and in such event ARCHITECT shall reimburse OWNER upon demand for the cost thereof.

f. In the event that the ARCHITECT subcontracts any portion of the ARCHITECT's duties, the ARCHITECT shall require any such subcontractor to purchase and maintain insurance coverage for the types of insurance referenced in Article XIII, Sections 3(a), (b), (c) and (d), in amounts which are appropriate with respect to that subcontractor's part of work which shall in no event be less than \$500,000 per occurrence. The ARCHITECT shall not subcontract any portion of the ARCHITECT's duties under this AGREEMENT without the OWNER's prior written approval. Specification processing consultants are the only subcontractors exempt from maintaining professional liability insurance.

g. All insurance coverage amounts specified hereinabove shall cover only risks relating to, or arising out of, the PROJECT governed by this particular AGREEMENT. The insurance and required amounts of insurance specified above shall not be reduced or encumbered on account of any other projects of the ARCHITECT.

4. The ARCHITECT, in the performance of this AGREEMENT, shall be and act as an independent contractor. The ARCHITECT understands and agrees that the ARCHITECT and all of the ARCHITECT's employees shall not be considered officers, employees, or agents of the OWNER, and are not entitled to benefits of any kind or nature normally provided employees of the OWNER and/or to which OWNER's employees are normally entitled including, but not limited to, State Unemployment Compensation or Workers' Compensation. ARCHITECT assumes the full responsibility for the acts and/or omissions of the ARCHITECT's employees or agents as they relate to the services to be provided under this AGREEMENT. The ARCHITECT shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security, and income taxes for the respective employees of the ARCHITECT.

5. Notices. All notices or demands to be given under this AGREEMENT by either PARTY to the other shall be in writing and given either by: (a) personal service; or (b) U.S. Mail, mailed either by registered, overnight, or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either PARTY may be changed by written notice given in accordance with the notice provisions of this Section. At the date of this AGREEMENT, the addresses of the PARTIES are as follows:

OWNER:

ARCHITECT:

Magnolia Public Schools  
250 E. 1<sup>st</sup> Street, Suite 1500  
Los Angeles, CA 90012  
Attn.: Patrick Ontiveros, Esq.

6. The ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, shall be prohibited from using tobacco products (smoking, chewing, etc.) on OWNER property at all times.

7. The ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, shall be prohibited from using profanity on OWNER property including, but not limited to, all school sites and this prohibition shall include, but is not limited to, all racial, ethnic and/or sexual slurs or comments which could be considered harassment.

8. Appropriate dress by the ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, is mandatory. Therefore, tank tops, cut-offs and shorts shall not be allowed. Additionally, what is written or pictured on clothing must comply with the requirements of acceptable language as set forth above in Section above.

9. During the entire term of this AGREEMENT, the ARCHITECT, if applicable, shall fully comply with the provision of Education Code section 45125.1 (Fingerprint Requirements) when it is determined that the ARCHITECT will have contact with the OWNER's pupils while performing any services under this AGREEMENT.

10. Nothing contained in this AGREEMENT shall create a contractual relationship with, or a cause of action in favor of, any third party against either the OWNER or ARCHITECT.

11. The OWNER and ARCHITECT, respectively, bind themselves, their partners, officers, successors, assigns, and legal representatives to the other PARTY to this AGREEMENT with respect to the terms of this AGREEMENT. ARCHITECT shall not assign this AGREEMENT.

12. This AGREEMENT shall be governed by the laws of the State of California.

13. This AGREEMENT represents the entire AGREEMENT between the OWNER and ARCHITECT and supersedes all prior negotiations, representations, or agreements, either written or oral. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the OWNER and the ARCHITECT.

14. If either PARTY becomes involved in litigation arising out of this AGREEMENT or the performance thereof, each PARTY shall bear its own litigation costs and expenses, including reasonable attorneys' fees.

15. This AGREEMENT shall be liberally construed to effectuate the intention of the PARTIES with respect to the transaction described herein. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase, or provision of this AGREEMENT, neither this AGREEMENT nor any uncertainty or ambiguity herein will be construed or resolved against either PARTY (including the PARTY primarily responsible for drafting and preparation of this AGREEMENT), under any rule of construction or otherwise, it being expressly understood and agreed that the PARTIES have participated equally or have had equal opportunity to participate in the drafting hereof.

16. The ARCHITECT is prohibited from capturing on any visual medium images of any property, logo, student, or employee of the OWNER, or any image that represents the OWNER without express written consent from the OWNER.

17. In accordance with Education Code section 17604, this AGREEMENT is not valid, binding, or an enforceable obligation against the OWNER until approved or ratified by motion of the Governing Board, duly passed and adopted.

***(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)***



The PARTIES, through their authorized representatives, have executed this AGREEMENT as of the day and year first written above.

ARCHITECT:

OWNER:



Magnolia Public Schools

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT "A"**

**ARCHITECT'S FEE SCHEDULE**

ARCHITECT shall be compensated for all services set forth in this AGREEMENT in an amount not to exceed four percent (4%) of the total Construction Cost for the PROJECT as defined in Article V. The current estimated Construction Cost for the PROJECT is \$\_\_\_\_\_.

If the PROJECT is using the multiple-prime delivery method of construction, the Construction Manager's fees and/or general conditions will only be included in the total Construction Cost used to calculate the ARCHITECT's fee only if agreed upon in writing by the OWNER. Absent any written agreement, the Construction Manager's fees or general conditions shall not be included in the total Construction Cost used to calculate the ARCHITECT's fee.

**EXHIBIT "B"**

**SCHEDULE AND MILESTONES**

<b><u>TASK</u></b>	<b><u>COMPLETION DATE</u></b>	<b><u>LD'S (per day)</u></b>
Completion of Schematic Design		
Completion of Design Development		
Completion of Construction Documents		
Completed Submission to DSA		

## *EXHIBIT B*

# *Request for Qualifications & Proposals*



## REQUEST FOR QUALIFICATIONS/ PROPOSALS

MAGNOLIA SCIENCE ACADEMY 5  
MODULAR CLASSROOM DESIGN SERVICES  
FOR CHARTER SCHOOL STATE FUNDED  
MIDDLE & HIGH SCHOOL NEW  
CONSTRUCTION PROJECT

Posted  
January 11, 2024

Submit Responses To:  
Mustafa Sahin  
Facility Project Manager  
Magnolia Public Schools

RFP Due Date:  
January 23, 2024

No Later Than 5:00 P.M.

MAGNOLIA EDUCATIONAL & RESEARCH FOUNDATION  
250 EAST 1ST STREET, SUITE 1500  
LOS ANGELES, CA 90012

Magnolia Educational & Research Foundation dba Magnolia Public Schools ("**Magnolia**") is requesting proposals and qualifications for design services to convert an existing ground up construction, site built design into a modular school building. The project consists of anew two story classroom building, gymnasium and associated site work for Magnolia Science Academy 5, an existing 6-12 charter school in Reseda, California (the "**Project**"). The Project address is 7111 Winnetka Avenue, Winnetka, Ca. Magnolia will pay for the Project with the proceeds from an award from the State Allocation Board and the Office of Public School Construction under the "Charter School Facility Program."

DLR Group is the Architect of Record ("**AOR**"). Because the Project will be paid for with the proceeds of a State award, all the typical requirements for a public educational project are applicable. The AOR has prepared plans (the "**Existing Plans**") that have already been submitted to the Division of the State Architect ("**DSA**").

The purpose of this Request for Qualifications/Proposals ("**RFQ/P**") is to obtain information that will enable Magnolia to select a modular company that can take the Existing Plans and convert them such that the Project can be completely or predominantly built in a factory (the "**Modular Plans**"). The Modular Plans may be based on a modular company's proprietary plans or mode of construction. However, preference will be given to plans that will approximate

Magnolia is requesting proposals from qualified modular design and construction firms to provide comprehensive, professional modular classroom design services in accordance with the information and criteria set forth herein. Extensive California public school experience and experience with Field Act and DSA and demonstrated knowledge of the State process is sought from candidates submitting proposals in response to this RFQ/P, in addition to other criteria and qualifications as set forth herein.

Proposals shall be in accordance with the "Format for Proposal Submission" as set forth in Section II, below, and must be submitted to the attention of Mustafa Sahin via email by no later than 5:00 pm on January 23, 2024.

In order to allow Magnolia to make an informed decision regarding the selection of a consultant among responsible and responsive candidates, the proposal must contain the following elements or evidence that the firm meets or exceeds the requirements stated herein.

## **I) SCOPE OF WORK**

- 1) Work with Magnolia's staff, AOR, construction manager, consultants, and all other required vendors for the successful completion of the Modular Plans to be submitted to DSA;
- 2) Respond to any DSA comments and meet with DSA representatives as necessary to expedite the process and to respond in a timely manner to comments.

## **II) PROJECT DESCRIPTION**

The scope of the Project is the construction of a new campus for MSA-5 at 7111 Winnetka Ave. A map

and the ALTA and topographic survey may be accessed via this link – [ALTA and Top Survey](#). Magnolia will use the proceeds of an award from the State of California under its Charter School Facilities Program (“**CSFP**”) to construct a new two story building, gymnasium, outdoor learning areas, and all associated site work, offsite improvements and utility service installation as required. Details of the award may be accessed via this link – [Magnolia CSFP Award](#). DLR Group is the AOR and has completed DSA submission. The DSA plans may be accessed via this link – [Existing Plans](#). Preference will be given to proposals that best approximate the DLR Group Existing Plans.

Magnolia desires to occupy the Project in time for the 2025-26 school year.

### III) FORMAT FOR PROPOSAL SUBMISSION

#### A) GENERAL INSTRUCTIONS

All proposals are to be submitted in compliance with the format set forth below and in the order as outlined to facilitate evaluation by Magnolia of the candidate’s ability to meet or exceed the specified requirements under the heading “Scope of Work.”

