

## **Agreement Between Owner and Architect For General Architectural/ Engineering Services (2022)**

THIS AGREEMENT is entered into between Browning Public Schools [Glacier County Elementary District No. 9 and Glacier County High School District No. 9] ("Owner") and L'Heureux Page Werner, PC ("Architect") and has as its purpose the contracting for certain architectural and engineering services as more fully outlined below.

### **ARTICLE 1: SUMMARY OF SERVICES**

- 1.1 The Architect hired under this Agreement is L'Heureux Page Werner, PC. No replacements or substitutes may carry out the Architect's responsibilities herein without the express written approval of the Owner.
- 1.2 The Architect is engaged hereunder as an independent contractor and its services consist of those performed by it, its employees, agents and consultants. The Architect agrees to cooperate with the Owner in furthering the Owner's best interests.
- 1.3 The Architect agrees to furnish the Architect's best skill and judgment pursuant to the accepted standards of the professions of Architecture, engineering and their allied disciplines and to cooperate with the Owner in furthering the Owner's best interests. The Architect agrees that any services provided hereunder will meet the requirements of the Montana Department of Labor and Industry, Building Codes Bureau and other such regulatory agencies as may be applicable. The Architect and its consultants shall be properly qualified in the determination of and conformance with building and life-safety codes and regulations regarding energy efficiency and accessibility for the physically challenged.

### **ARTICLE 2: SCHEDULE**

- 2.1 The Architect agrees that time is of the essence with respect to the Owner's service needs and the Architect agrees to perform its services under this Agreement expeditiously in accordance with the Owner's agreed-upon schedule for any Projects assigned to it by the Owner under this Agreement.

### **ARTICLE 3: SCOPE OF SERVICES**

#### **3.1 SCOPE OF SERVICES**

This Agreement is for the provision of certain structural, civil, electrical, mechanical and geotechnical engineering, architectural and/or surveying services by the Architect on an as-needed, as-directed-by-Owner basis. The parties acknowledge, however, that this Agreement does not embody any grant of "exclusivity" to Architect attendant to the Owner's need for and/or procurement of engineering or architectural services during the term of this Agreement. The Owner retains sole discretion as to whether such services will be provided by the Architect and/or its consultants under the terms of this Agreement or will be the subject of a separate procurement otherwise consistent with the structures and requirements of §§ 18-8-201 et seq., MCA.

#### **3.1.1 DEFINITION OF BASIC SERVICES AND OPTIONAL BASIC SERVICES**

The Architect's Basic Services consist of those described in this Article 3 and Attachments A-E hereto [the terms of which are incorporated herein by reference], and may include programming, pre-design, Schematic Design, Design Development, Construction Document, Bidding Phase and Construction Administration. As part of Basic Services under this Agreement, the Architect will, as necessary, coordinate and cooperate with other consultants or contractors of the Owner, including other consultants, engineers, architects, contractors

and subcontractors who are involved with projects on behalf of the Owner, in furtherance of the Owner's best interests.

### 3.2 PRE-DESIGN / PROGRAMMING SERVICES

The Architect will provide such pre-design and/or programming services as the Owner may direct, including but not limited to such items as preliminary district-wide evaluations, facility and site inspection, surveys, assessments, programming, long-term facility and master planning, and the development, review and modification of conceptual designs.

### 3.3 SCHEMATIC DESIGN SERVICES

- 3.3.1 Any Schematic Design Services requested of the Architect under this Agreement shall be provided in accordance with the terms of Attachment A.

### 3.4 DESIGN DEVELOPMENT SERVICES

- 3.4.1 Any Design Development Services requested of the Architect under this Agreement shall be provided in accordance with the terms of Attachment B.

### 3.5 CONSTRUCTION DOCUMENT SERVICES

- 3.5.1 Any Construction Document Services requested of the Architect under this Agreement shall be provided in accordance with the terms of Attachment C.
- 3.5.2 The Owner may review any proposed Construction Documents (including Contract Documents) and request revisions or corrections as it deems necessary. These requests shall be reviewed with the Architect, who shall make any necessary revisions or corrections before final approval of the Construction Documents.
- 3.5.3 The Owner reserves the right at its own expense to submit all Construction Documents for review by such consultant or consultants as it may select. In the event of such employment of outside consultants by the Owner, the Architect will cooperate fully with the consultants in order to avoid any unnecessary delays and will promptly make all necessary information available to such consultants. The Owner reserves the right to make changes in the Construction Documents based on input from such consultants, but the Architect shall not be held responsible for any such Owner-directed changes in the design or specifications, provided that the Architect has filed a written objection with the Owner concerning such changes.

### 3.6 BIDDING OR NEGOTIATION SERVICES

- 3.6.1 Any Bidding or Negotiation Services requested of the Architect under this Agreement shall be provided in accordance with the terms of Attachment D.

### 3.7 CONSTRUCTION ADMINISTRATION SERVICES

- 3.7.1 Any Construction Administration Services requested of the Architect under this Agreement shall be provided in accordance with the terms of Attachment E.
- 3.7.2 The Architect's responsibility to provide Construction Administration Services under this Agreement with respect to any Project commences with the award of the Contract for Construction for that Project and terminates after completion of the eleven month inspection and report required per Attachment E.

- 3.7.3 The Architect shall provide services in the administration of any construction contracts as set forth in this Section, in Attachment E, and in the General and Supplementary Conditions of any such construction contracts, unless otherwise provided in this Agreement.
- 3.7.4 In the course of providing Construction Administration Services, the Architect shall be a representative of and consult with the Owner.

