



AGREEMENT

BETWEEN

NATOMAS UNIFIED SCHOOL DISTRICT

AND

A.P. CONSTRUCTION SERVICES

FOR

INSPECTOR OF RECORD SERVICES

Project

DSA Application No. 02-117840

**NATOMAS UNIFIED SCHOOL DISTRICT
PROJECT INSPECTOR OF RECORD SERVICES AGREEMENT**

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NATOMAS UNIFIED SCHOOL DISTRICT

Project Inspector of Record Services Agreement

THIS AGREEMENT is entered into on this 5 day of FEBRUARY, 2020 by and between the Natomas Unified School District (the "Owner") and A.P. Construction Services (the "Consultant") for professional inspection services.

The Owner intends to retain Consultant to provide Professional Inspection services in connection with the Bannon Creek School K-8 Conversion located in Natomas, CA (the "Project").

ARTICLE 1. DEFINITIONS

OWNER: Natomas Unified School District

PROJECT INSPECTOR (CONSULTANT): The organization or individual providing professional inspection services on the Project.

ARCHITECT-ENGINEER (A-E) or DESIGN PROFESSIONAL: The organization or individual providing those professional design services associated with construction, alteration, or repair of real property.

CONSTRUCTION BUDGET: The total available funding for work to be bid to construction contractors, excluding change orders.

CONTRACTOR: The person or persons, partnership, or corporation who has entered into an agreement with the Owner to construct the Project(s).

OWNER: Natomas Unified School District

OWNER'S REPRESENTATIVE (OR): Not assigned on this project. The individual appointed by the Owner as the Owner's representative to provide preconstruction, construction phase and post-construction close-out of the Project(s).

PROGRAM MANAGER (PM): Not assigned on this project. The agent appointed by the Owner as the Owner's representative(s) to provide overall program management services during the design and construction phases of the Project. For purposes of this Agreement, the PM shall have the authority to direct the work and minor changes to the Project, except that the terms of this Agreement shall not be modified without the approval of Owner.



PROJECT: **Bannon Creek School K-8 Conversion**

PROJECT SCHEDULE: The schedule for completion of the entire Project, from pre-design phase work through final close-out of the Project.

ARTICLE 2. CONSULTANT'S SERVICES AND RESPONSIBILITIES

- A. The Consultant's Basic Services are included as Exhibit C.
- B. The Consultant agrees to further the interests of the Owner by furnishing the Consultant's skill and judgment in cooperation with the services of the Owner's Representative. The Consultant agrees to provide the Owner with inspection services in connection with the construction of the Project.
- C. As a provision of this Agreement, the mandatory hours to be worked by the Consultant shall reflect and be complementary to the Contractor's construction schedule for each scheduled workweek throughout the duration the Project.

ARTICLE 3. TERMS AND CONDITIONS OF WORK

- A. By entering into this Agreement the Consultant affirms that it meets the qualifications for an on-site Project Inspector as provided for in the California State Building Code Part 1, Title 24, Section 4-333 of the California Code of Regulations. The Consultant shall have the appropriate General Inspector classification as required from DSA to perform the duties of, and act as, a general building inspector on school building construction projects or modernization projects of the type and classification of the Project. The Consultant authorizes the Owner to confirm with DSA the status and history of the Consultant's DSA Certification. Consultant shall provide verbal or written permission to DSA to release information regarding the Consultant's DSA Certification consistent with this Article.
- B. The Consultant and the Owner shall perform as stated in this Agreement. The Consultant accepts the relationship of trust, confidence and good faith and fair dealing, which is established by this Agreement. The Consultant represents, warrants and maintains that it is skilled in the professional calling necessary to perform all services, duties and obligations required by this Agreement to fully and adequately complete the Project. The Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by public school inspectors in the State of California. The Consultant warrants that it will exercise its best professional efforts so that all its work will conform to those professional standards and that it will perform its Services in an expeditious and economical manner. The Consultant further represents and warrants to the Owner that it has all licenses, permits, qualifications, and approvals of whatever nature are legally required to practice its profession. The Consultant further represents that it shall keep all such licenses and approvals in effect during the term of this Agreement.



C. The Owner retains the Consultant on an independent contractor basis and the Consultant is not an employee or agent of the Owner.

D. In providing the Project Inspector Services described in this Agreement, the Consultant shall endeavor to maintain a working relationship with the Program Manager, the A-E, the CM, the Contractor, the A-E(s) and all other consultants hired by Owner. There are no third party beneficiaries of this Owner-Project Inspector Agreement and no one except the parties to this Project Inspector Agreement may seek to enforce its terms.

E. Consultant shall obtain approval of Owner before entering into contracts with any other District during the term of this Agreement.

F. ~~Consultant shall neither subcontract any portion of this work nor employ assistants to perform any duties other than clerical under this Agreement.~~ The Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance for services and as required by law. The Consultant shall be responsible for all reports and obligations respecting such personnel, ~~including but not limited to, social security taxes, income tax withholdings, unemployment insurance, and workers' compensation insurance.~~ All such salaries and obligations shall be at Consultant's own expense.

G. The Consultant shall not have a financial or investment interest in any of the persons, Contractors or companies with responsibilities for the construction of the Project, nor shall he have the authority to assist the Contractor in the performance of the Contractor's work, nor to undertake any responsibilities of the Contractor, its employees, or subcontractors. It shall be understood, however, that the Consultant, acting on behalf of the Owner, shall make every attempt to identify and help solve problems preventing the orderly progress of the Project.