The proposals shall be presented in a bound 8-1/2 inch by 11-inch (vertical) format. Submit three (3) hard copies and one (1) electronic copy in PDF format via email of each proposal. All submittals shall be tabbed for easy referral to the numbered answer. All submittals shall become the property of Magnolia and will not be returned.

Clarifications or questions regarding submittals must be submitted in writing to Mustafa Sahin, via email to [msahin@magnoliapublicschools.org](mailto:msahin@magnoliapublicschools.org). Please include the name of your firm and telephone number when making inquiries. All proposals are due no later than January 23, 2024, 5:00 p.m.

**SPECIAL NOTE:** Individuals and firms responding to the RFP are cautioned to not contact school Board Members, Magnolia leadership, staff or existing consultants without the express permission of Mustafa Sahin or Patrick Ontiveros. Failure to observe these criteria could potentially result in disqualification.

#### B) FORMAT REQUIREMENTS:

The sequence to be followed is as follows:

1. Cover Page
  - a. Name of Firm
  - b. Project Title – Proposal for Modular Classroom Design Services, MSA 5
  - c. Date Submitted
  
2. General Information
  - a. Name, address, telephone, and e-mail address of firm, name and email for contact persons.
  - b. License number, type of license, State of license or registration;
    - i. Legal form of firm (i.e. corporation, partnership, etc.).  
Please state the year your firm or organization was established;
    - ii. Number and names of principals in the firm;
    - iii. Number of employees;

- c. A short resume of your firm's principals, including registrations/licenses (Please limit to one page per person);
  - d. Short resume of key personnel to be assigned to the Project, included position. Please limit to one page per person, with each resume containing the following information:
    - i. Project-specific responsibilities and description of work to be performed;
    - ii. Estimated percentage of the individual's time that will be devoted to the project;
    - iii. Specific qualifications;
    - iv. Years with the firm;
    - v. Number of projects of similar nature performed by the individual;
    - vi. Position held and responsibilities on work of similar nature; and,
    - vii. Education, licenses held, qualification, etc.
3. Provide information to show that your proposed team has suitable resources and time available to ensure satisfactory completion of the Project.
  4. Provide a list of at least three (3) references, including names, addresses, telephone and e-mail addresses of all contact persons with respect to projects which your firm or its senior personnel has worked on within the last ten (10) years, and any other references you wish to provide who may provide information to Magnolia regarding your firm's qualifications. List the project's owner and contractors for each reference. Please be advised that references will be contacted.

Magnolia will require the successful respondent to sign an AIA Contract based on the B101®-2017, Standard Form of Agreement between Owner and Architect, or a substantially similar form proposed by Magnolia.

**ALL RESPONSES MUST BE RECEIVED BY 5:00 PM, JANUARY 23, 2024**

Proposals must be concise, straightforward, and must address each requirement and question.

Magnolia reserves the right to negotiate modifications with any firm as may be required to serve the best interests of Magnolia and to negotiate the final contracts with the most qualified candidates.

All proposals will become the property of Magnolia. Information in Proposals will become public property and subject to disclosure laws. Magnolia reserves the right to make use of any information or ideas in the proposals. All proposals will be maintained as confidential working papers until officially placed on the School Board meeting agenda.

Magnolia reserves the right to reject any and all proposals and to waive any informality in any proposal received. No obligation, either expressed or implied, exists on the part of Magnolia to make an award or to pay any costs incurred in the preparations or submission of a proposal. All costs associated with the preparation or submission of proposals for this RFP is solely the responsibility of the candidates.

#### **IV) BUDGETARY ESTIMATE FOR FEES:**

- A) Provide the hourly rate for each proposed job classification, and any others that may become necessary due to additional services.
- B) Provide a fully loaded fee schedule for the services to prepare the Modular Plans for the project with a not to exceed amount.
- C) Provide a cost estimate for the construction and delivery of the Project as represented by the Modular



Plans as if constructed by the company providing the design.

D) Provide a schedule of excluded services.

**V) EVALUATION OF PROPOSALS AND RECOMMENDATION:**

- A) Process: All RFP responses will be read and evaluated by a committee of Magnolia home office staff and MSA-5 staff. Overall responsiveness and representations made within the RFP, as well as the modular firm's ability to connect with the MPS team are important factors in the overall evaluation process. MPS will select a firm that has the highest suitability for the work with MPS and the overall desirable approach.
- B) Award: Magnolia reserves the right to reject any and all proposals; to waive any informality in the proposal process; and to accept the proposal that appears to be in its best interests. Staff will make a recommendation to the Board of Directors to award a contract to the selected Vendor. The Board of Magnolia Public Schools will vote to award the contract at a regularly scheduled or special meeting.
- C) Questions and Submission: Please feel free to direct questions to Mustafa Sahin, Project Manager, by email, as shown below, or Patrick Ontiveros, Director of Facilities and Real Estate at [pontiveros@magnoliapublicschools.org](mailto:pontiveros@magnoliapublicschools.org).

All proposals are due no later than 5:00 pm January 23, 2024 **via email** as indicated below. Please deliver three (3) hard copies in care of the MERF home office address within two (2) business days no later than 5:00 pm as follows:

Mustafa Sahin  
c/o Magnolia Education & Research Foundation  
250 E 1<sup>st</sup> Street, Suite 1500  
Los Angeles, CA 90012

*EXHIBIT C*

*Silver Creek Modular RFQ/P Response*

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# SILVER CREEK MODULAR

Proposal for Modular Classroom Design Services, MSA5  
January 23, 2024

# General Information

## Silver Creek Modular

2830 Barrett Ave

Perris, Ca 92571

(951) 943-5393

Adela Ells

[adela@silvercreekmodular.com](mailto:adela@silvercreekmodular.com)

Steve Pontell

[Stevepontell@silvercreekmodular.com](mailto:Stevepontell@silvercreekmodular.com)

Class of License: B

License Number: 1106686

DIR Number: 1001072527

I. Silver Creek Modular was Established in 2023

II. Steve Pontell CEO

III. 210 Employees

## **Principal**

**Steve Pontell**

**CEO**

Steve has a long track record in community and economic development. Having spent the last ten years as the President and CEO of National Community Renaissance (National CORE), Steve has been a leader and innovator in introducing new solutions to our Nation's housing crisis.

During the early stages of the pandemic Steve created the Transform So Cal initiative which as a partner with SCAG, SANDAG, all seven Counties, all the major ISPs and leaders from health care, education and many other sectors, has played a leading role in ending the digital divide in Southern California. Transform So Cal has also worked to create locally sources PPE to address the instability of the international supply chain working with LACARE, IEHP and the Hospital Association of Southern California and they have set the groundwork to ensure stable supply for the next significant event that hits the region.

Since leaving National CORE, Steve has joined the Webb Family to address the critical role economic development plays in creating opportunities for wealth creation in the minority community. The Webb's led the movement to parity within the McDonald's organization leading to the creation of 200 successful Black owned franchises across the Country. They are working together to create business opportunities for minority entrepreneurs and transformative community revitalization in some of our most challenging neighborhoods.

Steve's entire career has been built on successful public private partnerships and he is continuously facilitating efforts for successful community transformation.

Steve lives in Rancho Cucamonga with his wife Victoria, they have two daughters Erin and Grace and Grandson Max.

## Key Team Members

### **Dennis Mattos** **General Manager &** **Executive Project Manager**

**Years of Experience:** 39 years  
**Years with Silver Creek:** 15

**Project Role:** Responsible for project oversight and coordination. Collaborates with the site/modular superintendent, Bob Barbee and is supported by Bob Allison. Dennis coordinates and monitors all phases of the project including on-site activities through weekly jobsite visits. He also oversees procurement, negotiation of subcontracts, purchase orders, change orders, invoicing and assurance of smooth project close-out.

**Work History:** Dennis brings nearly four decades of construction industry experience. He is a leading expert in modular construction, having spent his entire career in this field, and has special expertise in DSA-approved, K-12 education projects. Starting his career years ago as a foreman / assistance production manager with Fleetwood Homes, he became production manager / vice president of operations with Aurora Modular Industries, and prior to joining Silver Creek in 200, was general manager at Modular Structures. Dennis has been at the forefront of the continual improvement in the quality and aesthetics of modular buildings.

#### **License / Registration:**

- Licensed Contractor, General Construction, Class B (Inactive)

#### **Specialized**

##### **Training/Certifications:**

- OSHA 10-hour Certification
- First Aid Certification
- "One Minute Manager" Situational Leadership Training

#### **Selected Project Experience:**

- Parkridge School for the Arts (2011) - Construction of DSA-approved two-story modular classroom buildings for Corona Norco Unified School District.
- Santa Ana School District Elementary Schools – Consecutive construction of DSA-approved new facilities at three elementary schools, including design, fabrication, and installation of 15 permanent modular buildings.
- Design-Build Hart High School Modernization— design, fabrication, and installation of two DSA-approved modular science laboratory buildings with numerous green features – housing labs, offices, and restrooms;

- Zela Davis Elementary School design, fabrication ,and installation of a DSA-approved two-story classroom building for the Hawthorne School District.

- Ardenwood Elementary School –design, fabrication, installation of three DSA-approved buildings, including a two-story classroom building for Fremont Unified School District – this project features Collaborative for High Performance Schools (CHPS) upgrades.