#### ARTICLE 4: ADDITIONAL SERVICES

- 4.1 If authorized by the Owner in writing, the Architect may furnish or obtain from others Additional Services, including but not limited to the following types. These services, if authorized, shall be paid for by the Owner in accordance with Article 9 of this Agreement.
- a. Services resulting from significant changes in the general scope of any Project or its design, including significant changes to the size, complexity, schedule, location or character of the construction, requiring revision of the design documents or contract documents when such changes are:
    - Inconsistent with approvals or instruction previously given by the Owner including revisions made necessary by significant adjustments in the Owner's program or project budget following adoption of a final program and budget.
    - Due to changes required as a result of the Owner's failure to render decisions in a timely manner.
  - b. Providing services in connection with evaluating major substitutions proposed by the Contractor and making subsequent revisions to drawings, specifications and other documentation.
  - c. Providing services in connection with the replacement of work resulting from fire or other casualty loss during construction.
  - d. Preparation of applications and supporting documents for governmental grants, loans or advances in connection with any Project; preparation or review of environmental assessments and impact statements; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the project.
  - e. Furnishing the services of special consultants for other than architectural, civil, geotechnical, structural, mechanical and electrical engineering services, such as consultants for interior design, furniture, communications, acoustics, kitchens and landscaping.
- 4.2 The Consultant shall be compensated for Additional Services approved by the Owner in writing as outlined in Article 9.3 below.

#### ARTICLE 5: OWNER'S RESPONSIBILITIES

- 5.1 The Owner shall provide full information regarding the requirements for any Project, including information regarding the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.
- 5.2 The Owner shall establish and update an overall budget for any Project, including relevant costs and reasonable contingencies related to those costs.
- 5.3 The Owner shall designate a representative authorized to communicate with the Architect on the Owner's behalf with respect to any Project.

- 5.4 As needed, the Owner shall furnish a survey of any Project site describing physical characteristics, legal limitations and utility locations and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; right-of-ways, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a project benchmark.
- 5.5 The Owner shall pay for the cost of any permits or approvals from governmental authorities having jurisdiction over any Project.
- 5.5 The Owner will guarantee full and free access to the Architect to any Project premises for the performance of the Architect's services under this Agreement.
- 5.6 Any pre-construction information, surveys, reports or tests provided by the Owner shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof. Notwithstanding the foregoing, the Architect shall provide prompt written notice to the Owner if the Architect observes or otherwise becomes aware of any fault or defect in the information supplied by the Owner, or any fault or defect in any Project or non-conformance of the work with any such documents or non-conformance of the work with the Contract Documents.
- 5.7 Prompt written notice shall be given by the Owner to the Architect if the Owner becomes aware of any fault or defect in the project or nonconformance with the Contract Documents. The Owner's failure or omission to give such notice shall not relieve the Architect of its responsibilities under this contract and the Owner shall have no duty of observation, inspection or investigation.

#### ARTICLE 6: USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

- 6.1 The Drawings, Specifications and other documents prepared by the Architect and/or its consultants under this Agreement are instruments of the Architect's service for use solely with respect to the services to be provided under this Agreement and, except as provided herein, the Architect and/or its consultant shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall have the right to retain copies, including reproducible copies, of the Architect's and consultant's Drawings, Specifications and other documents for information and reference in connection with the Owner's use and occupancy of the Project and may use those documents for completion of the Project and when making future additions, modifications, or renovations to the Project or building, with the understanding that the Architect and/or consultant, if not involved in such future use, shall be relieved of any liability as a result of such future use of the documents.
- 6.2 Submission or distribution of documents to meet official regulatory requirements or of similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's and/or consultant's reserved rights.

#### ARTICLE 7: TERMINATION, SUSPENSION OR ABANDONMENT

- 7.1 This Agreement may be terminated by either party upon not less than fifteen days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. If terminated for failure of

the Architect to fulfill his obligations under the contract, the Owner may take over the work and prosecute the same to completion using the Architect's design, to the extent completed.

- 7.2 If any Project is abandoned by the Owner for more than 90 consecutive days, the Architect may suspend services with respect to that Project and will be entitled to an extension of time for completion of the Project, if circumstances warrant such an extension.
- 7.3 Failure of the Owner to make payments to the Architect in accordance with this Agreement, without written notice of justifiable reason for the nonpayment, shall entitle the Architect to suspend services under this Agreement.
- 7.4 In the event of a termination not the fault of the Architect, the Architect shall be compensated for actual services performed prior to termination, together with Reimbursable Expenses then due.
- 7.5 Suspension or termination of the Agreement by the Architect for cause shall not prevent the Owner from completing a Project using the Architect's design and drawings. In such case the Architect will cooperate with the Owner in making such documents available to the Owner.

#### ARTICLE 8: PROJECT DIRECTION AND PARAMETERS

- 8.1 The parties agree that, in directing the Architect regarding the provision of specific services under this Agreement, the Owner will utilize written directives in substantially the format of the "Project Directive" form attached hereto as Exhibit F. At a minimum, all project directives will include a description of the project or assignment, a schedule for completion, compensation terms and express notice of any intention of the parties to deviate from the terms of this Agreement. Except as may be specifically noted on the Project Directive form relating to any specific assignment or project, this Agreement will govern the provision of services by the Architect in all instances.

#### ARTICLE 9: PAYMENTS TO THE ARCHITECT

##### 9.1 PAYMENTS ON ACCOUNT OF REIMBURSABLE EXPENSES

- 9.1.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses by the Architect and its employees and consultants in the interests of any Project, as identified as follows:

- .1 Transportation in connection with any Project (except that travel between the Architect's local office and the Project is a part of Basic Services and not a Reimbursable Expense), authorized out-of-town travel, lodging and subsistence, long-distance telephone and fax communications; mileage is compensable at the rates set forth on Attachment G.
- .2 Any fees paid for securing approval of authorities having jurisdiction over a project not paid by the Owner under Article 5.5 above.
- .3 Reproductions, plots, standard form documents, postage, copying and delivery of Instruments of Service;
- .4 Expense of renderings, models and mock-ups expressly requested by the Owner; and
- .5 other similar direct Project-related expenditures as approved by the Owner.