H. The Consultant affirms that, to the best of its knowledge, there exists no actual or potential conflict of interest between family, business or financial interests of the Consultant and the Services under this Agreement. In the event of any change in either interests or Services under this Agreement, the Consultant affirms that it will raise with the Owner any question regarding any possible conflict of interest that may arise as a result of such change

I. The Consultant is required to be registered at Department of Industrial Relations (DIR) as required by SB 854 – for Prevailing Wage Rate Compliance and qualified to perform public work pursuant to Section 1725.5 of the CA Labor Code. The Owner is required to include Project Inspection on the PWC-100 form. The Project is subject to compliance monitoring and enforcement by the DIR.

ARTICLE 4. CHANGES IN THE CONSULTANT'S BASIC SERVICES AND ADDITIONAL COMPENSATION

A. The Owner, without invalidating this Agreement, may make changes in the Consultant's Basic Services specified in Article 2 and Exhibit C of this Agreement. The Consultant shall



promptly notify the Owner of changes that increase or decrease the Consultant's compensation or the duration of the Consultant's Basic Services or both.

B. Additional Compensation and Changes in Duration: The Consultant shall be entitled to receive additional compensation when the scope of Basic Services is increased or extended through no fault or neglect on the part of the Consultant or its sub-consultants. A written request for additional compensation shall be given by the Consultant to the Owner within thirty (30) days of the occurrence of the event giving rise to such request. Due to the nature of the Services under this Agreement and the requirement of Consultant to mirror the construction schedule, it may become necessary to amend the not-to-exceed fee to allow for the monitoring of construction beyond that currently estimated under this Agreement. At such time, the Owner and the Consultant shall negotiate the additional time and compensation required.

C. Changes in the Consultant's Basic Services or Duration of Agreement: Changes in the Consultant's Basic Services or duration of the Agreement, and entitlement to additional compensation, shall be made by a written Amendment to this Agreement executed by the Owner and the Consultant. The Amendment shall be executed by the Owner and the Consultant prior to the Consultant performing the services required by the Amendment. The Consultant shall proceed to perform the services required by the Amendment only after receiving written notice directing the Consultant to proceed and no claim for any additional compensation or reimbursement shall be valid unless so authorized.

D. Payment of Additional Compensation: Payments for Extra Services shall be made in accordance with the terms outlined in Article 6 of this Agreement.

ARTICLE 5. RESPONSIBILITIES OF THE OWNER

A. The Owner shall provide the Consultant with documented Project information in its possession that is reasonably necessary for the performance of its Services described herein. The Owner shall designate a representative as the Consultant's primary contact for all Project information; the representative shall be responsible for examining all documents submitted by the Consultant and shall render decisions and provide additional information in a prompt and effective manner as required to support the Project.

B. The Owner reserves the right to employ other consultants in connection with the Project, or to perform work related to the Project with the Owner's own forces. The Consultant shall notify the Owner if any such independent action will in any way compromise the Consultant's responsibilities under this Agreement.

ARTICLE 6. COMPENSATION AND PAYMENT

A. Compensation for Basic Services: The Consultant agrees to perform the Services required under this Agreement, and the Owner agrees to pay the Consultant for such Services, in accordance with Exhibits A and B to this Agreement which are incorporated by reference.



B. Reimbursable Costs/Expenses: The Owner recognizes that certain costs and expenses associated with the Professional Services performed are reimbursable to the Consultant. The descriptive categories of expenses that may be considered for reimbursement are defined in Exhibit B. Reimbursement shall be at the actual cost for the allowable item(s) and in accordance with Exhibit A. Consultant shall obtain the Owner's prior written approval for any items not specifically noted in Exhibit B. The Owner's prior written authorization is an express condition precedent to any reimbursement to the Consultant of such costs and expenses, and no claim for any additional compensation or reimbursement shall be valid absent such prior written approval by the Owner.

C. Compensation for Additional Services shall be dependent upon the Consultant's compliance with the provisions outlined in Article 4 regarding Extra Services and calculated in accordance with the hourly rates set forth in Exhibit A.

D. The Consultant shall submit one (1) invoice monthly to the Owner indicating the hours actually worked during the billing period, supporting timecards, reimbursable expenses (if any) and Extra Services (if any) incurred for the billing period. The billing rates stated in Exhibit B will be multiplied by the actual hours worked to arrive at the total fee for each month. An audit will be conducted to verify submission of the Consultant's reports, as described in this Agreement. Any missing reports shall be subject to the penalties stated below in Article 6E. Should any penalties be assessed such sums shall be deducted from the invoiced amount. 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 invoiced item(s). Invoices requesting payment for Extra Services must reflect hours being charged and a copy of the Owner's authorization notice. No payments will be made by the Owner to the Consultant for monthly invoices requesting reimbursement of expenses not noted in Exhibit B or Extra Services absent the prior written authorization of the Owner. All charges incurred under this Agreement shall be due and payable within thirty (30) days of approval of the invoice.

E. If any required reports are not received within fifteen (15) days of due dates described below, payment on invoices will be reduced by fifty dollars (\$50.00) for each day past the due date of the late report(s) as liquidated damages.

Report	Due Date
Semi-monthly	On the 1 st and the 15 th of each month

F. The Owner may withhold, or on account of subsequently discovered evidence nullify, the whole or a part of any payment to such extent as may be necessary to protect the Owner from loss, including costs and attorneys' fees, on account of: (1) defective or deficient work product not remedied; (2) failure of the Consultant to make payments properly to its employees or sub-consultants; or (3) failure to adhere to the Project schedule.