- Buena Vista Science Laboratory
- Helendale Rivers Edge Middle School Campus
- Chaparral Vista Classroom Additions

**Ryan McIntosh, LEED® AP,  
BD+C, CSI, ICC  
Director, Design Services**

**Years of Experience:** 18 years

**Years with Silver Creek:** 15

**Project Role:** Ryan plays an instrumental role in ensuring the design and construction of our projects meet the schedule and programmatic needs of the end-user. He provides day-to-day management of the design process and works closely with other design team members to ensure a seamless, cohesive effort is delivered throughout the design process. Ryan leads the efforts to incorporate energy efficient features to the extent that it is cost-effective and feasible. He provides expertise in the potential attainment of certification of the Collaborative for High Performance Schools (CHPS), or USGBC LEED, as well as the steps required to meet or exceed the minimum Savings by Design threshold. Ryan provides constructability input and value engineering expertise during the design phase.

**Work History:** Ryan brings more than 12 years' experience in the architecture, engineering, and construction industry with 9 years experience with K-12 facilities design and construction. His project management portfolio includes more than 1.1 MIL square feet of built environment with a total project valuation of more than \$270 MIL. He has managed the design of new, complete campuses comprising large, two-story modular structures. Prior to joining Silver Creek, he was project manager and studio leader with SH Architecture where he concurrently manage two projects valued in excess of \$85 MIL each with a combined square footage exceeding 550,000.

He has developed CHPS-preapproved modular classroom prototype designs,

managed LEED® certified projects, and has been a LEED® Accredited Professional for more than four years.

**Specialized Training /**

**Certifications:**

- LEED® Accredited Professional
- Zweigwhite AEC Project Management Training
- Zweigwhite AEC Leadership Training
- Crestcom Bullet Proof Management Training

**Affiliations:**

- Construction Specifications Institute
- International Code Council
- National Fire Protection Association
- United States Green Building Council

**Selected Project Experience:**

- Parkridge School for the Arts (Construction of DSA-approved two-story modular classroom buildings for Corona Norco Unified School District.
- Crean Lutheran High School— design and fabrication of a two-story, 35,000 square foot private high school constructed of modular building units housing a two-story atrium / lobby, interior corridors, lecture classrooms, laboratory classrooms, and administration facilities.

East Career & Technical High School— Management of architectural services during the construction phase of this project which consisted of more than 230,000 square feet of new, site-built construction and featured lecture classrooms, automotive repair shop, wood shop, gymnasium, multipurpose room, food-preparation kitchen,

commercial quality teaching kitchen, daycare facility, and administrative space.

- Walter J. Porter (North and South Campuses) design, fabrication, and installation of two identical campuses consisting of DSA-approved modular structures with each campus consisting of a two-story classroom building, a single-story classroom building, a library, a multipurpose room, warming kitchen, and an administrative building for a total square footage of 90,000 square feet.
- Helendale Rivers Edge Middle School Campus.
- Inglewood Unified School District, Payne Elementary School.

**Carlo Acabado**  
**Production Manager**

**Years of Experience:** 18 years  
**Years with Silver Creek:** 16

**Project Role:** Carlo oversees the production process for all projects and monitors work of all sections/trades. Monitors product standards and enforces quality control programs. He liaises with various departments to stay ahead of projects being negotiated and materials needed for such. Works with managers to implement the company's policies and goals. He ensures that health and safety guidelines are followed at all times, and trains, supervises and motivates his team members.

**Work History:** Carlo brings to the production management more than fifteen years experience in modular construction. He initially joined the Silver Creek Industries team as Project Manager, assisting both site and buildings construction, and coordinating and monitoring the phases of the projects from design to final completion, interfacing with subcontractors, managing procurement, and performing quality checks of deliverables at each stage of each project. He began his career in the modular building industry as a project manager with Modular Structures International and gradually assumed the responsibilities

of business developer as well. During his tenure with that company, he served as project manager for 11 DSA and educational construction projects and worked with nine school districts throughout Southern California.

**License / Registration:**

- B.S. Degree, Technology and Operations Management, California State Polytechnic University, Pomona, CA

**Selected Project Experience:**

- Antonio Maria Lugo Academy Management of the design of a 37,248-square foot DSA-approved two-story modular school building for Aspire Public Schools.
- Parkridge School for the Arts Construction of DSA-approved two-story modular classroom buildings for Corona Norco Unified School District. .
- Santa Ana School District Elementary Schools Consecutive construction of DSA-approved new facilities at three elementary schools, including design, fabrication, and installation of 15 permanent modular buildings.
- fabrication, and installation of two DSA-approved modular

science laboratory buildings with numerous green features – housing labs, offices, and restrooms; *this Silver Creek Industries project won a Modular Building Institute 2011 Award of Distinction.*

- Zela Davis Elementary School design, fabrication, and installation of a DSA-approved two-story classroom building for the Hawthorne School District.
- Ardenwood Elementary School design, fabrication, installation of three DSA-approved buildings, including a two-story classroom building for Fremont Unified School District – this project features Collaborative for High Performance Schools (CHPS) upgrades.
- Helendale Rivers Edge Middle School Campus
- Buena Vista Science Laboratory
- Heber Elementary School Administration and Classroom Building
- Chaparral Vista Classroom Additions
- South Hills High School Two-Story Facility





**Greg Parks**  
**Field Manager**

**Years of Experience:** 17 years

**Years with Silver Creek:** 1

**Project Role:** Responsible for preplanning, labor management and allocation, scheduling, and subcontractor management. He also is charged with coordinating and communicating with project owners and site personnel to achieve the design, cost, quality, safety, and schedule objectives of each project. Greg communicates daily with subcontractors to ensure project information, schedule and performance. While Onsite he is supported by the project manager, executive project manager, the project executive as well as other office and field personnel during all phases of the project.

**Work History:** Gregs long career includes experience in general construction as well as in modular DSA building and educational construction.

**Specialized Certifications:**

- First Aid Certification
- CPR Certification
- OSHA 10-Hour Training

# References

Michael Collins  
Director of Facilities and Operations  
San Jacinto USD  
(951) 929-7700

Virginia Gutierrez  
Director Purchasing and Facilities  
Hesperia USD  
(760) 244-4411

Gino Bastianon  
Frick Frick & Jette Architects  
(760)240-6211 Ext 15

Magnolia Public Schools  
250 E 1st Street, Suite 1500  
Los Angeles, CA, 90012

### **Budgetary Estimate**

Thank you for the opportunity to provide an estimated cost for a Two Story Modular Building for the Magnolia Science Academy #5 located at 7111 Winnetka Ave. This cost estimate is based upon the DSA submission drawing package (Issue Date 5/23/23), the Module Overlay Concept (attached), as well as the inclusions, exclusions, design changes and material/product modifications as indicated within this document.

### **Overview of Design Services**

Due to the unique method of project delivery (modular construction) the project design services will be divided into two separate contracts (Site Design Team and the Modular Building Design Team). The scope of services being offered in this design services proposal is specifically for the modular building portion of the project, an outline of these services is as follows:

- Coordination with the architect and Magnolia staff to develop an alternate building design to efficiently utilize modular construction methods
- Coordination with Site Design Team (Site Architect, Civil Engineer, Site MEP Engineer, Low Voltage Designer, Fire Alarm Designer) to determine points of utility connections to the building
- Coordination with Site Design Team to determine utility service sizes (pipes, electrical service)
- Coordination with Site Design Team to establish building pad heights and pipe inverts
- Preparation of the building Architectural drawings
- Design of the building Structural system
- Design of the building Electrical system
- Design of the building Mechanical system
- Design of the building Fire Sprinkler system
- Design of the building Foundation system
- Attendance at DSA plan check appointments and document revisions as necessary to secure project approval.

It is understood that the scope of this design services proposal is inclusive of only the modular buildings (including the modular elevator structure), modular stairs, the foundation systems for the modular buildings, and the systems within the building. Any work outside of the building is to be designed by the Site Design Team under a separate contract, however, the coordination activities identified in the list above are to be included in this (modular building) design services proposal. It is further understood that the Site Design Team will be providing all of the designs and drawings (plans, elevations, sections, schedules and details) for the low voltage systems (tele/data, security, EMS, fire alarm). Additionally, it is understood that any and all coordination with the local utility company(s) shall be performed by the Site Design Team and that any designs and drawings for the utility system until their point of connection at the building will be prepared by the Site Design Team inclusive of the primary switch gear and transformer (as required) without regard to its actual location. The screen system design shall be provided by the Site



Design Team in coordination with the Modular Building Design Team. The modular building shall be designed to support the screening system; however, all system connections shall be designed by the Site Design Team.

It is understood that any design documentation produced under this Design Services proposal is being generated specifically for modular structures as constructed by Silver Creek. These design documents should not be considered, or expected, to be of a nature that would be suitable for the use in the construction of a non-modular structure.

A two-phase design process is being proposed. The first phase would consist of a schematic design process to modularize the current design. Following acceptance of the modularized design the design process would proceed into the construction documents phase. Services during the Bidding phase and Construction Administration services are not included within the scope of this proposal and would be contracted separately.