Reimbursable Expenses will be billed to the Owner at actual cost.

- 9.1.2 Records of Reimbursable Expenses pertaining to Basic Services and Additional Services shall be made available to the Owner or the Owner's authorized representative at the Owner's request. Such expenses shall be clearly described and itemized on the Architect's applications for payment.

- 9.1.3 Payment for Reimbursable Expenses shall be on a monthly basis per submitted invoices, itemized as required by 9.1.2 above.

## 9.2 PAYMENTS FOR BASIC SERVICES

- 9.2.1 Applications for payment for Basic Services shall provide sufficient detail to enable the Owner to track the work performed during the payment period and shall be in a format easily understood by the Owner. Payment shall be on a monthly basis per submitted invoices, which must include an itemization of all costs and services provided. Progress payments shall be made in proportion to services rendered and shall be due and owing within thirty days of the Architect's submittal of its monthly invoice. The Owner agrees to make every effort to reimburse the Architect at the earliest opportunity in accordance with school district procedures for approving such obligations and issuing the necessary school district warrants.
- 9.2.2 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to Contractor or subcontractors.

## 9.3 PAYMENTS FOR ADDITIONAL SERVICES

- 9.3.1 Payments for any Additional Services shall be made monthly upon presentation of the Architect's statement of Additional Services rendered and expenses incurred attendant thereto.
- 9.3.2 The hourly rates for the Architect and its consultants for Additional Services shall be as set forth in Attachment G, which is attached hereto and made a part hereof. For any Additional Services involving the work of consultants, such services will be billed at a multiple of 1.10 times actual cost to the Architect.

## ARTICLE 10: BASIS OF COMPENSATION

- 10.1 Unless otherwise provided for in the specific Project Directive, the Owner shall compensate the Architect for Basic Services on an hourly basis at the rates set forth on Attachment G, with a "Not-To-Exceed" [NTE] cap established in the Project Directive. In no event, however, shall the compensation to be received by the Architect for Basic Services attendant to any specific Project exceed the sum set forth in the Project Directive for that Project.
- 10.2 Any certificates, reports or other materials required from the Architect in connection with any Project shall be provided to the Owner prior to any final payment relating that Project. No payment, including final payment, shall in any manner affect, waive or release any of the Owner's right or claims against the Architect, whether or not known at that time.

## ARTICLE 11: OBLIGATIONS OF THE ARCHITECT

- 11.1 Upon request of the Owner, the Architect will furnish the Owner with information relative to the Architect's consultant architects and Architects, including agreements between the Architect and any of its consultants. All such agreements shall specify the scope of design, Architecting and/or other services to be performed. The Architect shall, upon request, furnish the Owner with documentation demonstrating that its consultants are currently registered as professional architects and/or Architects and shall furnish the Owner with information as to similar professional work in they have been engaged. The Owner reserves the right to disapprove of any consultant Architect or architect by notifying the Architect of such disapproval. The failure of the Owner to disapprove of any consultant shall not release the Architect of any responsibility for any defects or deficiencies in the design or engineering services provided.
- 11.2 The Architect shall indemnify and hold harmless the Owner against injury, loss, or damage arising out of any negligent acts, errors, or omissions attendant to its provision of services to

the Owner. The Architect shall not be held responsible for injury, loss, or damage arising out of errors or omissions attributable to Owner-provided information regarding existing site and building conditions. The Architect shall be responsible for any errors, omissions and/or conflicts in any construction documents developed hereunder and such responsibility shall include, but not be limited to, prompt correction, at the Architect's expense, of any such errors, omissions and/or conflicts.

- 11.3 The Architect agrees to remedy any defect resulting from any of its negligent acts, errors or omissions contained in any construction documents developed hereunder or, upon the choice of the Owner, to pay the reasonable cost of such remedy as performed by a competent third party at the direction of the Owner. The Architect further agrees to pay any other damages incurred by the Owner which are proximately caused by any negligent acts, errors or omissions described in Section 11.2 hereof.
- 11.4 The Architect's obligations pursuant to paragraphs 11.2 and 11.3 are in addition to and not in lieu of other remedies available to the Owner.
- 11.5 The Architect agrees that it will secure and maintain in full force and effect all forms of insurance coverage required by law in the State of Montana, including but not limited to automobile liability (including hired/non-owned) coverage and workers compensation coverage. The Architect shall ensure that all of its consultants carry and maintain such coverage as well. The Architect and its consultants shall submit proof of such insurance to the Owner no later than the submittal of its first invoice to the Owner and at anytime thereafter when a material change in coverage, carriers or underwriters occurs. The maintenance in full current force and effect of the insurance coverage called for above shall be a condition precedent to the Owner's obligation to pay for services under this Agreement.

In addition to the insurance referenced above, the Architect agrees that it shall secure and maintain in full force and effect a policy of professional liability insurance in the minimum amount of \$1,000,000.00 providing coverage for any errors or omissions by the Architect occurring during the term of this agreement. The policy shall provide that it cannot be canceled or terminated without 45 days prior written notice to the Owner. Should the Owner agree to cancellation of the policy, the Architect shall purchase another policy providing the same protection as the canceled policy and provide the Owner with proof of such insurance.