G. Accounting Records: Records of the Consultant's personnel expenses and direct expenses, original timesheet records and reimbursable expenses as necessary to support the invoices submitted to the Owner pertaining to the Project shall be maintained on the basis of generally-accepted accounting practices and shall be available for inspection by the Owner or the Owner's representative at mutually convenient times for a period from the date of this Agreement through two years after completion of this Agreement.

ARTICLE 7. INSURANCE REQUIREMENTS

A. Consultant shall purchase and maintain insurance with reliable insurance companies approved by the State of California Department of Insurance and with a Bests' rating of no less than A- Level VII, or forms acceptable to Owner, that will protect the Consultant for the claims set forth below that may arise out of or result from the Consultant's performance of its Services or failure to perform its Services required by this Agreement:

1. Claims under Workers' Compensation, disability benefits and other similar employee benefits acts that are applicable to the work performed;
2. Claims for damages because of bodily injury, occupational sickness, or disease or death of Consultant's employees, agents or invitees;
3. Claims for damages because of bodily injury or death of any person;
4. Claims for damages insured by usual personal injury liability coverage that are sustained (1) by any person as a result of an offense directly related to the employment of such person by the Consultant or (2) by any other person;
5. Claims for damages other than to the work itself, because of injury to or destruction of tangible property, including loss of use therefrom; or
6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The Consultant's insurance coverage shall be at least as broad as the following:

Comprehensive General Liability ("CGL")

Personal Injury:

\$1,000,000 Each Occurrence

\$2,000,000 Aggregate

Property Damage:

\$1,000,000 Each Occurrence

\$2,000,000 Aggregate

Comprehensive Automobile Liability



Bodily Injury:

\$500,000 Each Occurrence

\$N/A Aggregate

Property Damage:

\$100,000 Each Occurrence

\$N/A Aggregate

Workers' Compensation Insurance:

As required by the State, with statutory limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease

Professional Liability (Errors and Omissions)

As appropriate to the Consultant's profession, for a period of five (5) years following completion of the Project, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Consultant maintains higher limits than the minimums shown above, the Owner requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

C. Waiver of Subrogation: The Owner and Consultant waive all rights against each other and against the Contractor, the A-E, the CM, consultant(s), agents and employees of the other for damages during construction covered by any property insurance as set forth herein. The Owner and the Consultant shall each require similar waivers from their contractors, consultants and agents.

D. Additional Insureds: The Owner, its officers, officials, employees, and volunteers are to be listed and covered as additional insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Consultant; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant. General liability coverage may be provided in the form of endorsements to the Inspector's general liability policies, including an additional insured endorsement in favor of the Owner.

E. Primary Insurance: For any claims related to this Agreement, the Consultant's insurance coverage shall be primary insurance as respect to the Owner, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Owner, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not conflict with it.

F. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Owner. The Owner may require the Consultant to provide



proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

G. Claims Made Policies: If any of the required policies provide coverage on a claims-made basis: (a) the retroactive date must be shown and must be before the date of the contract or the beginning of contract work; (b) insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement; and (c) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Agreement effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Agreement.

H. Verification of Coverage: Consultant shall furnish the Owner with original certificates and amendatory endorsements or copies of the applicable policy language affecting coverage required by this Article. All certificates and endorsements are to be received and approved by the Owner before work commences under this Agreement. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Owner reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

ARTICLE 8. INDEMNIFICATION

A. To the fullest extent permitted by law and in conformity with California Civil Code Section 2782.8, Consultant shall indemnify, defend and hold the Owner, the Owner's Governing Board, each member of the Governing Board, and the Owner's officers and employees, agents and authorized volunteers (the "Indemnitees") entirely harmless from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) resulting from, arising out of, pertaining to, or in any way related to the performance of this Agreement by the Consultant or its principals, officers, employees, agents, or volunteers. This indemnity shall survive the termination of this Agreement.

B. The Consultant and the Owner each agree to promptly serve notice on the other party of any claims arising hereunder, and shall cooperate in the defense of any such claims.

C. The acceptance by the Owner of any certificate of insurance providing for coverage of any kind shall in no event be deemed a waiver of any of the provisions of this Article 8. , and Consultant's indemnity obligations shall not be limited by the insurance requirements set forth in this Agreement. None of the foregoing provisions shall deprive the Owner or the Consultant of any action, right or remedy otherwise available by law.

ARTICLE 9. TERMINATION AND SUSPENSION

- Job Completion: This Agreement is intended to terminate under normal circumstances



upon the actual final completion of the Project, evidenced by the completion and correction of all deficiencies or “punch list” items, by final acceptance from the Owner, and by submission of documents to DSA in notification of completion; e.g. Notice of Completion; SSS 6A/E - Final Certified Report; SSS 6 - Final Certified Report; Final Laboratory Test Report.