The anticipated design fees are as follows:

Schematic Design:	\$ 51,400.00
Design Development:	Not Included
Construction Documents:	\$ 306,600.00
Bidding:	Not Included
Construction Administration:	Not Included
<b>Total:</b>	<b>\$ 358,000.00</b>

**Construction Cost Estimate Inclusions**

- Construction and installation of 2 story modular building (Type II-B construction)
- Procurement and installation of a modular elevator system
- Construction of building foundation system with crawl space
- Interior and exterior finishes consistent with the current design documentation (except as noted otherwise below)
- Interior and exterior stairways
- Electrical system within building inclusive of subpanels (see exclusions below)
- Plumbing system within building
- Mechanical system within building
- Aluminum glazing systems
- Aluminum operable wall systems
- Bonds

**Design Changes Included in this Estimate**

All Operable walls are reduced to 10'+/-wide openings  
Glazing systems which cross a module joint are reduced to 10'+/-  
Sealed concrete in public spaces (classrooms, corridors, etc.) is replaced with LVT tiles  
Cantilever along east side reduced to 8'+/-  
Columns added along North and South elevation to support previously cantilevered elements  
Floor to floor height reduced to 14'-0"  
Interior wall location adjustments as needed to align with module joints (see overlay plan)  
Exterior wall location adjustments as needed to align with module arrangement (see overlay plan)  
Addition of crawl space below building (raised floor)

**The following items shall be per the SCM standard make/model/product for these categories. The function, appearance, performance, durability, etc will be similar to the specified items:**

Marker boards  
Suspended and recessed light fixtures  
Lighting control system  
Window systems  
Doors and door frames (hardware per specifications)  
Single ply roofing  
Elevator (modular)  
Rough plumbing / mechanical / electrical components  
Plumbing fixtures  
HVAC system - The system will need to be adjusted for a modular construction approach. The system type (VRF) and general function will be unchanged. The make / model of the equipment may be changed. The system routing and chase locations may be changed.

**Exclusions:**

Gym  
Site development work than foundation construction  
Engineered Pad  
Backfill Around building  
Under building drainage  
Temporary power  
Utility entry into building footprint  
Underground fire line until connection point (+12'+/- AFF)  
Any infrastructure for the gym and other site construction  
Primary electrical distribution panels/switchboards and transformers  
Fire alarm (design, devices, cabling)  
Data /EMS/Security (design, material, installation)  
Exterior Screen System (design, material, installation)  
HVAC system for the gym  
Lockers (can be included if requested)  
Instrument storage (can be included if requested)  
Special or proprietary back boxes for fire alarm/data/ems/security systems



Cable trays and hooks  
Conduit and boxes in exposed areas for fire alarm/data/ems/security systems (concealed conduit and boxes within walls/floor is included)  
Electrical feeders into the building  
Electrical grounding system and connection  
Signage  
Appliances  
FF&E  
Monitors  
Window Treatments  
Skilled and trained workforce requirements  
Canopies

**Estimated construction cost: \$23,431,386**

This cost estimate is based on the information provided and the anticipated design modifications which will be necessary to modularize the project. During the development of the actual design modifications there may be unforeseen impacts on the construction cost. In the event that there is a cost increase SCM will work closely with the client and design team to provide alternatives and value engineering opportunities

Due to the unique phasing of modular construction, there are particular elements in the current design which have a significant negative impact on the project schedule and cost. As design development continues SCM can work closely with the client and design team to provide potential opportunities to adjust the current finish selections in order to reduce the project costs and/or accelerate the construction schedule.

Any items(s) not listed in the assumed scope and exclusions shall not be construed to be included in this cost estimate.

**Attachments:**

- \*Conceptual Modular Overlay Plan
- \*Conceptual Project Schedule



**Silver Creek Modular Standard Design Services Rates:**

<b>Position</b>	<b>Hourly Rate</b>
Principal / Director	\$ 260.00
Architect	\$ 230.00
Project Manager	\$ 165.00
Job Captain	\$ 125.00
Senior Structural Engineer	\$ 230.00
Structural Design Engineer	\$ 165.00
Senior Mechanical Engineer	\$ 220.00
Mechanical Design Engineer	\$ 150.00
Senior Electrical Engineer	\$ 220.00
Electrical Design Engineer	\$ 150.00
Fire Protection Systems Designer	\$ 165.00
Drafting/Technical Staff	\$ 115.00
Administrative	\$ 95.00

11.17.2023

### CONCEPTUAL MODULE OVERLAY PLAN

## MAGNOLIA SCIENCE ACADEMY

2 STORY MODULAR BUILDING  
711 WINNETKA AVE, WINNETKA CA 91306

### NOTES:

This document incorporates a preliminary concept for the module sizes/arrangement and has been provided to indicate the expected adjustments to the wall locations and room sizes.

The red lines represent the exterior and interior walls, as well as the railings around the openings, the railings around the balconies and the parapet around the lower roofs.

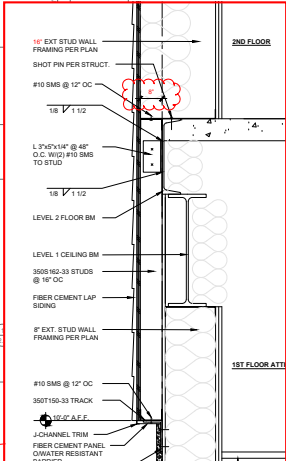
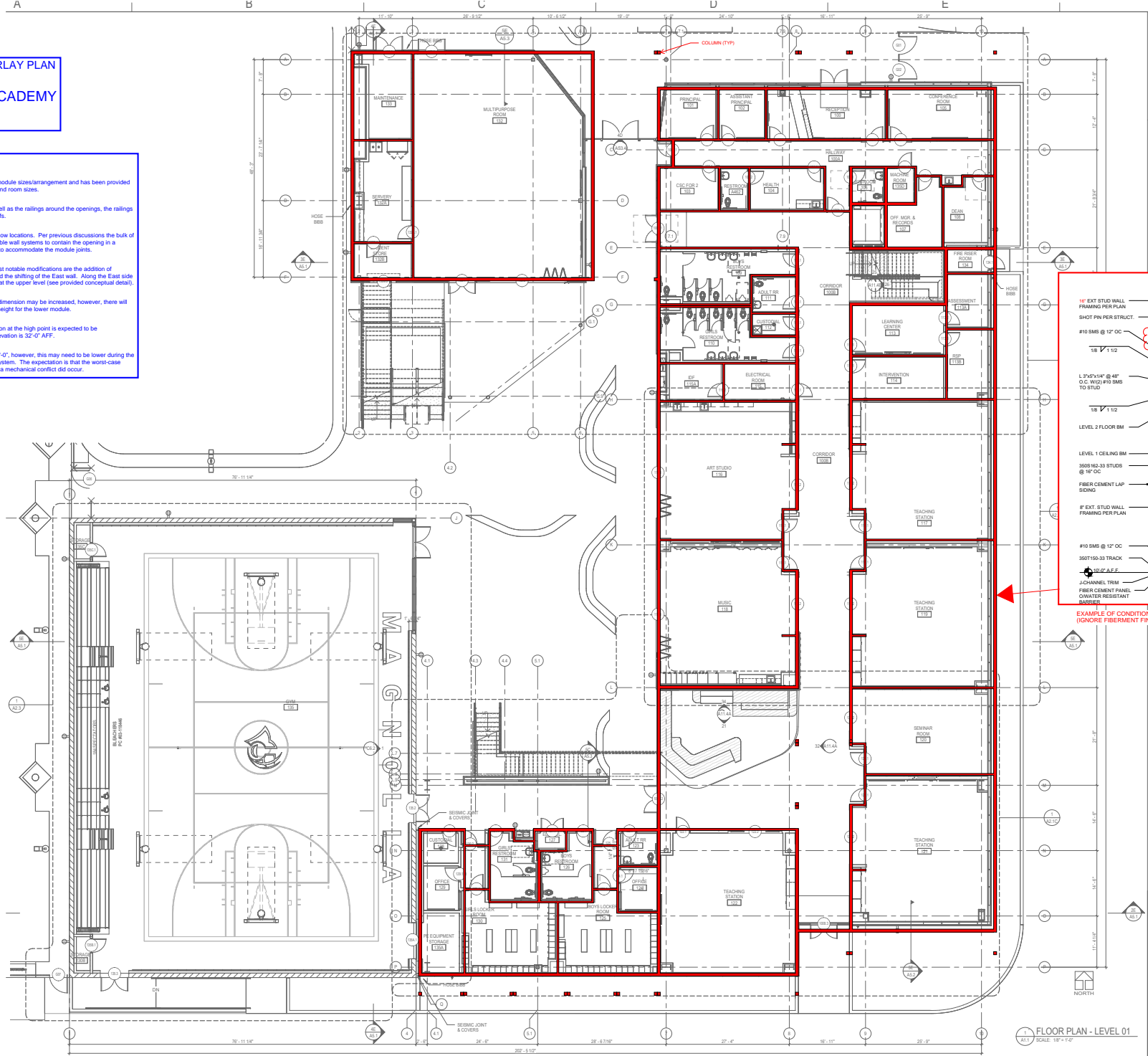
This document does not indicate the revised door and window locations. Per previous discussions the bulk of the changes would be the reduction, in length, of the operable wall systems to contain the opening in a module width. There will also be window width reductions to accommodate the module joints.

Other than the multipurpose room wall adjustments the most notable modifications are the addition of columns along the North and South ends of the building and the shifting of the East wall. Along the East side we are proposing to achieve the offset with framing/furring at the upper level (see provided conceptual detail).

A floor-to-floor elevation of 14'-0" is being proposed. This dimension may be increased, however, there will be a significant cost impact due to the increased shipping height for the lower module.

Assuming a floor-to-floor elevation of 14'-0" the roof elevation at the high point is expected to be approximately 28'-0" AFF. The proposed top of parapet elevation is 32'-0" AFF.

The classroom ceiling height is currently expected to be 10'-0", however, this may need to be lower during the design process in order to accommodate the mechanical system. The expectation is that the worst-case classroom ceiling elevation would be 9'-6" in the event that a mechanical conflict did occur.



EXAMPLE OF CONDITION ALONG THIS SIDE OF BUILDING (IGNORE FIBERMENT FINISH, STUCCO WOULD BE USED)



11.17.2023

CONCEPTUAL MODULE OVERLAY PLAN

MAGNOLIA SCIENCE ACADEMY

2 STORY MODULAR BUILDING  
711 WINNETKA AVE, WINNETKA CA 91306

NOTES:

This document incorporates a preliminary concept for the module sizes/arrangement and has been provided to indicate the expected adjustments to the wall locations and room sizes.

