



JAMES HEIMLER, ARCHITECT, INC.

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AGREEMENT BETWEEN OWNER AND ARCHITECT

CONTACT:	Matthew Brown	DATE:	01/14/2020
OWNER:	TEACH Public Schools	JOB NO.:	2020-0003
ADDRESS:	10000 S. Western Ave Los Angeles, CA 90047	Agc NO.:	Agrc01
PHONE:	323-872-0808	PROJECT:	Teach BBQ-Los Angeles
FAX:		LOCATION:	10600 S. Western Ave Los Angeles, CA 90044
CELL:			
E-MAIL:	mbrown@teachps.org		

A. BASIC SERVICES:

1. SCOPE:

- a. Project Type: **Office-Tenant Improvement-Site Improvement-Parking**
- b. 24,000 s.f.± existing one story wood framed building.
- c. Design similar to Owner provided proposed plan sheet A1.0 dated 9/23/2019.
- d. Change of Use: Convert existing restaurant into administrative offices for the school.
- e. New suspended acoustical tile ceiling throughout.
- f. Add two to three exterior windows.
- g. Add one new mechanical unit on the roof.
- h. Provide new sprinkler system.
- i. New parking layout for accessibility not included in scope of work. Owner to provide boundary and topographical survey if needed.

2. SERVICES INCLUDE ARCHITECTURAL:

- a. Pre Design:
 - (1) Document existing observable Architectural conditions at project location (non-destructive methods), within immediate area of work only, including:
 - (a) Documents- floor, ceiling, and roof plans, section and elevation (in electronic format).
 - (b) Information shall include:
 - (i) Main utility services.
- b. Schematic Design:
 - (1) Assist the Owner with an analysis of development alternatives for the purpose of determining the scope and character of the project.
 - (2) Provide site and floor plans. Two (2) schemes.
 - (3) Verify government restrictions at governing agencies.
 - (4) One (1) meeting Owner's office anticipated.
 - (5) Assist the Owner with obtaining professional services fee proposals from the Owner's consultants, including: Civil, Structural, Mechanical, Electrical, and Plumbing Engineers.
- c. Design Development: N.I.C. (Not in Contract)
- d. Construction Documents:
 - (1) Provide architectural construction documents for permitting purposes with additional detailing.
 - (2) These documents include:
 - (a) Minor site plan modifications and related information.
 - (b) Floor plan and related information;
 - (c) Reflected ceiling plan with suspension system detail.
 - (d) Wall details.
 - (e) Disabled access issue U.N.O. (Unless Noted Otherwise).
 - (f) Generic specifications or as provided by client.
 - (g) Architectural plan check corrections.
 - (3) No meetings anticipated.

- (4) Assist the Owner with coordination of the Owner’s consultants, including: Civil, Structural, Mechanical, Electrical, and Plumbing Engineers.
 - e. Agency Processing:
 - (1) Standard Approval:
 - (a) Assist the Owner in filing and processing for Government authority approvals.
 - (2) Special Approval: N.I.C.
 - f. Bid Coordination:
 - (1) As requested.
 - g. Construction Administration:
 - (1) As requested.
 - h. Consultation: N.I.C.
3. **AGREEMENT EXCLUSIONS:** Without limitations to the foregoing, the following items are **not** included in the scope of basic services: project program; LEED design services; topography and boundary surveys; property dedications; radius maps and related information; verifying information (permit) on file at City; zoning and city planning requirements (outside of the building shell); soils and geology conditions; hazardous materials; Utility Company coordination; preparation and expediting for neighborhood or special Government authority approvals i.e. regional planning issues, review boards, Conditional Use Permit (C.U.P.), Administration Adjustments, plot plan reviews, project permits, hearings, variances, code modification requests; health department; off-site conditions including but not limited to public works and engineering department requirements; document recording; ADA/disabled access (except in immediate area of work); preliminary/final energy modeling calculations and analysis; Civil, Structural, Mechanical (including Title 24 energy calculations and all required documentation forms), Plumbing and Electrical Engineering services; photovoltaic/solar hot water systems; lighting design; low voltage systems; Acoustical Consultant; schematic design; value engineering; book or sheet specifications unless required for permitting; fixtures and equipment selection; Interior decorating; furniture plans; arborist/tree reports; Landscape Architect design including: hardscape, softscape and irrigation design; on site water storage/Sanitation/Health Department issues; models; renderings; computerized animated presentations; graphic design; building signs; all city fees, taxes, permits; construction cost estimating; construction bid coordination U.N.O.; construction administration U.N.O.; and commissioning.