- **Violations:** If the Consultant either (1) fails, neglects, or refuses to notify a contractor of any work on the Project that does not comply with the requirements of the DSA Approved Documents, or (b) fails, neglects, or refuses to report immediately, in writing, any such violation to the Design Professional, to the Owner, and to the DSA, such failure, neglect or refusal shall constitute a violation of the Field Act and this Agreement, and shall be cause for DSA to take action and for the Owner to terminate this Agreement at its discretion pursuant to section H. below.
- **Loss of its Construction Inspector Certification:** This Agreement shall automatically terminate and payments shall cease should the Consultant lose its California state certification or approval by DSA to perform required duties.
- **Consultant Default:** If the Consultant at any time refuses or neglects to prosecute its work in a timely fashion or in accordance with the Project schedule, or is adjudicated as bankrupt, or commits any act of insolvency, or makes an assignment for the benefit of creditors without Owner’s consent, or fails to make prompt payment to persons furnishing labor, equipment, or materials, or fails in any respect to properly and diligently prosecute its work, or becomes delinquent with respect to contributions or payments required to be made to any employee benefit programs or trust, or otherwise fails to perform fully any and all of the agreements herein contained, the Consultant shall be in default.
- **Cure:** If the Consultant fails to cure the default within seven (7) days after written notice thereof, the Owner may, at its sole option, take possession of any documents, files (including electronic files), or other materials prepared or used by the Consultant in connection with the Project and provide or secure from others any such work, labor, or materials as may be necessary to overcome the default and deduct the cost thereof from any money then due or thereafter to become due to the Consultant under this Agreement.
- **Default Termination:** In the event the Owner elects to terminate the Consultant due to the Consultant’s default, the Owner shall have the right to immediate possession of all documents, files (including electronic files), and other work in progress prepared by the Consultant, whether located at the Project, at the Consultant’s place of business and may employ any other person or persons to finish the Project and provide the materials therefore. In case of such default termination, the Consultant shall not be entitled to receive any further payment under this Agreement until the Project is completely finished.
- **Owner Default:** The Consultant may terminate this Agreement for cause upon seven (7) days’ written notice to the Owner for any of the following reasons: (1) the Owner fails to timely pay undisputed sums due to the Consultant; (2) the Owner assigns this Agreement or transfers



ownership of the Project prior to completion of the Consultant's Services under this Agreement if the assignment or transfer is made without the prior written consent of the Consultant; or (3) the Owner suspends the Project or the Consultant's Services for more than 180 consecutive days. The Owner shall have the right to cure the stated ground for termination within the seven (7) day notice period, and, in the event of cure, the Consultant's notice shall become null and of no further force or effect.

- **Termination for Convenience:** In addition to the foregoing right to terminate for default, the Owner reserves the absolute right to terminate this Agreement without cause, for any reason whatsoever, upon thirty (30) days' written notice to the Consultant. In the event of such a termination without cause, the Owner shall have the right to immediate possession of all, documents, files (including electronic files), and other work in progress prepared by the Consultant, whether located at the Project, at the Consultant's place of business, or at the offices of a sub-consultant, and may employ any other person or persons to finish the Project and provide the materials therefore. Also, in the event of such a termination without cause, the Consultant shall be entitled to payment in an amount not to exceed the contract price which shall be calculated as follows: (1) Payment for Services then satisfactorily completed and accepted by the Owner; plus (2) approved reimbursable costs actually incurred by the Consultant in connection with performance of its Services; plus (3) reasonable termination expenses. There shall be deducted from such sums as provided in this section the amount of any payment made to the Consultant prior to the date of termination of this Agreement. The Consultant shall not be entitled to any claim or lien against the Owner or the Project for any additional compensation or damages in the event of such termination and payment. In addition, the Owner's right to withhold funds under Article 5 shall be applicable in the event of a termination for convenience.
- **Saving Clause:** If this Agreement is terminated by the Owner for default and it is later determined that the default termination was wrongful, such termination automatically shall be converted to and treated as a termination for convenience under this Article and the Consultant shall be entitled to receive only the amounts payable hereunder in the event of a termination for convenience.
- **Survival of Obligations:** Except as otherwise stated in this Agreement, no termination of this Agreement shall excuse or otherwise relieve the Consultant of its responsibilities under this Agreement, including, without limitation, the standard of care for its work and Services, with respect to any work or Services performed prior to the date of termination. All of the Consultant's responsibilities under this Agreement with respect to work or Services performed prior to the date of termination shall survive any termination.
- It is further understood that the Owner's acceptance of, or payment for any services performed by the Consultant under this Agreement shall not be construed to operate as a waiver of any rights the Owner may hold under this Agreement or of any cause of action arising out of the Consultant's performance of this Agreement.

ARTICLE 10. DISPUTE RESOLUTION



A. The Consultant shall give written notice of any claims arising out of or relating to this Agreement within ten (10) calendar days of the event(s) giving rise to the claim. Said written notice shall specify the nature, amount and basis of the claim and shall be certified under penalty of perjury and in compliance with the California False Claims Act, as set forth below. Failure to include these required certifications shall constitute grounds for rejection of the claim. Failure to provide notice of the claim within the time limit set forth herein shall constitute grounds for rejection of the claim.

B. Direct negotiation will be the initial process utilized by the parties after issuance of written notice of any claim arising out of or relating to this Agreement as specified immediately above. Either the Owner or the Consultant may make a request for direct negotiations as an initial attempt to resolve any claim, dispute, or other matter arising out of this Agreement. Direct negotiation representatives of the parties shall be the Owner's designated representative and the Consultant's designated representative. Any requested direct negotiation will take place at a location designated by Owner or at a mutually agreeable location specified by the parties' designated representatives, and the direct negotiations shall take place as soon as reasonably practical after the request for direct negotiation. The parties shall negotiate in good faith in an effort to resolve the claim, dispute, or other matter arising out of the Agreement. Each party shall document the results of the direct negotiation and these documents shall be exchanged between the parties.