Any consultant architect or engineer utilized in connection with providing services under this Agreement shall also be required to provide to the Owner a certificate of insurance indicating that a policy of professional liability insurance has been issued to said consultant in an amount no less than \$1,000,000, which policy shall be in full force and effect and which shall provide coverage for any errors and omissions of said consultant occurring during the term of this agreement. Said consultants, furthermore, must agree that said policy cannot be canceled or reduced without 45 days' prior to written notice to the Owner.

With respect to any insurance policy which is a "claims made" policy, in the event at any time any such policy is cancelled or nonrenewed, the Architect shall provide a substitute policy with terms and conditions and in amounts which comply with the terms of this Agreement and which provide for retroactive coverage to the date of cancellation or nonrenewal to fill any gaps in coverage which may exist due to the cancellation or nonrenewal of the prior "claims made" policy. The substitute policy or alternate form of coverage may consist of tail coverage, an extended reporting period or some other form of coverage, so long as it operates to provide the requisite level of coverage retroactive to the date of commencement of work under this agreement with respect to all "claims made" policies that are renewed, the Architect shall provide coverage retroactive to the date of commencement of work under this agreement. All substitute or renewed "claims made" policies shall be maintained in full force and effect for three (3) years from the date of completion of the project.

- 11.6 Any actions against the Architect by the Owner brought to recover damages, including but not limited to damage to the work and the project itself for any failures or defects therein, caused by the design, planning, inspection, construction, administration or observations of construction of the project shall be brought within ten (10) years after the final completion and acceptance of the project. Notwithstanding anything contained herein to the contrary, and action for any damages which were first discovered by the Owner during the tenth year after final completion and acceptance of the project may be commenced at any time within one year after the discovery of such failure or defect.

## ARTICLE 12: GENERAL CONDITIONS

- 12.1 This Agreement shall be governed by the laws of the State of Montana. Venue for any suit, action or claim to interpret or enforce the terms of this Agreement shall be the Ninth Judicial District Court of the State of Montana, Cut Bank, Glacier County, Montana. The prevailing party in any action shall be entitled to recover their costs and attorney's fees from the other party; in addition to any other damages awarded.
- 12.2 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Architect shall assign this Agreement without the written consent of the other.
- 12.3 The Architect and its consultants shall reject the use of any hazardous material in the construction of the project, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. Further, if any such materials are discovered in the course of the Project, the Architect shall notify the Owner immediately.

Unless otherwise provided in this Agreement or a specific Project Directive, the Architect and its consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited, to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

- 12.4 No waiver of any breach of any one of the agreements, terms, conditions or covenants of this Agreement by the Owner or Architect shall be deemed to imply or constitute a waiver of any other agreement, term, condition or covenant of this Agreement. The failure of either party to insist on strict performance of any agreement, term, condition or covenant herein set forth, shall not constitute or be construed as a waiver of the rights of either or the other thereafter to enforce any other default of such agreements term, condition or covenant; neither shall such failure to insist upon strict performance be deemed sufficient grounds to enable either party to forego or subvert or otherwise disregard any other agreement, term, condition or covenant of this Agreement.
- 12.5 If in any instance any provision hereof shall be determined to be invalid or unenforceable under any applicable law, such provision shall not apply in such instances, but the remaining provisions shall be given effect in accordance with their terms.
- 12.6 This Agreement represents the entire and integrated agreement between the Owner and Architect relating to the subject matter of this Agreement and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.
- 12.7 Any notices required or permitted under this Agreement or which any party elects to give shall be in writing and delivered either personally to the other party's authorized agent set forth below (or as changed by written notice); or by depositing such notice with the United States Postal Service, postage fully prepaid, to the person at the address set forth below; by



certified mail, return receipt requested; or to such other address at either party may later designate in writing. Any notice given by mail as herein provided shall be deemed given when deposited in the United States mail:

Owner:

Browning Public Schools  
P.O. Box 610  
Browning, MT 59417

Architect:

L'Heureux Page Werner, PC  
15 Fifth Street South  
Great Falls, Montana 59401

- 12.8 The Architect warrants that it has not employed or retained any company or person, other than a bona fide full-time employee, to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement.
- 12.9 The term of this Agreement shall extend from be from 11.17.2022 through 11.17.2023. The parties may mutually agree to renew and extend the term of this Agreement for an additional period of no more than two years, with the terms of the Agreement being subject to negotiation. Such extension shall require the written agreement of the parties as to both (1) the duration of any extension and (2) any modifications to the terms of this Agreement. Neither party is obligated to enter into any extension and in the absence of a mutual written agreement for renewal and extension, this Agreement shall terminate on December 31, 2024.
- 12.10 There will be two originals of this Agreement executed by the parties, one to be retained by each party.

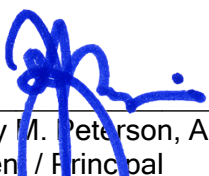
**OWNER:**

\_\_\_\_\_  
Chairperson, Board of Trustees  
Browning Public Schools

\_\_\_\_\_  
Date

ATTEST: \_\_\_\_\_  
District Clerk

**ARCHITECT:**

  
\_\_\_\_\_  
Timothy M. Peterson, AIA, LEED AP BD+C, GGP  
President / Principal

November 17, 2022  
Date

## ATTACHMENT A

### Schematic Design Services

In the Schematic Design Phase, the Architect will provide those services necessary to prepare Schematic Design Documents consisting of drawings and other documents illustrating the general scope, scale, and relationship of project components for approval by the Owner. Design should be conceptual in character, based on the requirements developed during pre-design and programming processes and reviewed and approved by the Owner. Schematic Design services include, but are not necessarily limited to, the following:

<b>Project Administration</b>	Services consisting of schematic design administrative functions including consultation, meetings and correspondence, and design progress review conferences with Owner, including the establishment of preliminary construction cost estimates.
<b>Disciplines Coordination</b>	Coordination between the architectural work and engineering work and other consultants involved with the project.
<b>Document Checking</b>	Review and coordination of documents prepared for the project.
<b>Permitting Authority</b>	Consultations, research of critical applicable regulations, laws and codes; Preparation of written and graphic explanatory materials;
<b>Owner Data</b>	Review and coordination of data furnished for the project by the Owner.
<b>Architectural Design</b>	Services responding to scope of work (program/pre-design) requirements and consisting of conceptual site and building plans, schematic sections and elevations, preliminary selection of building systems and materials, development of approximate dimensions, areas and volumes.
<b>Structural Design</b>	Services consisting of recommendations regarding basic structural material and systems, analysis, and development of conceptual design solutions.
<b>Mechanical Design</b>	Services consisting of consideration of alternate materials, systems and equipment, and development of conceptual design solutions for energy sources/conservation, heating, ventilation and air conditioning (HVAC), plumbing, fire protection, and general space requirements.
<b>Electrical Design</b>	Services consisting of consideration of alternate systems, recommendations regarding basic electrical materials, systems and equipment, analysis, and development of conceptual design solutions for power service and distribution, lighting, communication raceways, fire detection, suppression and alarms, and general space requirements.

<b>Civil/Site Design</b>	Services consisting of site planning including layout of site features, building position, preliminary grading, location of paving for walkways, driveways and parking, and fencing locations.
<b>Specifications</b>	Services consisting of preparation for Owner's approval of proposed development plan for architectural outline specifications and coordination of outline specifications for other disciplines.
<b>Materials Research</b>	Services consisting of identification of potential architectural and structural materials, systems and equipment.
<b>Project Delivery</b>	Services consisting of consideration of alternative potential project delivery methods.

## ATTACHMENT B

### Design Development Services

In the Design Development Phase, the Architect will provide those services necessary to prepare, from the approved schematic design documents, the design development documents consisting of drawings and other documents to fix and describe the size and character of the entire project for approval by the Owner. These drawings and documents shall include but not be limited to floor plans, exterior elevations and one rendered exterior perspective. Consideration shall be given to availability of materials, equipment and labor, construction sequencing and scheduling, economic analysis of construction, user safety and maintenance requirements, and energy conservation. Design Development services include, but are not necessarily limited to, the following:

<b>Project Administration</b>	Services consisting of design development administrative functions including consultation, meetings and correspondence, and design progress review conferences with Owner, and including further refinement of any project construction budget.
<b>Document Checking</b>	Review and coordination of documents prepared for the project.
<b>Permitting Authority</b>	Consultations, research of applicable regulations, laws and codes; Preparation of written and graphic explanatory materials; Assist in obtaining approvals from approving agencies as required.
<b>Owner Data</b>	Review and coordination of data furnished for the project by the Owner.
<b>Architectural Design</b>	Continued development and expansion of architectural schematic design documents to establish the final scope, relationships, forms, size, and appearance of the project through plans, sections and elevations, materials selections, and equipment layouts. At intervals mutually agreeable to the Owner, the Architect shall provide drawings and other documents that depict the current status of design development for the Owner's review.
<b>Structural Design</b>	Continued development of the specific structural system(s) and schematic design documents in sufficient detail to establish basic structural system and dimensions, structural design criteria, foundation design criteria, preliminary sizing of major structural components, critical coordination clearances, and outline specifications or materials lists.
<b>Mechanical Design</b>	Continued development and expansion of mechanical schematic design documents and development of outline specifications for materials lists to establish approximate equipment sizes and capacities, preliminary equipment layouts, required space for equipment, chases and clearances, acoustical and vibration control, visual impacts and energy conservation measures.

<b>Electrical Design</b>	Continued development and expansion of electrical schematic design documents and development of outline specifications or materials lists to establish criteria for lighting, electrical and communication raceways, approximate sizes and capacities of major components, preliminary equipment layouts, required space for equipment, chases, and clearances.
<b>Civil/Site Design</b>	Continued development of civil/site schematic design documents and development of outline specifications required for the project.
<b>Specifications</b>	Services consisting of preparation for Owner's approval of proposed General and Supplementary Conditions of the Contract for construction, development of architectural outline specifications, coordination of outline specifications of other disciplines, and production of design manual including design criteria, and outline specifications of materials lists.
<b>Scheduling</b>	Review and update of previously established schedules for project.
<b>Cost Estimating</b>	Development of a probable construction cost from quantity surveys and unit costs of building elements for the project. Costs shall reflect the level of design elements presented in the design development documents, plus appropriate design contingencies. Assist Owner with analyzing scope, schedule and budget options to stay within the Owner's budget and advise Owner of any adjustments to the preliminary estimate of construction cost.
<b>Presentations</b>	The Architect will make one presentation of the Design Development documents to the School Board at a public meeting at a time mutually agreeable to the Architect and Owner. As part of that presentation, the Architect will provide a written report to the Owner outlining the nature and magnitude of any deviations between the Design Development documents and the Schematic Design documents previously provided to the Owner.
<b>Energy Use</b>	Architect will consider energy efficiency in all aspects of the project and shall submit to the Owner an estimated annual energy use analysis of the project and the new heating & ventilation system.
<b>Design Documents</b>	Provision of sufficient sets of design development documents.
<b>Time Schedule</b>	Submission to the Owner of a new timetable for all elements of work remaining through Owner occupancy.

## ATTACHMENT C

### Construction Document Services

In the Construction Documents Phase, the Architect shall provide those services necessary to prepare for approval by the Owner, from the approved design development documents, Construction Documents consisting of drawings, specifications, and other documents setting forth in detail the requirements for construction of the project and bidding and contracting for the construction of the project. Construction document services include, but are not necessarily limited to, the following:

**Project Administration** Administrative functions including consultations, meetings and correspondence, and design and document progress review conferences.