The red lines represent the exterior and interior walls, as well as the railings around the openings, the railings around the balconies and the parapet around the lower roofs.

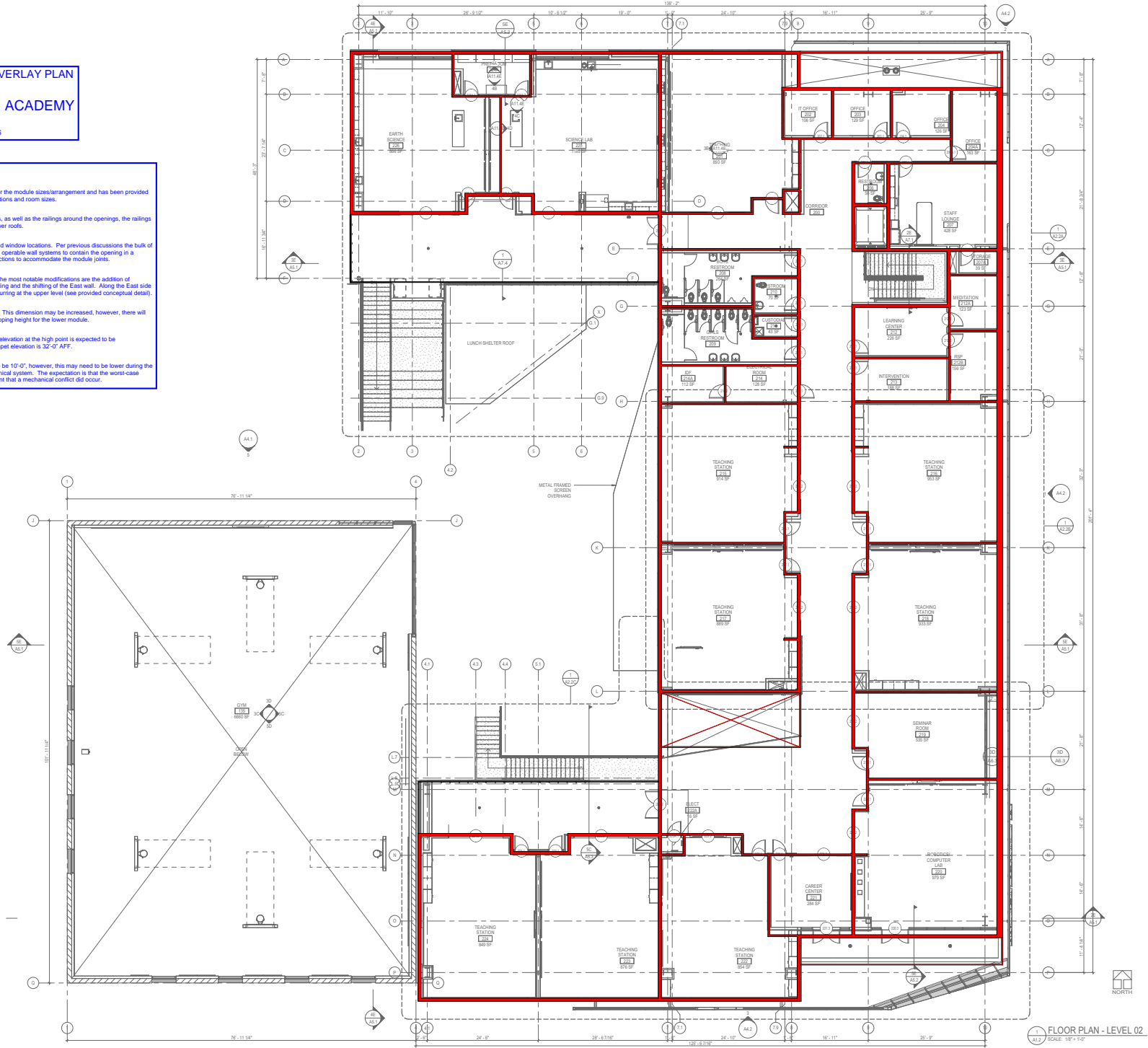
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## *EXHIBIT D*

### *iMod RFQ/P Response*



Response to Magnolia Public Schools  
RFQ/P for Modular Classroom Design Services

MSA 5

January 23, 2024

Reed Walker, President, iMod Systems



451 Azuar Drive  
Mare Island, CA 94592

January 23, 2024

Mustafa Sahin  
Facility Project Manager  
Magnolia Public Schools

It is with keen interest and pride that iMod Systems submits this response to your Request for Qualifications/Proposals for modular classroom design services dated January 11, 2024.

We believe strongly that our firm and its partners are uniquely qualified to meet the specific requirements of your MSA 5 project and your school system’s needs more broadly. We have deep experience and a proven track record of successfully designing and integrating modular, prefabricated factory-built classrooms and administrative facilities into existing educational campuses, from charter schools to major universities. Additionally, our company’s principals and partners have been working actively for more than a decade with the staff at the California Division of State Architect (DSA). And, the iMod Building System has DSA Pre-Check status!

In your RFQ/P, you ask that we provide detailed information regarding our experience and capabilities, how we would address your scope of work as outlined by DLR, the pricing and schedule required, as well as references for our work. As part of our process, we have engaged our architectural team to complete a deep dive into the plans you have submitted to DSA, including the programming concepts, general classroom requirements, circulation, and unique features of the DLR design.

As for the general information about our company:

iMod Systems, LLC a California Company  
451 Azuar Drive  
Mare Island, Ca 94592

Business License	11716701
California General Contractor’s License	1099766
California DSA PC Number	04-113307
HCD Commercial Modular Manufacturer	MF1598641
LAUSD prequalified Vendor Number	1000016951
CA Seller’s Permit	240640192-00001

Reed Walker, President  
[reed@imodsystems.com](mailto:reed@imodsystems.com)  
415.516.7776

Our modular classroom design services are predicated on more than a decade of experience of designing, manufacturing, and installing prefabricated, modular classrooms and facilities of the highest quality that meet the highest standards. Our DSA PC building system is Type II-B, non-combustible construction and complies 100% with California Seismic Requirements with no “Exceptions”. Our modular services are grounded in a commitment to providing this level of superior quality.

## iMod General Information – Team & Capabilities

iMod in conjunction with our consulting team proposes to design, prepare construction documents, and actively participate the DSA approval process, alongside DLR Group, the project architect of record for the factory manufacture of approximately 40,000 square feet of classrooms, administration space, restrooms, specialty room, and ancillary space to construct MSA 5. This iMod design will be a TYPE II-B, non-combustible building utilizing a unique, innovative moment frame structural system fully compliant with all California seismic codes.

Our consulting team is comprised of the following seasoned professionals each of whom has been working in support of iMod’s DSA approvals for over 5 years:

Principal Design & Manufacturing, iMod Systems, Reed Walker  
Architect – Verse Design, Robert Shepherd  
Structural Engineer – Mar Structural Design, David Mar  
Electrical Engineer – O’Mahony and Myer, David Orgish (lighting), Paul Carey (electrical)  
Mechanical Engineer – Dake Collaborative, Miles Dake  
Title 24 – Beyond Efficiency, Dan Johnson  
Fire Sprinklers – Marquee Fire, Mel Davis  
(Company qualifications/ overviews to follow)

Additionally, the team individually and collectively has worked on numerous directly related projects, is licensed and certified to provide such services on projects such as MSA 5, and has agreed to carve out more than sufficient time required to execute this modular classroom design project, working collaboratively with DLR Group and the facilities team at Magnolia Public Schools.

iMod’s Design team has developed a phased approach to the MSA5 submittal. Each discipline will prepare project documents and participate in each phase of the project design as described below:

**Phase 1 – Design Integration Development**

**Phase 2 – Document Preparation, Review, and Approval**

**Phase 3 – Factory Fabrication, On-Site Construction and Commissioning**

## iMod References

### **Gateway Higher Learning Academy**

900 Grace Ave.  
Sacramento, CA 95838

**James Bush**

[jimyb1950@gmail.com](mailto:jimyb1950@gmail.com)

916-846-1902

**Project:** 6 DSA classrooms in a 2-story configuration, including covered walkways and connecting deck and elevator.

### **Long Beach Unified School District**

2425 Webster Ave.  
Long Beach, CA 90810

**Dan Barr**

[dcbarr@lbschools.net](mailto:dcbarr@lbschools.net)

562-997-7550

**Project:** 2-story, 3,200-square-foot building including administration space, 1 classroom and the district network operating center.

### **Pacific Nurseries**

2499 Hillside Blvd.  
Colma, CA 94014

**Will Baldocchi**

**Need email**

650-755-2330

**Project:** 5 iMod classrooms configured into a 5,000-square-foot, 2-story office building.

Additional References:

**Douglas Humphrey, Principal Architect**

Regional Manager, DSA Los Angeles  
355 South Grand Ave., #2100

Los Angeles, Ca. 90071

Phone (213) 897-4092

E-mail [douglas.humphrey@dgs.ca.gov](mailto:douglas.humphrey@dgs.ca.gov)

**Al Grazioli**

Los Angeles Unified School District

Director of Real Estate & Business Development

**P** (213) 241-6457 • **M** (626) 688-7718 • **E** [albert.grazioli@lausd.net](mailto:albert.grazioli@lausd.net)

## Project Description

iMod intends to provide a design for the delivery of all the built spaces for MSA 5 as 90% complete or better volumetric modular structures to be installed on a concrete slab as a 2-story structure with no crawl space. The basis of the structural design will be based on the DSA PC approved system with modification to include a raised ceiling as requested by Magnolia.