C. Mediation. The parties agree that all claims, disputes or controversies between the parties arising out of or relating to this Agreement, or breach thereof and not resolved by direct negotiation per Paragraph B hereinabove, shall initially be submitted to non-binding mediation before a mediator mutually agreed upon by the parties. In the event the parties are unable to agree upon the identity of the mediator within Fifteen (15) days from the date either party submits a written request to mediate a claim, dispute or controversy, the mediator shall be selected and the mediation administered under the Construction Mediation Rules of the American Arbitration Association. The costs and fees of the mediator shall be paid equally by the parties. The parties shall negotiate in good faith in an effort to reach an agreement with respect to the claim, dispute or controversy. Neither party shall commence or pursue litigation until the Project is complete.

D. It is expressly agreed that no mediation or arbitration shall be initiated prior to the completion of the Services under this Agreement, or termination of this Agreement, whichever is earlier.

E. Claim certification: the Consultant acknowledges that it has read and is familiar with the provisions of the False Claims Act (California Government Code section 12650 et seq.). Submission by the Consultant of a claim (as the term "claim" is defined in the False Claims Act) to the Owner in connection with the Project, whether on its behalf or on behalf of a sub-consultant, shall constitute a representation by the Consultant to the Owner that submission of the claim does not in any respect violate the False Claims Act. Any party with an interest in the claim, including any sub-consultant(s), shall certify under penalty of perjury the validity and



accuracy of any claim submitted to the Owner, as provided below. Compliance with this claim certification requirement shall be a condition precedent to any obligation the Owner might otherwise have to review the claim, and failure to provide such certification shall constitute a waiver of the claim. The claim certification required by this paragraph shall provide as follows:

CLAIM CERTIFICATION

Under penalty of perjury, and with specific reference to the California False Claims Act, Government Code section 12650, et seq., I certify that submission of the attached claim is made in good faith; that the supporting data prepared by the undersigned company is accurate and complete to the best of my knowledge and belief; that submission of the claim to the Owner does not violate the False Claims Act; and that I am duly authorized to certify the claim on behalf of claimant.

Dated: 2/5/20

Company A.P. CONSTRUCTION SERVICES

[Signature]
Signature

OWNER
Title

ARTICLE 11. FINGERPRINTING

A. Education Code section 45125.1 shall apply to this Agreement. The Owner's administrator initiating and/or responsible for this Agreement shall, pursuant to Section 45125.1 and the Owner's policy and guidelines, determine whether fingerprinting is required of the Consultant and/or its employees. Once such determination is made, the administrator shall verify his/her determination on the signature page of this Agreement. If the Administrator concludes fingerprinting is required, the following shall apply:

1. The Consultant shall, prior to commencement of work pursuant to this Agreement, require any person affiliated with the Consultant (or, in appropriate cases, him or herself) to be fingerprinted by the Department of Justice (DOJ) if that person will have unsupervised access to occupied school campuses where children will be present. This provision extends to all consultants hired by the Consultant that will have unsupervised access to occupied school campuses. Upon verification from DOJ that those persons fingerprinted have no record of a serious or violent felony, as defined in Section 45122.1 of the California Education Code, the Consultant will so certify by signing and submitting the Project Inspector Certification included herein as Exhibit D. In addition, the Consultant shall submit the names of those persons who have received clearance and are authorized to have unsupervised access to school campuses on a form as indicated in Exhibit D. The Consultant must contact the Owner regarding appropriate access for those



persons not cleared by DOJ for reasons other than a violent or serious felony. In which case, the Consultant must make arrangements with the Owner for appropriate access. No person with a violent or serious felony as reported by DOJ may have access to the school campuses or provide any Services under this Agreement.

B. Failure to comply with this provision shall constitute grounds for termination of this Agreement.

ARTICLE 12. COMPLIANCE WITH ALL LAWS

A. Consultant shall be familiar with and shall comply with, all State and Federal laws and regulations applicable to the Project or lawfully imposed upon the Project by agencies having jurisdiction over the Project, including, but not limited to, statutes, decisions, regulations, building or other codes, ordinances, charters, prevailing wage law, and the Americans with Disabilities Act (“ADA”).

B. Parties recognize that conflicts may exist between State and Federal accessibility law and regulations. Accordingly, the Consultant will exercise usual and customary care to interpret applicable State and Federal accessibility law and regulations including, but not limited to, ADA and will inform the Owner of any inconsistencies between State and Federal accessibility law and regulations. Upon notification to the District of such an inconsistency, the Owner will provide appropriate direction to the Consultant.

ARTICLE 13. ADDITIONAL PROVISIONS

A. Confidentiality: Unless directed to do so by subpoena or other appropriate court order, the Consultant shall not disclose or permit the disclosure of any information designated by the Owner as confidential, except to its agents or employees and other consultants who need such confidential information to properly perform their duties relative to this Agreement. Upon receipt of a subpoena or other court order seeking production of information designated by the Owner as confidential, the Consultant shall promptly give notice to the Owner and cooperate in any effort by the Owner to protect its confidential information.

B. Time: Time is of the essence in this Agreement.

C. Limitation on Other Projects: Consultant shall make this Project its priority, and shall only work on other projects, if any, which are approved in writing by the Owner.

D. Assignment: The Consultant shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of the Owner, except that claims for money due or to become due to Consultant from the Owner under this Agreement may be assigned by the Consultant to a bank, trust company, or other financial institution without such approval. Written notice of any such transfer shall be furnished promptly to the Owner. Any attempt at assignment of rights under this agreement, except for those specifically consented to



by both parties or as stated above, shall be void.