**Document Checking** Review and coordination of documents prepared for the project.

**Permitting Authorities** Prior to the approval of the final Construction Documents by the Owner, the Architect shall submit the construction documents to the specific state and local agencies having jurisdiction over the project, including but not limited to any necessary review under § 20-6-622, MCA. Simultaneously, the Architect shall submit sufficient copies of all construction documents to the Owner's review. The Architect shall make written request of the reviewing agencies for the requisite approvals and any changes necessary to obtain such approval shall be made by the Architect at the Architect's expense. All approvals must be in writing and must be filed with the Owner. In the event of a decision by any lawful regulatory authority that such construction documents do not fully conform to applicable building codes, regulations, laws, and ordinances, the Owner may have the matter heard on appeal or review by the appropriate administrative agency or agencies.

The Owner may review the proposed construction documents and request minor revisions or corrections as it deems necessary. These requests shall be reviewed with the Architect, who shall make the necessary revisions or corrections before final approval of the construction documents.

Construction Documents shall accurately reflect and comply with all applicable codes, ordinances, and regulations. The Architect shall investigate the availability of all necessary utility services and shall meet with and discuss the availability of such services with the appropriate authorities.

<b>Owner Data</b>	Review and coordination of data furnished for the project by the Owner.
<b>Architectural Design</b>	Preparation of drawings based on approved design development documents setting forth in detail the architectural construction requirements for the project.
<b>Structural Design</b>	Preparation of final structural engineering calculations, drawings and specifications based on approved design development documentation, setting forth in detail the structural construction requirements for the project.
<b>Mechanical Design</b>	Preparation of final mechanical engineering calculation, drawings and specifications based on approved design development documentation, setting forth in detail the mechanical construction requirements for the project.
<b>Electrical Design</b>	Preparation of final electrical engineering calculation, drawing and specifications based on approved design development documentation, setting forth in detail the electrical construction requirements for the project.
<b>Civil/Site Design</b>	Preparation of final civil/site design drawings and specifications based on approved design development documentation required for the project.
<b>Specifications</b>	Development and preparation of bidding documents, General and Supplementary Conditions of the contracts for construction, architectural specifications, coordination of specifications prepared by other disciplines, and compilation of Project Manual. The drawings shall include, but not be limited to a complete set of architectural working drawings including site plans, site utility plans, existing grades, new final grades, parking requirements, architectural plans, sections, elevations, reflected ceiling plans, details, finish schedules and complete structural, mechanical, electrical, plumbing (including the fire protection system), coordinated with the specifications, which shall describe the scope, materials and quality of the workmanship of all items above. Each area shall be shown at sufficient scale to adequately and fully explain the function of the area and the intention of the work, and to enable the satisfactory construction of the area by the contractor. All original drawings must carry the registered professional stamp of the engineer and Architect responsible for that document.

<b>Cost Estimating</b>	Development of a probable construction cost from quantity surveys and unit costs of building elements for the project and advising Owner of any adjustments to previous preliminary estimates of previous construction cost. Costs shall reflect the level of design elements presented in the construction documents plus appropriate design contingencies. Assist Owner with analyzing scope, schedule, and budget options to stay within the Owner's budget. Submit to the Owner a new estimate of the probable cost of construction.
<b>Scheduling</b>	Review and updating previously established schedules for the project.
<b>Bidding Information</b>	Preparation, after consultation with the Owner, of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor.
<b>Presentation</b>	The Architect will make one presentation of the Construction Documents to the School Board at a public meeting at a time mutually agreeable to the Architect and Owner. As part of that presentation, the Architect will provide a written report to the Owner outlining the nature and magnitude of any deviations between the Construction Documents and the Design Development documents previously provided to the Owner.
<b>Project Budget</b>	The project budget shall be established in writing prior to competitive bidding and the Architect shall not rely on any unwritten or unapproved Owner budget.
<b>Registered Stamps</b>	Ensure that all original drawings carry the registered stamp of the engineer and Architect responsible for that document.



## **ATTACHMENT D**

### **Bidding and Negotiation Services**

In the Bidding Phase, the Architect, following the Owner's approval of the Construction Documents and the most recent statement of probable construction cost, shall provide services necessary to assist the Owner in obtaining any bids and in awarding and preparing the contracts for construction.

**Project Administration** Following the Owner's approval of the construction documents and of the latest estimates of construction cost, assist the Owner in obtaining bids and assist in awarding and preparing contracts for construction.

Any revisions or corrections after the construction documents have been released to bidders shall only be made by addendum. The Architect shall promptly notify the Owner of any revisions or corrections made by addendum. Previous acceptance of the construction documents will not limit the Owner's rights to request the revisions and/or corrections after documents have been released to the bidders, but may entitle the Architect to submit a claim for additional compensation if warranted under the Agreement. Any revisions or corrections consistent with previous approvals by the Owner shall be accomplished at the expense of the Architect.

**Preparation of Docs** Preparation of the invitations for bids, as well as the necessary forms, record of bidders, plan deposits, proposals and other bidding and construction documents, all subject to the Owner's approval.

**Coordination** Coordination between the architectural work and the work of engineering and other involved consultants for the project.

**Bidding Materials** Organization, coordination, and handling of bidding documents for reproduction, distribution and retrieval, receipt and return of document deposits.

**Addenda** Preparation and distribution of Addenda as may be required during bidding and including supplementary drawings, specifications, instructions, and notice(s) of changes in the bidding schedule and procedure.

**Alternates** Consideration of alternative, separate or sequential bid approaches and the provision of services in connection with

the bidding, negotiation and/or award of such alternative or sequential bid approaches.