B. COMPENSATION FOR BASIC SERVICES:

1. Compensation shall be based on hourly rates as noted below

Principal Architect-----	\$225.00	Intermediate Designer -----	\$78.00
-		-	
Senior Architect / Director-----	\$146.00	Junior Designer -----	\$62.00
-		-	
Project Architect / Senior Project Manager---	\$130.00	Senior Manager-----	\$88.00
		--	
Senior Designer 1 / Project Manager-----	\$120.00	Manager -----	\$68.00
-		--	
Senior Designer 2 -----	\$110.00	Assistant Manager-----	\$52.00
-		-	
Senior Designer 3 -----	\$94.00		
-			

Hourly rates are in effect for one calendar year. An annual increase may apply.

- 2. Compensation shall be an Estimated Fee and shall be based on hourly rates as noted in sub-paragraph B.1. and B.7.
- 3. If compensation reaches an Estimated Fee Total of Nineteen Thousand Eight Hundred and no/100 Dollars (\$19,800.00), then prior to exceeding the Estimated Fee Total, the Architect shall issue the Owner an Agreement Services Addendum (ASA) for approval.
- 4. The Fee breakdown by Phase for Architectural:

<u>Phase</u>	<u>Estimated Fee</u>	<u>N.I.C.</u>
a. Pre Design -----	\$ 4,500.00	
b. Schematic Design-----	\$ 3,000.00	
c. Design Development-----		N.I.C.
d. Construction Documents-----	\$ 7,500.00	
e. Agency Processing (1) Standard Approval	\$ 3,300.00	
(2) Special Approval		N.I.C.

f. Bid Coordination-----	\$ 500.00	
g. Construction Administration-----	\$ 1,000.00	
h. Consultation-----		N.I.C.
i. Total	\$19,800.00	

5. Each phase will not proceed without Owner’s written approval to proceed past previous phase of services.
6. The Estimated Fee of any given phase is approximate and the cap is on the Total.
7. Hourly compensation shall include all time spent including but not limited to administrative, accounting, project management and coordination, meetings, all communications, and portal to portal transportation.

C. COMPENSATION FOR ADDITIONAL SERVICES:

1. Compensation shall be based on hourly rates as noted in sub-paragraph B.1. and B.7.

D. REIMBURSEMENTS:

1. Printing, deliveries, copies, parking, transportation, and government fees shall be billed at a multiple of 1.15 times the Architect's expense.

E. PAYMENT:

1. Initial payment of Three Thousand and no/100 dollars (\$3,000.00) to be credited at final invoicing.
2. All payments are due and payable within Fourteen (14) days of monthly invoicing.
3. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the maximum interest allowed by law.
4. Progress payments shall be made in full for all services completed including, but not limited to: consultants, reimbursements, administrative, and interest on all late payments.
5. No deduction shall be made from payments to this office on account of penalty, liquidated damages, or any other sums withheld from payment to you, the building contractor, or any other persons.

F. CONDITIONS OF SERVICE:

1. AGREEMENT SERVICES ADDENDUM (ASA): Authorizations by the Owner, for expanded agreement services, shall be binding on the Owner with written acknowledgment by the Architect in the form of an ‘ASA’.
2. OWNER DEFINED: Owner shall be defined as Client whether Owner or Owner's Representative.
3. CONSTRUCTION COST: No fixed limit of construction costs shall be established as a condition of this agreement.
4. OWNER'S RESPONSIBILITY: Provide project program; legal description; existing building permits; construction standards; Consultants’ services; boundary survey and topographic map with 1^o intervals on all existing conditions on project site with construction adjacencies within 5 feet of property line and utilities in AutoCAD 2014 electronic format; and a current government approved Geotechnical report.
5. PLAN CHANGES: Owner’s written approval shall be obtained at each stage (Schematic Design, Design Development and Construction Documents) prior to progression to the next stage. All design changes, corrections and meetings after approval at each stage shall be compensated for as Additional Services at the hourly rates as set forth in Sub-section C.
6. CODE CHANGES: The Architect shall put forth reasonable professional efforts to comply with applicable laws, codes and regulations in effect as of the date of *[the execution of this Agreement, and initial project review requests at governing agencies, as noted in this Agreement]*. Design changes made necessary by newly enacted laws, codes, regulations, and new code interpretations after this date shall entitle the Architect to a reasonable adjustment in the schedule and additional compensation in accordance with the Additional Services provisions of this Agreement. In the event of a conflict between laws, codes and regulations of various governmental entities having jurisdiction over this Project, the Architect shall notify the Client of the nature and impact of such conflict. The Client agrees to cooperate and work with the Architect in an effort to resolve this conflict.
7. CONSULTANT CHANGES: The Architect shall not be responsible for the accuracy or completeness and suitability of the Owner's or Architect's consultant's work. All changes, corrections and meetings related to the above mentioned shall be based on hourly rates as noted in sub-section C.
8. SCHEDULE: The Architect shall not be responsible for delays or default in performance of design services which are beyond Architect's control. In the event that (i) Owner suspends the Project for greater than sixty (60) days, (ii) the Project is abandoned by Owner for greater than sixty (60) days, or (iii) Architect’s services are not needed for a period of greater than ninety (90) days, then Architect shall be compensated for expenses incurred in the interruption and resumption of Architect’s services and the schedule and compensation hereunder shall be equitably adjusted as per sub-section B.