E. Equal Employment Opportunity and Non-Discrimination: In the performance of the work authorized under this Agreement, the Consultant shall not discriminate against any worker because of race, creed, color, sex, national origin, or handicap.

F. Records/Copies: All reports, drawings, renderings, or other documents or materials prepared by the Consultant there under shall become the property of the Owner. The Owner shall have the right to obtain for its records copies of all materials, which may be prepared by the Consultant under this Agreement.

G. Tax Payer I.D. Number: The Consultant shall deliver to the Owner the Consultant's IRS Taxpayer I.D. Number prior to any payments being made by the Owner under this Agreement.

H. Governing Law: Unless otherwise provided, this Agreement shall be governed by the laws of the state of California.

I. Severability: In the event that any term or provision of this Agreement is held to be illegal, invalid, or unenforceable, under applicable laws, regulations, or ordinances, such term or provision shall be deemed severed from this Agreement and the remaining terms and provisions shall continue in full force and effect.

J. Meaning of Terms: References made in the singular shall include the plural and the masculine shall include the feminine or the neuter.

K. Notices: All Notices required by this Agreement or other communications to either party by the other shall be deemed given when made in writing and deposited in the United States Mail, first class, postage prepaid, addressed as follows:

To the Owner:

Mr. Chris Evans
Superintendent
Natomas Unified School District
1901 Arena Blvd.
Sacramento, CA 95835

To the Consultant:

A.P. Construction Services
3999 Aitken Dairy Road
Rocklin, CA 95677



L. Entire Agreement: This Agreement sets forth the entire agreement and understanding concerning the provision of Inspection Services for the project by the Consultant to the Owner and supersedes and replaces all prior discussions and agreements, written or oral. Each Party acknowledges that the other Party and the other Party's agents, attorneys, and other representatives have not made any promise, representation, or warranty outside this Agreement.

M. Extent of Agreement. Neither amendments to nor modifications of this Agreement shall be effective unless signed by officials of Consultant and Owner having authority equal to or greater than that of the officials signing this Agreement. Owner and Consultant hereby agree to the full performance of the covenants contained herein.

The undersigned, acting as authorized signatories, acknowledge that this Agreement has been reviewed and approved, and so indicate by their signatures below:

A.P. Construction Services

By: Armand Perez
Owner


(Signature)

Date: 2/5/20

3999 Aitken Dairy Road
Rocklin, CA 95677

Tax ID # 551430075

Taxpayer ID#: _____

DIR Registration #: 100002047

Department of Justice (DOJ) Fingerprinting Required: _____

Natomas Unified School District

By: Lalanya Rothenberger
Executive Director Facilities & Strategic Planning

(Signature)

Date: _____

1901 Arena Blvd.
Sacramento, CA 95835



EXHIBIT A

CONSULTANT FEES AND HOURLY RATES

Agreement

Between

Natomas Unified School District and **A.P. Construction Services**

For

Professional Inspection Services

Bannon Creek School K-8 Conversion

Inspector Fees:

The Owner shall compensate the Consultant for performing the Basic Services at **Bannon Creek School K-8 Conversion** Project described in Exhibit C as follows:

A fee not to exceed **One hundred fifteen thousand and five hundred dollars (\$115,500.00)** for time and materials for services commencing **3/1/2020** through **1/31/2021**.

These fees include all expenses related to inspecting the project, including cell phone usage, office supplies, vehicle related costs, inspection tools, code and reference books, general and professional liability insurance premiums, and all other business related costs.

Extensions to the proposed construction schedule, re-inspections or added scope may require an increase in inspection fees which will be billed at the hourly rates below. These fees will be negotiated and approved by the District prior to any time extension.

Hourly Rates:

\$100.00 an hour for forty hours per week



EXHIBIT B

ALLOWABLE REIMBURSABLE EXPENSES AND ITEMS PROVIDED BY OWNER

Agreement

Between

Natomas Unified School District and **A.P. Construction Services**

For

Professional Inspection Services

Bannon Creek School K-8 Conversion

A. The Consultant will be reimbursed for reasonable expenses incurred in conjunction with the Project. The items allowable for reimbursement are as follows:

1. Cost of other items as required, with prior written approval from the Owner.

B. Items to be provided in this Agreement by Owner:

1. Office space provided at the jobsite



EXHIBIT C

PROJECT INSPECTOR'S SCOPE OF SERVICES

Agreement

Between

Natomas Unified School District and **A.P. Construction Services**

For

Professional Inspection Services

Bannon Creek School K-8 Conversion

The Consultant's Services shall include but not be limited to the following tasks:

A. Provide continuous inspection services to ensure construction compliance with code, plans, specifications and quality control required of public schools in the State of California. Perform all services required of the Division of the State Architect (DSA) Project Inspector and Education Code Section 17309. Issue appropriate notices and notify the Owner and its representative(s) in writing if work does not conform to the codes, plans, and specifications. If the Contractor fails to immediately correct the deviation, Consultant shall promptly notify the Owner and its representative(s) in writing of the continued deviation and simultaneously send copies of such notice(s) to the A-E and the DSA. Written notice of deviations shall be made utilizing DSA Form 154. The status and resolution of all deviations must be documented on the semi-monthly reports submitted by Consultant.

Continuous inspection services means complete and timely inspections of every part of the construction of the Project, as the work progresses. Consultant must have actual personal knowledge of the continuous construction of the Project, obtained from their personal continuous inspection of the Project during all stages of its progress when work is performed at the Project site. For work performed at locations other than the Project site, the Consultant must have personal knowledge obtained through the reporting of others on the testing or inspection of materials and workmanship for compliance with the plans, specifications, or applicable standards for the Project.