The factory manufactured structures will have an overall height of 10'6" providing a 9'4" ceiling height on both floors. Dropped ceilings may occur in restroom spaces as necessary.

The gymnasium is intended to be site built.

Our design will provide 100% of the items necessary to complete the iMod School Building portion of the campus according to our iMod Plans and Specifications starting at a prepared graded site, ready for foundation trenching, through completion including all finishes, millwork, fixtures, hardware, lighting & controls, plumbing, fire sprinklers, and HVAC.

Campus unique systems such as alarm systems, public address systems, internet, other data systems and cabinetry, and utilities or their connections are intended to be designed by others with coordination by iMod. We will work closely with DLR Group to consider the inclusion of the architectural screening they have proposed and will provide coordination and structural points of connection if included.

### Design Fee Proposal

We propose to provide the services described as for

Architecture	\$403,000
Structural Engineering	\$140,000
MEP including Title 24	\$90,000
Electrical	\$45,000
Fire Sprinklers	\$30,000

### Project Manufacturing/ Construction Budget

Based on iMod standard plans and specifications, the schematics included herein and the Inclusion/ Exclusion List below, our budgetary pricing for iMod for furnish and install MSA5 is as follows:

MAG 6.2 Schematic Design

\$19,877,062 Total Price  
39,360 Total SF  
\$505.01 \$/SF

For the purposes of budgetary pricing only we provide the following:

List of iMod Inclusions & Exclusions  
For Magnolia Charter School – MSA 5 Campus  
January 23, 2024

#### **INCLUSIONS**

##### **General Inclusions**

1. Manufacture and installation of approximately 40,000 square feet of complete 2 story iMod School Building including a mix of classrooms, offices, storage, corridors, breakout spaces, restrooms, stairs, and an elevator.
2. First floor spaces will be “at grade”.



3. All non-restroom conditioned public space will have a ceiling height of 9'- 4".
4. Complete Architectural, Structural and MEP drawings required for DSA's approval of iMod's Scope of work.
5. Coordination with Project Architect & Engineer to accommodate architectural screening, provided and installed by others.
6. Performance Bonds.

### **Building System**

7. Moment Frame –iMod proprietary, DSA approved special moment frame using 6" X 10" and 6" X 6" HSS tube sections.
8. Wall Envelope - iMod proprietary, DSA approved Window Wall Systems including EFCO 810i compensation track, side stacking window systems glazed with Solarban 70 glass, or insulated panels as required.
9. Exterior Finish - iMod proprietary Rainscreen System to support Ceraclad fibercement premium cladding or equal.
10. Subfloor – USG Structural concrete panel over steel joist 16"OC.
11. Insulation Roof and Floor – 2 lb. Closed Cell spray foam, R 6.9/ inch
12. Double Aluminum Storefront Doors at all Common Area points of entry.
13. Interior Partition Walls and Doors by DIRTT Environmental Solutions per our standard iMod Plans and Specifications.
14. Interior Teaching Wall Finish by DIRTT–
  - a. Bottom Rail – Thermofoil Wood Grain Wainscot.
  - b. Teaching Rail – Magnetic White Board.
15. Millwork at Sinkbases by DIRTT per iMod Standard Plans and Specifications (no other cabinetry at this time).
16. Ceiling – Epicore Toris 2A acoustic metal panel or equal.
17. Classroom and Admin flooring: 2' X 2' Mohawk Group carpet tiles, On the Scene Collection or equivalent.

### **Private Restrooms**

18. Wall Hung Toilet and Lavatory.
  19. Tile Floor.
  20. DIRTT Walls.
  21. Complete Accessories.
- Student Restrooms (Depending on Scenario)
22. Wall hung toilets and lavatories throughout.
  23. Restroom Wall Finish – Full height white subway tile.
  24. Floor Finish – Large format non-skid tile.
  25. Phenolic partitions in student restrooms.
  26. Hand Dryers in all restrooms.
  27. Ceiling exhaust, mirrors, grab bars and accessories included.

### **Mechanical**

28. Distributed High Velocity HVAC operating in the low 40db range.
29. HVAC MERV 13 filter.
30. Average 3 tons per 1000 square feet of conditioned floor space.

### **Electrical**

31. Distributed electrical subpanels at each HVAC enclosure serving approximately 100 amps.
32. Terrace Deck lighting and emergency lighting as required for site photo-metrics.
33. Classroom lighting: 2' X 2' dimmable flat panel ceiling LED fixtures.
34. DC power controller which controls lighting and (2) 24-volt power outlets.
35. Line voltage outlets and connections per code.
36. Occupancy Sensors all rooms.

### **Plumbing**

37. Mop sink as shown in janitor's closet.
  38. Plumbing, including toilets, sinks within the restroom and the admin spaces.
- Sitework

39. On-site labor and equipment (standard rates/times) necessary for installation and button-up of iMod School Building including:
- a. Transportation and Delivery.
  - b. Crane Set.
  - c. Bolting.
  - d. Floor Patching.
  - e. Underlayment and Finish Flooring.
  - f. DIRT Power crossover connections.
  - g. Low Voltage Lighting connections.
  - h. Mate-line Dry-in and Finish Connection.
  - i. All mate-line closure panels necessary to “dry-in” the building.
  - j. DIRT wall panels.
  - k. Exterior cladding material.
  - l. Gutters, downspouts, and fascia.
  - m. All crossover material necessary for power, HVAC operation.

**Miscellaneous**

40. Modular Interior Elevator with in-ground jack system with Stainless Steel finishes.
41. One set of standard 10’ 6” Manufacturer stairs with galvanized and painted handrail and guardrails as necessary.
42. Concrete stair treads.
43. Complete Fire Sprinkler system.
44. Concrete Foundation including I-Beam Sled Stem Wall with rat slab and vapor barrier with vented underfloor space.
45. Foundation Trenching and spoils removal.
46. (1) semi-recessed fire extinguisher cabinet per classroom.

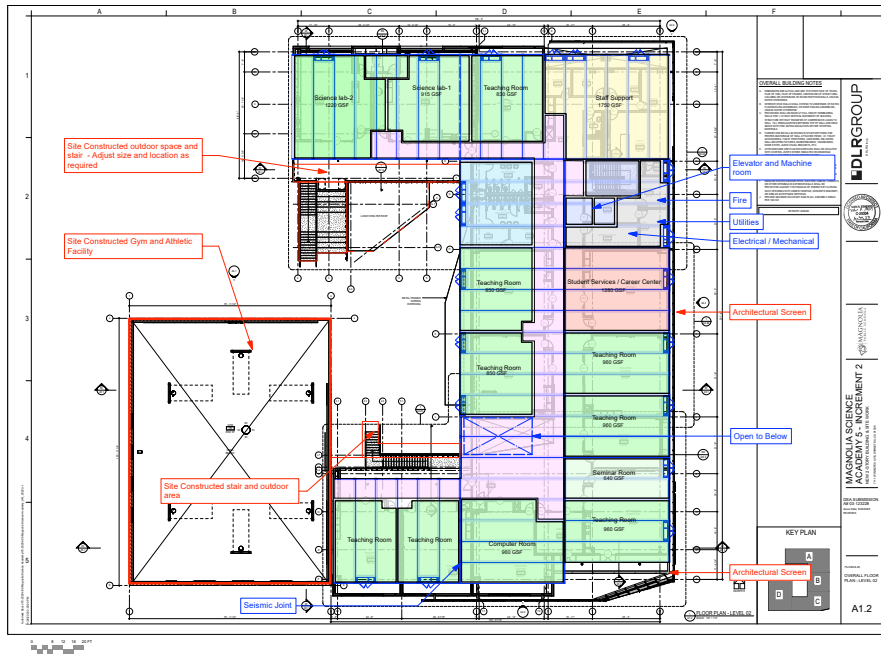
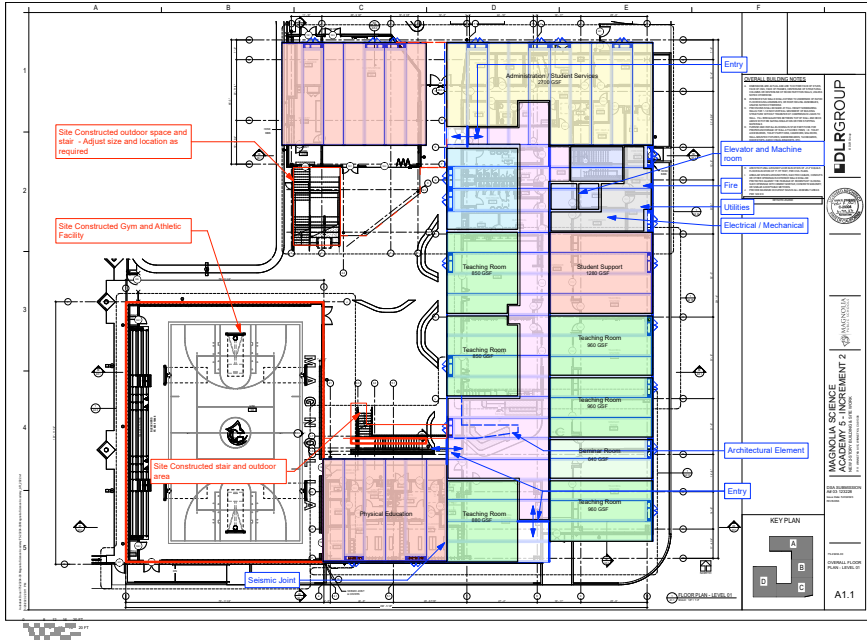
**EXCLUSIONS**

1. Local jurisdiction plan check and permitting.
2. Surveying and civil plans.
3. Site-prep and site-grading.
4. Staging area within two miles of site.
5. Security fencing and temporary toilette facilities.
6. Temporary and permanent power, water, and phone.
7. Site Utilities and/or utility connections.
8. Folding Walls are not included at this time.
9. Drinking Fountains/ Bottle Fillers.
10. Technology items such as IDF/MDF Cabinets, Monitors, Computers, Data or any other Audio-Visual equipment, wiring, wiring raceways and/or the control systems.
11. Site Drainage.
12. Foundation/ Underfloor Drainage.
13. Condensate disposal solution.
14. Concrete flatwork, playgrounds, landscaping, and other finish grade activities.
15. Fire alarm system, devices, wire, controls, and engineering.
16. Electrical Service, distribution panels, transformers, and wiring to electrical sub-panels.
17. Interior window coverings and exterior security screens.
18. Fire rated exterior walls.
19. Solar photovoltaic technology.
20. Air balance reports.
21. Storage.