9. **OWNERSHIP OF DOCUMENTS:** All documents produced by the Firm under this agreement shall remain the property of the Firm and may not be used by the Client for any other endeavor without the written consent of the Firm.
10. **DOCUMENT PRIORITY:** Hard copy plans shall take precedence over electronic files. Electronic files are for the Client's convenience only. Architect shall not be responsible for the deterioration of data on electronic format beyond 2 months.
11. **LIMITATION OF LIABILITY:** In recognition of the relative risks and benefits of this Project to the Owner and the Architect, the risks have been allocated such that the Owner agrees on its behalf and on behalf of all of its owners, shareholders or principals, to the fullest extent permitted by law, to limit the liability of the Architect, and the Architects' employees and consultants, to the Owner, General Contractor, subcontractors, other consultants, material suppliers, or any other third party, including successors or assigns, owners of the individual units at the Project from and against any and all liability, claims, demands, damages, expenses (including attorneys, expert and administrative fees) (hereinafter "Liability") from any cause or causes, such that the total aggregate liability of the Architect, and its consultants, to all those named shall not exceed Five Thousand and no/100 dollars (\$5,000.00) for services rendered on this Project. This limitation of liability includes, but is not limited to allegations or proof of negligence, indemnity, breach of contract, strict liability or warranty, consequential damages, or any other contract or tort claim plead.
12. **DAMAGE WAIVER:** Neither party shall, under any circumstances, be liable to any other party for consequential, exemplary, or economic loss damages arising out of or related to the transactions contemplated in this agreement or the planning, design and construction of the project.
13. **OPINIONS OF PROBABLE CONSTRUCTION COST:** In providing opinions or estimates of probable construction cost, the Client understands that the Consultant has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the Consultant's opinions or estimates of probable construction costs are made on the basis of the Consultant's professional judgment and experience. The Consultant makes no warranty, express or implied, that the bids or the negotiated cost of the Work will not vary from the Consultant's opinions or estimates of probable construction cost. The Client is strongly encouraged to retain a professional cost estimator.
14. **HOLD HARMLESS STORING DATA ON ELECTRONIC MEDIA:** Any use or reuse of original or altered CADD materials by Owner, agents of Owner, or other parties without the review and written approval of Design Professional shall be at the sole risk of Owner. Furthermore, the Owner, agrees to indemnify, hold harmless and defend James Heimler, Architect, Inc. and its agents, principals and employees from and against any and all claims, costs, suits and damages, including reasonable attorney fees, reasonable expert fees and all reasonable costs of defense arising out of the modification or reuse of these materials.
15. **INSPECTION:** The Owner shall contract an independent inspection and testing agency to review the materials, methods, and means of construction in relation to waterproofing and acoustical compliance to current industry standards. Architect will provide input into the selection of these consultants but they will be retained by and report to the Owner.
16. **VISUAL ON-SITE OBSERVATION SERVICES:** Evaluation of the existing structure requires that certain assumptions be made regarding existing conditions. Some of these assumptions about existing conditions cannot be verified without expending additional sums of money or destroying otherwise adequate or serviceable portions of the building ("unforeseen existing conditions"). The Client agrees to the fullest extent permitted by law, to indemnify and hold the Design Professional harmless from and against any and all damage, liability and cost, including reasonable attorneys' fees and defense costs, arising or allegedly arising out of the professional services that arise from "unforeseen existing conditions" under this Agreement, except for the sole negligence or willful misconduct of the Design Professional.
17. **CERTIFICATE OF MERIT:** The Client shall make no claim for professional negligence either directly or by way of a cross complaint against the Architect unless the Client has first provided the Architect with a written certification executed by an independent Architect currently practicing in the same discipline as the Architect and licensed in the State of California. This Certification shall contain: 1) The name and license number of the certifier 2) Specify the acts or omissions that the certifier contends are not in conformance with the standard of care applicable to an Architect performing professional services under similar circumstances, and 3) State in detail the basis for the certifier's opinion that such acts or omissions do not conform to the standard of care.
This Certificate shall be provided to the Architect not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any arbitration or judicial proceeding. This Certificate of Merit clause will take precedence over any State law in force at the time of the claim or demand for arbitration.