<b>Bidding</b>	Participation in pre-bid conferences, responses to questions from bidders, and clarification or interpretations of the bidding documents, attendance at bid opening and documentation and distribution of bidding results.
<b>Substitutions</b>	Consideration, analysis, comparisons, and recommendations relative to substitutions proposed by bidders prior to receipt of bids.
<b>Bid Evaluation</b>	Validation of bids, participation in review of bids and alternates, preparation of a written bid evaluation and recommendation on award of contract for submission to Owner.
<b>Contract Agreements</b>	Assist Owner in notification of contract award, assistance in preparation of construction contract agreements, preparation and distribution of sets of contract documents for execution of the contract, receipt, distribution and processing, for Owner approval, of required certificates of insurance, bonds and similar documents, and preparation and distribution to contractor(s) on behalf of the Owner, of notice(s) to proceed with the work.
<b>Bidding Requirements</b>	The Architect shall include in the bidding information, plans and/or specifications the following requirements: (a) all government requirements related to the payment of prevailing wage rates; (b) requirements of state law relating to resident hiring preferences and nondiscrimination; (c) a requirement that the contractor provide operations manuals and adequate training for the Owner in the operation of mechanical, electrical, heating and air conditioning systems installed by the contractor, as well as warranty information and forms and any other information or documentation available to the contractor which would assist the Owner in operating and maintaining the equipment and systems; (d) the requirement that no hazardous materials will be used in the project or its fixtures, including but not limited to friable asbestos materials or products, polychlorinated biphenyl (PCB), or materials as would be hazardous to potable water, and further, that the contractor will be required to certify, in writing, upon completion of the project, that the building contains no such materials; (e) a requirement that the contractor provide lien releases or waivers or similar documents before payment, ensuring payment to sub-

contractors for supplies, labor and materials; and (f) a requirement that the work be done to all applicable codes and be compliant with the ADA and/or state disability standards.

#### **Re-design Costs**

The Architect is responsible for the review of all bids received and the making of a written recommendation to the Owner for award. If the lowest bid exceeds the most recent estimate of the probable cost of construction by more than 5%, then the Architect shall provide such value engineering gestures as may be necessary to bring costs within the Owner's budget. If the lowest bid exceeds the most recent estimate by 10% or more, then the Architect shall provide such redesign measures as may be necessary to bring costs within the Owner's budget.

## ATTACHMENT E

### Construction Administration Services

In the Construction Administration Phase, the Architect will provide those services necessary for the administration of the construction contract on behalf of the Owner as generally set forth in the General Conditions of the Contract for Construction. Construction Administration services include, but are not limited to, the following:

<b>Project Administration</b>	Construction contract administrative functions including consultation, site visits, conferences, communications, and progress reports.
<b>Permitting Authorities</b>	Services relating to seeking conformity to applicable laws, statutes, regulations and codes of regulating entities in furtherance of the Owner's interests during construction of the project.
<b>Construction</b>	Processing of submittals, including receipt, review of and appropriate action on shop drawings, product data, samples, and other submittals required by the contract documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the work or in the construction, while allowing sufficient time in the Architect's professional judgment to permit adequate review; Distribution of submittals to Owner and maintenance of master file of submittals and related communications.
<b>Field Observations</b>	The Architect and its consultants will make such periodic visits to the Project site as may be necessary to familiarize themselves with the progress and quality of the work and to determine if the work is proceeding in accordance with the contract documents. The Architect will guard the Owner against deficiencies in the work performed and materials provided by the contractor (and against noncompliance by the contractor with the terms of his contract), although the Architect does not guarantee the performance of that contract. On the basis of their on-site observations, the Architect and its consultants will keep the Owner informed of the progress and quality of the work and will exercise due care and diligence in discovering and promptly reporting to the Owner defects and deficiencies in the work. If the Architect observes any work that does not conform to the contract documents or that will prove detrimental to the owner, the Architect will reject that work and will immediately report it to the Owner. The Architect and its consultants shall make as many observations as may be reasonably required to fulfill their obligations to the Owner.

Periodic visits of the Architect shall be not less than an average of one time per week. Each major engineering discipline shall make periodic visits not less than once per month, during the course of work applicable to that discipline. During critical work phases, each engineering discipline may be required to make visits more frequently, timed to coincide with the construction progress. The Architect and its consultants shall prepare and submit written reports regarding their on-site observations to the Owner every month for the previous one-month period. The Architects and its consultants (as necessary) shall attend regularly-scheduled construction progress meetings with the contractor and Owner and prepare and submit a report to the Owner of the proceedings of those meetings.

Except as may be provided elsewhere in this Agreement, the Architect shall not be responsible for the contractor's schedules or failure to carry out the work in accordance with the contract documents and 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. 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, except to ensure, based on its on-site observations, that the work is being performed in accordance with the requirements of the contract documents.

#### **Documents**

Preparation, reproduction, and distribution of clarification documents and interpretations in response to requests for clarification by contractors or the Owner; Preparation, reproduction and distribution of drawings and specifications to describe work to be added, deleted or modified; Review of proposals, review and recommend changes in time for substantial completion, assist in the preparation of modifications of the contracts and coordination of communications, approvals, notifications, and record-keeping relative to changes in the work.

#### **Scheduling**

Monitoring the progress of the contractors relative to established schedules and making status reports to the Owner.