B. Prior to signing off on the Contractor's monthly payment request, Consultant shall conduct a review of the record documents to verify that they have been updated.



C. Maintain liaison with the Owner, the A-E, the Owner's designated Representative(s) for the Project and all other consultants hired by the Owner, the Testing Lab, appropriate regulatory agencies and any governing bodies as necessary to maintain Project continuity.

D. Report to the A-E and the Owner in writing all uncertainties in the Consultant or contractors' comprehension of the DSA Approved Documents.

E. Under the direction of the A-E, monitor the work of any special inspectors and materials testing laboratories to ensure that all materials testing and special inspections required for the Project are satisfactorily completed in accordance with the DSA Approved Documents.

The Consultant shall monitor the following aspects of the "Materials Testing and Special Inspection Program":

1. Identify and report any special inspectors on the Project site that are not DSA-approved;
2. Verify that the materials testing laboratory is included on the "List of DSA Accepted Testing Laboratories" published on the DSA website at <https://www.apps.dgs.ca.gov/tracker/ApprovedLabs.aspx>, and that all sampling and testing is performed by the testing laboratory;
3. Verify that the materials testing lab and special inspectors have received sufficient advance notice to perform the required material sampling or special inspection;
4. Verify that all required material sampling and special inspections have been performed, and to observe any special inspector's on-site presence, performance of duties, the special inspector's documentation of complying and non-complying work, and the issuance of deviation notices; and

Review all materials tests and special inspection reports, and report the status and resolution of deviations reports by any materials testing lab or special inspector on the Semi-Monthly Reports.

F. Comply with any specific instructions from DSA, for additional reporting and/or oversight of construction or otherwise, arising in connection with a documented non-compliant condition that causes, or results in, a work stoppage. Such additional reporting may be required in the case of a Stop Work Order, Order to Comply, or Request for District/Owner to Stop Work, arising in accordance with DSA IR A-13.

G. Consistent with the requirements of Section 4-336 of Part 1 of Title 24 of the CCR, electronically submit verified reports ("Verified Reports"), utilizing DSA Form 6-PI and DSA Form



152, as appropriate, directly to DSA (with copies to the Design Professional and District) when any of the following occur, including, but not limited to:

1. Work on the Project is suspended for more than one (1) month.
2. Inspector is terminated for any reason prior to the completion of the Project, and termination is not a result of a work stoppage.
3. DSA requests a Verified Report.
4. The District occupies any building involved in a Project before the completion of the entire DSA approved scope of work for the Project.
5. The Project is substantially complete. "Substantially complete" shall mean that the Project is sufficiently complete in accordance with the DSA Approved Documents that the District may occupy or utilize the Project for its intended use, as determined by the Owner or Architect.

H. Sign-off on applicable blocks and sections of DSA form 152 when: (1) the completed work is in compliance with the DSA Approved Documents; (2) all necessary testing and inspections are complete; (3) any deviations from the DSA Approved Documents are resolved; (4) any DSA field trip note issues are resolved; and (5) all necessary documents are received by the Inspector.

I. Submit, detailed daily reports to the Owner, or its representative(s), including, but not limited to the following information:

1. Names of any and all persons performing services for the Consultant;
2. Activities performed by the contractors, and areas where work is performed with relation to the plans and specifications.
3. Manpower assigned to the Contractor and subcontractor(s), including the number of individuals in each trade and the type of work being performed.
4. Weather conditions.
5. Equipment and materials delivered to the site.
6. Construction equipment and vehicles utilized and duration on Project.
7. Nature and location of the work being performed (starting and completion dates for various portions of the work).
8. Verbal communication and clarifications of the work given to the Contractor.



9. Inspection by representatives of regulatory agencies.
10. Occurrences or conditions that might affect Contract Sum or Contract Time.
11. Visitors to the site, titles, and employers of visitors, and reasons for visit.
12. DSA Project Inspector's record journal to include "Pertinent Calls" relating to conflicting issues regarding changes to documents, i.e., plans, specifications, change orders and job conditions affecting the interests of the Owner.
13. Any work or material in place that does not correspond with the codes, drawings or specifications, as well as resulting action taken. List any other problems or abnormal occurrences that arise during each day, including notations of any particular lack of activity on the part of the Contractor, and detailed information concerning delays encountered. Note corrective actions taken.
.
14. Times of day Consultant was present on site.

The preceding items are given as a minimum, and are not intended to limit information required to be placed in the Consultant's daily reports. Consultant shall use his/her judgment and comply with the direction of the A-E and Program Manager to determine what additional information is necessary to provide a factual record of daily activities.

J. Keep the Owner and the A-E thoroughly informed as to the progress of the work by making semi-monthly reports in writing, as required by Section 4-342 of Part 1 of Title 24 of the CCR ("Semi-Monthly Reports"). The Semi-Monthly Reports shall be made utilizing DSA Form 155. Unless otherwise required by law or regulation of DSA, the Semi-Monthly Reports shall be made and submitted electronically on the 1st and 16th of every month consistent with DSA IR A-8. Copies of the Semi-Monthly Reports shall be provided electronically, unless otherwise requested, to the Design Professional, the Owner, and DSA.