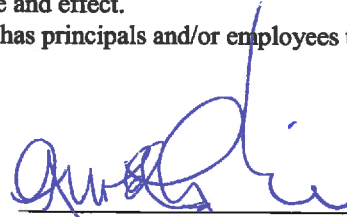
18. **COMPLIANCE WITH PLANS:** The Owner shall use its best efforts to properly construct project in full compliance with the plans and specifications prepared by the Architect and must repair any substandard, faulty or failing work.
19. **UNAUTHORIZED CHANGES:** In the event the Owner, the Owner's contractors or subcontractors, or anyone for whom the Owner is legally liable makes or permits to be made any changes to any reports, plans, specifications or other construction documents prepared by the Architect without obtaining the Architect's prior written consent, the Owner shall assume full responsibility for the results of such changes. Therefore the Owner agrees to waive any claim against the Architect and to release the Architect from any liability arising directly or indirectly from such changes. In addition, the Owner agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Architect from any damages, liabilities or costs, including reasonable attorneys' fees and costs of defense, arising from such changes. In addition, the Owner agrees to include in any contracts for construction appropriate language that prohibits the Contractor or any subcontractors of any tier from making any changes or modifications to the Architect's construction documents without the prior written approval of the Architect and that further requires the Contractor to indemnify both the Architect and the Owner from any liability or cost arising from such changes made without such proper authorization.
20. **CONSTRUCTION ADMINISTRATION:** The definition of terms used in this Paragraph, are as set forth in the current edition of A.I.A. Document A201, General Conditions of the Contract for Construction.
 - a. The Architect shall be a representative of and shall advise and consult with the Owner as requested during construction until final payment to the Contractor is due.
 - b. The Architect shall visit the site as requested, to become generally familiar with the progress and quality of the Work completed and to determine in general if the Work is being performed in a manner indicating that the specific Work in question when completed will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect shall keep the Owner informed of the progress and quality of the Work with field reports, and shall endeavor to guard the Owner against defects and deficiencies in the Work.
 - c. The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents. The Architect shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.
 - d. Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality of either, and shall not be liable for results of interpretations or decisions so rendered in good faith.
21. **WITHHOLDING SERVICES:** The Architect reserves the right to withhold services related to subsequent phases of work until paid, and to stop all work when bills are overdue. Such withholding of services or work stoppage shall be without prejudice and without acceptance for any liability for resultant damage.
22. **MEDIATION:** In addition to and prior to legal action, the parties shall endeavor to settle disputes by mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise. Demand for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for mediation shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.
23. **ATTORNEY'S FEES:** In the event that legal action is necessary to enforce the payment terms of this agreement, the Architect shall be entitled to collect from the client any judgment or settlement sums due plus reasonable attorney's fees, court costs and other expenses incurred by Architect for such collection action and, in addition, the reasonable value of the Architect's time and expenses spent for such collection action, computed according to the Architect's prevailing fee schedule and expense policy.
24. **DISPUTE:** In the event of a dispute or legal action between the parties to this agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, expert fees, and all other reasonable costs incurred, including the time expended by the parties in defending/prosecuting the dispute.

- 27. SEVERABILITY: Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect.
- 28. LICENSE: The client understands that the Architect (JHAI) has principals and/or employees that are licensed by the California Architects Board.

(Signature) (Date)

(Printed Name, Title)

(Company Name)



(Signature) 1/23/20
(Date)

Arnold LeVine, Senior Architect
California Architect License # C19816

James Heimler, Architect, Inc. (JHAI)