22. Cabinetry.
23. Exterior cladding upgrades.
24. DIRT wall upgrades and accessories.
25. Separate Specification Books.
26. DSA plan fees, Architect fees.
27. DSA inspection fees, lab testing both on-site and in-plant.
28. CHPS/LEED Commissioning fees.
29. Dust control, erosion control.
30. Downspout connections to underground storm drain system.
31. Low Voltage Conduits/Trays in Chases/Attics.
32. Public address system or intercom system.
33. Intrusion system or motion detectors.
34. Master keying or district keying.
35. Appliances.
36. Furniture.
37. Landscaping.
38. Sealing Tile Floors.

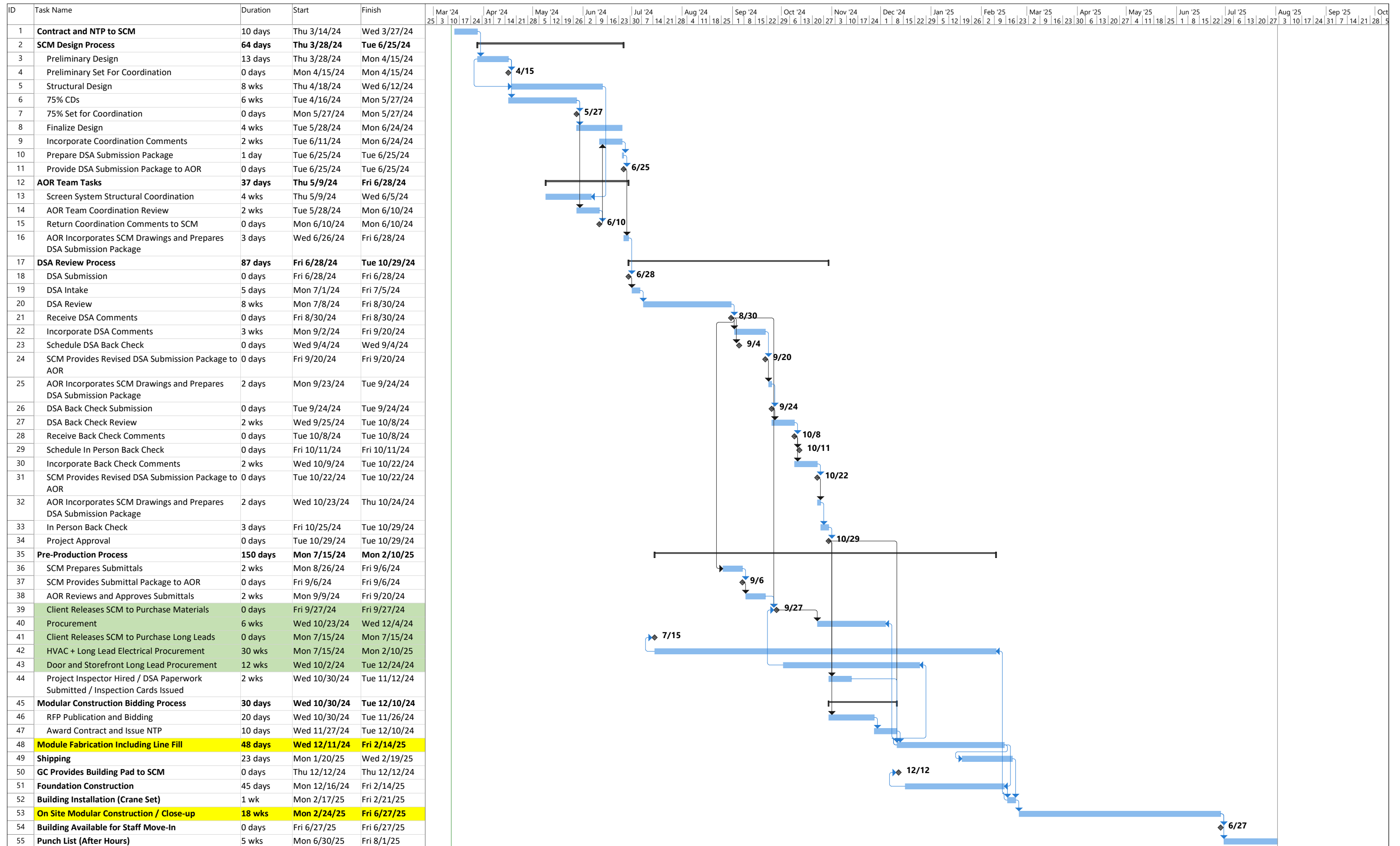
The items set forth in the list of Exclusions, above, are examples only of items that are excluded from the pricing. Any items, in addition to those items listed within these Exclusions, that is not listed in the Inclusions, above, shall be an excluded item.

For Reference, here is our updated programming overlay for MSA5 now referred to as MAG 6.2.



## *EXHIBIT E*

### *SCM Schedule*



*Exhibit F*

*Project Cash Flow Projections  
Prepared by Gateway*

MAGNOLIA CASH FLOW ANALYSIS 3.20.24

2024

NO	ITEM DESCRIPTION AND EXPLANATION	TOTAL	MARCH	APRIL	MAY	JUNE	JULY
1	Magnolia Internal Costs						
a	Interest Costs	\$3,032,106.00				\$0.00	\$1,910,934.00
b	Legal Costs (Administrative and Contracting)	\$78,333.00	\$ 5,000.00	\$ 6,000.00	\$ 6,000.00		\$ 9,833.00
c	Project Approval Costs	\$0.00					
d	Demolition and Disposal Costs	\$400,000.00		\$200,000.00	\$200,000.00		
e	Testing and Special Inspections (Gateway to Estimate Costs)	\$275,000.00					
	Other: FF&E plus Other Costs	\$1,735,575.00					
2	DLR Group Costs						
a	Additional Services for Modular Conversion	\$150,000.00		\$75,000.00	\$75,000.00		
b	Additional Services for Separation into a Three Increment Project	\$50,000.00			\$50,000.00		
c	Additional Services for Modular Gym Project	\$150,000.00			\$75,000.00	\$75,000.00	
d	Remaining Magnolia/DLR Group Contract Costs Divided over construction period 16 months)	\$716,429.55			\$44,776.85	\$44,776.85	\$44,776.85
3	DSA Costs						
a	DSA Approval for Increment #1 (Sitework)	\$5,000.00		\$5,000.00			
b	DSA Approval for Increment #2 (Classroom Building) (add 3/4 of original fee for initial submission)	\$208,425.00			\$208,425.00		
c	DSA Approval for Increment #3 (Gym Building) (add 1/2 of original fee for initial submission)	\$138,950.00			\$138,950.00		
4	Gateway Costs						
a	Pre-Construction Costs	\$75,000.00	\$75,000.00				
b	Construction Management Costs (includes Packaging, Publication, Bidding and Awarding)	\$2,059,743.00		\$142,600.00	\$192,832.00	\$103,592.00	\$103,592.00
c	Onsite IOR Cost Estimate (paid by Magnolia)	\$125,000.00					
d	Other: _____						
4	Silver Creek Costs						
a	Factory IOR Cost (paid by Magnolia)	\$150,000.00					
b	Design costs	\$358,000.00		\$103,000.00	\$103,000.00	\$102,000.00	
c	Procurement Costs (paid by Magnolia)	\$9,500,000.00					
d	Fabrication and Delivery Costs (non-prevailing costs)	\$4,338,138.00					
e	Delivery Costs	incl c					
f	Installation Costs (prevailing wages apply) **include \$1,016,000 acceleration costs	\$9,286,859.00					
g	Pick Up List Costs	incl f					
h	Other: Retainage	\$1,513,889.00					
5	Sitework costs						
	Offsite Costs	\$2,547,190.00			\$636,797.50	\$636,797.50	\$636,797.50
6	Onsite Costs	\$2,405,296.00					\$601,324.00
7	Project Closeout						
a	As Built drawings	incl in fee					
b	Site Testing and Commissioning	\$55,000.00					
c	Final Certifications (DSA, et. al.)	\$20,000.00					
d	Systems Testing and Staff training	\$13,000.00					
e	Other: _____						
8	Contingency	\$2,000,000.00					
		<b>\$41,386,934</b>	<b>\$80,000</b>	<b>\$531,600</b>	<b>\$1,730,781</b>	<b>\$962,166</b>	<b>\$3,307,257</b>
	Cumulative		\$80,000	\$611,600	\$2,342,381	\$3,304,548	\$6,611,805