#### **Payment Certification**

Review and evaluate applications for payment, and certify amounts due the Contractor. Maintain records of payment. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations at the site and on the data comprising the Contractor's Application for Payment, that the work has

progressed to the point indicated and that, to the best of Architect's knowledge, information and belief, the quantity, quality and value of the work is in accordance with the Construction Contract Documents. The issuance of a Certificate for Payment shall also constitute a representation that the Contractor is entitled to payment in the amount certified. Said certificates shall be in a standardized form acceptable to the Owner reflecting proper detail and identification of the contract items involved and shall be in a designated office of the Owner within ten days after the Architect's receipt of the Application for Payment. The issuance of a Certificate for Payment shall be a representation that the Architect has (1) made continuous on-site inspections to check the quality or quantity of work; (2) reviewed construction means, methods, techniques, sequences or procedures; (3) reviewed copies of requisitions received from subcontractors and materials, supplies, and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

The issuance of a Certificate for Payment shall not constitute a representation that the work is free of defects, or constitute the acceptance of the work by the Owner.

The Architect shall not certify payments unless required documents such as lien releases or waivers, an updated and factual Project construction schedule, appropriate warranties, operating manuals and instructions have been provided by the Contractor.

**Action on Submittals**

Review and evaluation of contractor proposals, including the preparation of drawings, specifications and other documentation and supporting data.

**Change Orders**

Prepare Change Orders and Construction Change Directives, with supporting documentation, for the Owner's approval and execution in accordance with the Contract Documents, and authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time that are consistent with the intent of the Contract Documents.

**Project Closeout**

Conduct inspections to determine the dates of Substantial Completion and Final Completion. The dates of Substantial Completion and Final Completion shall be mutually agreed upon in writing by the Owner and the Architect; Observe the final testing and start-up of utilities, operational systems and equipment; Receive, index, bind, and forward to the Owner

for the Owner's review, two sets of written warranties, building operating and maintenance manuals, and related documents required by the Contract Documents. Receive and forward to the Owner for the Owner's review and records written warranties and related document, such as affidavits, releases and waivers of lien required by the Contract Documents to be assembled by the Contractor. Issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

Before final payment to the Contractor, the Architect shall identify any amounts necessary to pay a claim or claims by the Owner against the Contractor for non-conforming work and/or any liquidated damages attributable to the Contractor.

#### **Record Documents**

Review contractor's field records showing significant changes in the work made during construction based on marked up prints, the Architect's inspection and observation, drawings and other data furnished by the Contractor to the Consultant. Maintain supervision over all changes in the plans in the course of the work and keep a current, accurate record of all variations or departures from the Construction Documents as originally approved, keep the Owner advised in advance if possible with respect thereto, advise the Owner to the best of the Architect's ability on a current basis of the work occasioned by such variations or departures, and secure from the Contractor a set of reproducible, record drawings through the length of the construction to reflect the actual construction and work in place. The accuracy of such revised drawings is not expected to be any greater than the accuracy of the original drawings. A full set of said drawings shall be provided to the Owner prior to final payment to the Architect and the Contractor. Any variations or departures that affect project costs or project time shall only be implemented after compliance with applicable sections of this Agreement.

#### **O & M Manuals**

Process, review, comment and take appropriate action on, and transmit Operations and Maintenance Manuals from contractor to Owner.

<b>Rejecting Work</b>	The Architect shall reject work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. Such special inspection or testing shall only be accomplished after obtaining the Owner's concurrence and agreement to pay for that inspection and testing. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.
<b>Warranty Period</b>	Continued assistance to investigate contract problems that arise during the warranty period.
<b>Warranty Inspections</b>	Accompanied by a representative of the Owner, make at least two complete warranty inspections of the work after the work has been completed and accepted by the Architect and the Owner. One such inspection shall be made approximately one month after Substantial Completion of the work and another such inspection shall be made approximately eleven months after Substantial Completion. The Architect shall determine, based upon the Architect's professional opinion, whether the work and all portions thereof are in accordance with the construction documents, and the Architect shall provide a written report of these inspections to the Owner. The Architect shall in good faith and with due diligence endeavor to see that any remedial work found to be necessary is performed in a satisfactory manner by the contractor; shall be responsible for the inspection of such remedial work and shall inform the Owner in writing, whether such remedial work has been satisfactorily completed.
<b>Claims Decisions</b>	Evaluate claims in connection with the work. Render written decisions within ten working days or within ten working days advise the Owner of the time frame to appropriately respond on all claims, disputes or other matters in question between the Owner and Contractor relating to the execution or progress of the Work as provided in the Contract Documents.



## ATTACHMENT F

# PROJECT DIRECTIVE FORM

**OWNER:** Browning Public Schools

**ARCHITECT:** L'Heureux Page Werner, PC

This Project Directive Form is entered into in accordance with Article 8.1 of the A-E General Services Agreement between the Owner and Architect. Except where specifically noted herein, the terms of that Agreement will govern the provision of the following services by the Architect.

**A. DESCRIPTION OF SERVICES** (describe services as outlined in Articles 3 and 4 of the Agreement)

**LPW Project Numbers / Descriptions:**

22-038 | Napi Elementary School HVAC and Reroof Project

The project consists of an approximately 52,000 square foot re-roof project, and new rooftop units in the same location as existing. The project will also include addressing some other needs of the school, including window, fencing, and classroom door repairs.

**B. SCHEDULE FOR COMPLETION**

Completion Estimate: August 2023

**C. VARIATIONS FROM TERMS OF AGREEMENT** (Note any instances where Parties intend to alter or modify the terms of the General Services Agreement with respect to the specific services described above)

**D. COMPENSATION TERMS**

**TOTAL FEES:**

**Base Bid:**

Design: \$199,800.00

Construction Administration: \$65,600.00

Total (Hourly, NTE for LPW): \$265,400.00

E. SPECIAL COMMENTS

OWNER:

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

\_\_\_\_\_  
Date

ARCHITECT:

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

Timothy M. Peterson, AIA, LEED AP BD+C, GGP  
President / Principal

November 17, 2022  
Date