The Semi-Monthly reports shall contain the following information:

1. Inspection by representatives of regulatory agencies.
2. Occurrences or conditions that might affect Contract Sum or Contract Time.
3. Visitors to the site, titles, and employers of visitors, and reasons for visit.
4. Any work or material in place that does not correspond with the codes, drawings or specifications, as well as resulting action taken. List any other problems or abnormal



occurrences that arise during each day, including notations of any particular lack of activity on the part of the Contractor. Note corrective actions taken.

K. Notwithstanding anything expressed or implied to the contrary, the Consultant shall comply with all federal, state, county and local governmental requirements bearing on the performance of its work.

L. Review and monitor Contractor's construction methods and procedures during all construction activities.

M. Attend all meetings as required and as requested by Owner, or its representative(s), e.g. pre-construction meetings, payment review meetings, specification review meetings, coordination meetings, weekly progress meetings, pre-installation meetings, schedule review meetings, etc.

N. Assist the Owner or its representative in scheduling all required site tests and testing laboratory visitations required. Observe and record dates and times of all test procedures and results.

O. Inspect, verify, and document Contractor's delivered equipment and materials to ensure that they meet submittal and specification requirements. Such inspection must occur within twenty-four (24) hours of delivery to the job site.

P. Assist the Owner's Representative with the review of the review Contractor's Monthly Progress Payment Requests at payment review meetings and initial off on request.

Q. Assist the Owner's Representative(s) in the review of Contractor's submittals.

R. When the Contractor's work or a designated portion thereof is substantially complete, prepare for the Owner a list of incomplete or unsatisfactory items via a "punch list" and submit to the Owner's Representative.

S. Prior to commencement of work, Consultant will cooperate with the Owner and its representative(s) to develop an inspection plan for all inspection required for the construction of the Project.

T. Monitor and sign Contractor's extra work forms for tracking time and material change order work.

U. Attend regular Project Inspector meetings conducted by Owner or its representative(s) for purposes of coordination and training.



V. The Consultant shall maintain a file including, but not limited to, approved plans and specifications (including all approved addenda and change orders), project correspondence, and complete and accurate testing and inspection records with respect to all records for the Project ("Job File"), and shall immediately return any unapproved documents to the A-E or Design Professional for proper action. The Consultant shall have and maintain on the Project site at all times all codes and documents referred to in the plans and specifications for the Project. The Job File shall be kept and maintained in an organized manner and readily accessible to DSA during site visits. The Consultant shall make the Job File available to the Owner and any members of the Owner's staff at the direction of the District.

W. At the completion of construction, the Consultant shall provide a copy of the Job File, with the exception of building codes and standards, to the Owner for its permanent records. The Job File shall include all records required to be maintained by the Consultant by DSA IR A-8 and DSA Procedure 13-01. Consistent with the requirements of DSA, the Job File should be maintained in electronic format, and it shall be sufficient if the Job File is maintained by the Consultant within the DSA's electronic database.

X. The Consultant shall make a copy of the Job File available to DSA on request, and shall submit a portion of the Job File to DSA when (1) the Consultant's services of terminated for any reason before completion of the Project; (2) the Project is substantially complete; or (3) work on the Project is suspended for more than one (1) year. The portion of the record submitted to DSA pursuant to this subsection shall be that portion described in Section 3.3.2 of DSA Procedure 13-01.

Y. Additionally, the Job File shall comply with Government Code Section 8546.7, which authorizes the State Auditor and public entities, for a period of three (3) years following final payment to the Inspector, to review, audit or copy records of contracting parties with respect to each contract providing for expenditure of public funds in excess of ten thousand dollars (\$10,000). Therefore, the Consultant shall maintain and made make such records available at all reasonable times during any period which services are provided for the Project and for three (3) years from the date of the final Owner payment to the Consultant pursuant to this Agreement. Prior to destruction of any records, Consultant shall notify Owner of its intent to destroy such records. Owner shall notify Consultant within sixty (60) days of receipt of notice if the Owner desires that said records be sent to the Owner, and the Consultant shall deliver all such records to the Owner.



EXHIBIT D

PROJECT INSPECTOR'S CERTIFICATION

Agreement

Between

Natomas Unified School District and A.P. Construction

For

Professional Inspection Services

Bannon Creek School K-8 Conversion

I, ARMAND PEREZ, on behalf of [A.P. CONSTRUCTION SERVICES], certify that, pursuant to Education Code section 45125.1 and Article 11 of this Agreement, this business entity has conducted the required criminal background check(s) of all persons who will be providing services to the Natomas Unified School District on behalf of this business entity, and that none of those persons have been reported by the Department of Justice as having been convicted of a serious or violent felony as specified in Penal Code sections 667.5(c) and/or 1192.7(c). I understand that this Certification is not to be signed and submitted until I have received clearance from DOJ regarding those persons named. As further required by Education Code 45125.1, attached hereto as Exhibit D is a list of names of the employees or agents of Consultant who will be providing services to the Natomas Unified School District and who are required to be fingerprinted as provided in the Agreement. I agree to keep this list current and to notify the Natomas Unified School District of any addition/deletions as they occur.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this FEBRUARY 5 2020, in SACRAMENTO County, California.



(Seal of business)

By: _____

(Signature)

EXHIBIT D (CONT.)

LIST OF EMPLOYEES AUTHORIZED TO COME ONTO SCHOOL CAMPUSES

Agreement

Between

Natomas Unified School District and **A.P. Construction Services**

For

Professional Inspection Services

Bannon Creek School K-8 Conversion

<u>Name:</u>	<u>Professional Service:</u>
Armando Perez	PROJECT INSPECTOR



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