MAGNOLIA CASH FLOW ANALYSIS 3.20.24		2024					
NO	ITEM DESCRIPTION AND EXPLANATION	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	JANUARY
1	Magnolia Internal Costs						
a	Interest Costs	\$80,083.71	\$80,083.71	\$80,083.71	\$80,083.71	\$80,083.71	\$80,083.71
b	Legal Costs (Administrative and Contracting)	\$ 6,500.00	\$6,500.00	\$ 5,500.00	\$ 5,500.00	\$ 5,000.00	\$ 2,500.00
c	Project Approval Costs						
d	Demolition and Disposal Costs						
e	Testing and Special Inspections (Gateway to Estimate Costs)				\$25,000.00	\$25,000.00	\$25,000.00
	Other: FF&E plus Other Costs		\$106,833.33	\$106,833.33	\$106,833.33	\$106,833.33	\$106,833.33
2	DLR Group Costs						
a	Additional Services for Modular Conversion						
b	Additional Services for Separation into a Three Increment Project						
c	Additional Services for Modular Gym Project						
d	Remaining Magnolia/DLR Group Contract Costs Divided over construction period 16 months)	\$44,776.85	\$44,776.85	\$44,776.85	\$44,776.85	\$44,776.85	\$44,776.85
3	DSA Costs						
a	DSA Approval for Increment #1 (Sitework)						
b	DSA Approval for Increment #2 (Classroom Building) (add 3/4 of original fee for initial submission)						
c	DSA Approval for Increment #3 (Gym Building) (add 1/2 of original fee for initial submission)						
4	Gateway Costs						
a	Pre-Construction Costs						
b	Construction Management Costs (includes Packaging, Publication, Bidding and Awarding)	\$103,592.00	\$76,360.00	\$107,640.00	\$122,600.00	\$107,640.00	\$126,592.00
c	Onsite IOR Cost Estimate (paid by Magnolia)						\$15,000.00
d	Other: _____						
4	Silver Creek Costs						
a	Factory IOR Cost (paid by Magnolia)					\$ 15,000.00	\$ 50,000.00
b	Design costs				\$50,000.00		
c	Procurement Costs (paid by Magnolia)		\$1,800,000.00	\$ 1,900,000.00	\$ 5,100,000.00	\$ 700,000.00	
d	Fabrication and Delivery Costs (non-prevailing costs)					\$ 250,000.00	\$ 1,690,569.00
e	Delivery Costs						
f	Installation Costs (prevailing wages apply) **include \$1,016,000 acceleration costs						\$ 550,000.00
g	Pick Up List Costs						
h	Other: Retainage						
5	Sitework costs						
	Offsite Costs	\$636,797.50					
6	Onsite Costs	\$601,324.00	\$601,324.00	\$601,324.00			
7	Project Closeout						
a	As Built drawings						
b	Site Testing and Commissioning						
c	Final Certifications (DSA, et. al.)						
d	Systems Testing and Staff training						
e	Other: _____						
8	Contingency					\$ 250,000.00	\$ 250,000.00
		<b>\$1,473,074</b>	<b>\$2,715,878</b>	<b>\$2,846,158</b>	<b>\$5,534,794</b>	<b>\$1,334,334</b>	<b>\$2,691,355</b>
		\$8,084,879	\$10,800,757	\$13,646,915	\$19,181,709	\$20,516,043	\$23,207,398

MAGNOLIA CASH FLOW ANALYSIS 3.20.24		2025					
NO	ITEM DESCRIPTION AND EXPLANATION	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY
1	Magnolia Internal Costs						
a	Interest Costs	\$80,083.71	\$80,083.71	\$80,083.71	\$80,083.71	\$80,083.71	\$80,083.71
b	Legal Costs (Administrative and Contracting)	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
c	Project Approval Costs						
d	Demolition and Disposal Costs						
e	Testing and Special Inspections (Gateway to Estimate Costs)	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00
	Other: FF&E plus Other Costs	\$106,833.33	\$106,833.33	\$106,833.33	\$453,575.00	\$106,833.33	\$106,833.33
2	DLR Group Costs						
a	Additional Services for Modular Conversion						
b	Additional Services for Separation into a Three Increment Project						
c	Additional Services for Modular Gym Project						
d	Remaining Magnolia/DLR Group Contract Costs Divided over construction period 16 months)	\$44,776.85	\$44,776.85	\$44,776.85	\$44,776.85	\$44,776.85	\$44,776.85
3	DSA Costs						
a	DSA Approval for Increment #1 (Sitework)						
b	DSA Approval for Increment #2 (Classroom Building) (add 3/4 of original fee for initial submission)						
c	DSA Approval for Increment #3 (Gym Building) (add 1/2 of original fee for initial submission)						
4	Gateway Costs						
a	Pre-Construction Costs						
b	Construction Management Costs (includes Packaging, Publication, Bidding and Awarding)	\$103,592.00	\$144,871.00	\$103,592.00	\$103,592.00	\$118,552.00	\$118,552.00
c	Onsite IOR Cost Estimate (paid by Magnolia)	\$15,000.00	\$15,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00
d	Other: _____						
4	Silver Creek Costs						
a	Factory IOR Cost (paid by Magnolia)	\$ 50,000.00	\$ 35,000.00				
b	Design costs						
c	Procurement Costs (paid by Magnolia)						
d	Fabrication and Delivery Costs (non-prevailing costs)	\$ 1,690,569.00	\$ 707,000.00				
e	Delivery Costs						
f	Installation Costs (prevailing wages apply) **include \$1,016,000 acceleration costs	\$ 550,000.00	\$ 1,225,800.00	\$ 1,690,569.00	\$ 1,690,569.00	\$ 1,690,569.00	\$ 1,690,569.00
g	Pick Up List Costs						
h	Other: Retainage						
5	Sitework costs						
	Offsite Costs						
6	Onsite Costs						
7	Project Closeout						
a	As Built drawings						
b	Site Testing and Commissioning						
c	Final Certifications (DSA, et. al.)						\$10,000.00
d	Systems Testing and Staff training						
e	Other: _____						
8	Contingency	\$ 250,000.00	\$ 250,000.00	\$ 166,666.67	\$ 166,666.67	\$ 166,666.67	\$ 166,666.67
		<b>\$2,668,355</b>	<b>\$2,386,865</b>	<b>\$2,073,355</b>	<b>\$2,420,097</b>	<b>\$2,088,315</b>	<b>\$2,098,315</b>
		\$25,875,752	\$28,262,617	\$30,335,972	\$32,756,069	\$34,844,384	\$36,942,699

**MAGNOLIA CASH FLOW ANALYSIS 3.20.24**

NO	ITEM DESCRIPTION AND EXPLANATION	AUGUST	SEPTEMBER	TOTAL
1	Magnolia Internal Costs			
a	Interest Costs	\$80,083.71	\$80,083.71	\$3,032,106.00
b	Legal Costs (Administrative and Contracting)	\$ 2,500.00	\$ 2,500.00	\$78,333.00
c	Project Approval Costs			\$0.00
d	Demolition and Disposal Costs			\$400,000.00
e	Testing and Special Inspections (Gateway to Estimate Costs)	\$25,000.00	\$25,000.00	\$275,000.00
	Other: FF&E plus Other Costs	\$106,833.33	\$106,833.33	\$1,735,575.00
2	DLR Group Costs			
a	Additional Services for Modular Conversion			\$150,000.00
b	Additional Services for Separation into a Three Increment Project			\$50,000.00
c	Additional Services for Modular Gym Project			\$150,000.00
d	Remaining Magnolia/DLR Group Contract Costs Divided over construction period 16 months)	\$44,776.85		\$716,429.55
3	DSA Costs			
a	DSA Approval for Increment #1 (Sitework)			\$5,000.00
b	DSA Approval for Increment #2 (Classroom Building) (add 3/4 of original fee for initial submission)			\$208,425.00
c	DSA Approval for Increment #3 (Gym Building) (add 1/2 of original fee for initial submission)			\$138,950.00
4	Gateway Costs			
a	Pre-Construction Costs			\$75,000.00
b	Construction Management Costs (includes Packaging, Publication, Bidding and Awarding)	\$103,592.00	\$76,360.00	\$2,059,743.00
c	Onsite IOR Cost Estimate (paid by Magnolia)			\$125,000.00
d	Other: _____			
4	Silver Creek Costs			
a	Factory IOR Cost (paid by Magnolia)			\$150,000.00
b	Design costs			\$358,000.00
c	Procurement Costs (paid by Magnolia)			\$9,500,000.00
d	Fabrication and Delivery Costs (non-prevailing costs)			\$4,338,138.00
e	Delivery Costs			
f	Installation Costs (prevailing wages apply) **include \$1,016,000 acceleration costs	\$ 198,783.00		\$9,286,859.00
g	Pick Up List Costs			
h	Other: Retainage		\$ 1,513,889.00	\$1,513,889.00
5	Sitework costs			
	Offsite Costs			\$2,547,190.00
6	Onsite Costs			\$2,405,296.00
7	Project Closeout			
a	As Built drawings			
b	Site Testing and Commissioning	\$55,000.00		\$55,000.00
c	Final Certifications (DSA, et. al.)	\$10,000.00		\$20,000.00
d	Systems Testing and Staff training	\$8,000.00	\$5,000.00	\$13,000.00
e	Other: _____			
8	Contingency	\$ 166,666.67	\$ 166,666.67	\$2,000,000.00
		<b>\$634,569</b>	<b>\$1,809,666</b>	<b>\$41,386,934</b>
		\$37,577,268	\$39,386,934	

## *Exhibit G*

### *Cash Flow Analysis*

*The Finance Team has reviewed the information provided by Gateway Science & Engineering and have factored in approximately \$33.8 million worth of expenditures for hard costs related to construction. This includes approximately \$9.5 million worth of costs associated with the purchase of long lead items including HVAC, steel and other materials. MPS should be able to maintain sufficient cash balances during the construction period. We will need to secure external borrowing through a 3<sup>rd</sup> party lender in order to move forward. We have had regular discussions with Banc of California and remain confident that we will be able to secure a construction loan and expect final term sheets, which will be presented during the April 11, 2024 Regular Board Meeting.*