

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

BERRYESSA UNION SCHOOL DISTRICT

AND

LARRY M PERKINS

FOR

DSA PROJECT INSPECTION SERVICES

**HVAC REPLACEMENT AT NOBLE ELEMENTARY SCHOOL
HVAC REPLACEMENT AT SUMMERDALE ELEMENTARY SCHOOL
HVAC REPLACEMENT AT TOYON ELEMENTARY SCHOOL
PORTABLE CLASSROOM INSTALLATION AT MAJESTIC WAY ELEMENTARY
FIRE ALARM REPLACEMENT AT LANEVIEW ELEMENTARY**

Dated: May 20, 2008

**Professional Services Agreement
For School Inspector**

BERRYESSA UNION SCHOOL DISTRICT

AGREEMENT BETWEEN THE BERRYESSA UNION SCHOOL DISTRICT AND

Larry Perkins

THIS PROFESSIONAL SERVICES AGREEMENT ("**Agreement**") is dated this 20th day of May, 2008, in the City of San Jose, State of California, by and between Larry Perkins, hereinafter referred to as ("**School Inspector**") and the Berryessa Union School District, a political subdivision of the State of California, hereinafter referred to as ("**District**").

Now, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulated and agreed, the parties agree as follows:

1. Scope of Professional Services. The School Inspector shall perform all services described in Appendix A ("**Services**"), for the compensation set forth in Appendix B ("**Compensation**"), which appendixes are attached and made a part of this Agreement.

2. Term. This Agreement shall become effective upon its execution by School Inspector and by District. All Services whenever performed shall be deemed performed under this Agreement, and all compensation paid to School Inspector on account of the Services performed shall be deemed as payments of the Compensation.

3. Standard of Performance. School Inspector represents that it possesses all necessary training, licenses and permits to perform the Services, and that its performance of the Services will conform to the standard of practice of a professional that specializes in performing professional services of like nature and complexity of the Services.

4. Subconsultants. School Inspector shall perform the Services using the personnel and subconsultants listed in Appendix A. School Inspector shall hire only qualified persons or firms who are experienced in performing work of like nature and complexity to the Services, and who agree to be bound to the terms of the Agreement to the extent of this scope of services. School Inspector may substitute personnel or subconsultants prior to any such subconsultants commencing work only upon District's written consent, which may be withheld or delayed in District's discretion.

5. Representatives for Both Parties. Both parties shall designate a representative, authorized to act on the parties' behalf with respect to this Agreement. The parties or such authorized representatives shall render required decisions promptly, to avoid unreasonable delay in the progress of School Inspector's services. The parties may delegate all or some of the representatives' role and function to some other representative.

6. Indemnification and Liability.

6.1 To the extent of School Inspector's proportionate fault, School Inspector shall defend (with legal counsel reasonably acceptable to District), indemnify and hold harmless District and its officers, agents, trustees, Board of Education, officials, representatives and employees (collectively "Indemnitees") from and against any and all claims, loss, cost, damage, injury (including, without limitation, economic harm, injury to or death of an employee), expense and liability that arise from or relate to: (1) School Inspector's negligent performance of the Services under this Agreement, or any part thereof, (2) any negligent act or omission of School Inspector, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control, or (3) any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by District, or any of the other Indemnitees, of articles or Services to be supplied in the performance of this Agreement, or (4) any breach of this Agreement (collectively "**Liabilities**"). Such obligations to defend, hold harmless and indemnify any Indemnitee shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of such Indemnitee, but shall apply to all other Liabilities. School Inspector shall place in its sub-consulting agreements and cause its subconsultants to agree to indemnities and

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insurance obligations in favor of District and other Indemnitees in the exact form and substance of those contained in this Agreement.

6.2 District acknowledges that the discovery, presence, handling or removal of asbestos products polychlorinated biphenyl (PCB) or other hazardous substances which may presently exist at the Project site is outside of School Inspector's expertise and is not included in the scope of Services School Inspector is to perform nor included in School Inspector's insurance. District shall hire an expert consultant in this field if the Project involves such materials. School Inspector shall not be responsible or be involved in any way with the discovery, presence, handling or removal of such materials. School Inspector shall be responsible to coordinate with District's expert consultant as required by Appendix A.

7. **Notices.** District and School Inspector shall provide notices to the other in the form of a writing, sent by certified mail return receipt requested, or by overnight courier or delivery service with signature required, as follows:

Berryessa Union School District
1376 Piedmont Road
San Jose, California 95132-2498
Attn: Gilbert Roman

Larry Perkins
825 E Live Oak Avenue
Menlo Park, CA 94025

or to such other place as either party may similarly in writing designate to the other. Notices shall be effective three business days after mailing by certified mail or upon receipt if delivered by overnight courier or delivery service.

8. **Insurance.** School Inspector shall comply with all requirements of Appendix C, which is attached and made a part of this Agreement.

9. **Independent Contractor.** School Inspector shall at all times be deemed an independent contractor wholly responsible for the manner in which it performs the Services, and fully liable for the acts and omissions of its employees, subconsultants and agents. Under no circumstances shall this Agreement be construed as creating an employment, agency, joint venture or partnership relationship between District and School Inspector, and no such relationship shall be implied from performance of this Agreement. Terms in this Agreement referring to direction from District shall be construed as providing for direction as to policy and the result of services only, and not as to means and methods by which such a result is obtained. School Inspector shall pay all taxes (including California sales and use taxes) levied upon this Agreement, the transaction, or the Services and/or goods delivered pursuant hereto without additional compensation, regardless of which party has liability for such tax under applicable law, and any deficiency, interest or penalty asserted with respect thereto. School Inspector represents that it will collect, report, and pay all sales and or use taxes to the State Board of Equalization. Upon full payment, the School Inspector will issue District a receipt pursuant to California Revenue and Taxation Code Section 6203, relieving District of all liability for any tax relating to the scope of this Agreement. The School Inspector shall pay all other taxes including but not limited to any applicable City of San Jose business tax, not explicitly assumed in writing by District hereunder. The School Inspector shall comply with all valid administrative regulations respecting the assumption of liability for the payment of payroll taxes and contributions as above described and to provide any necessary information with respect thereto to proper authorities.

10. Conflict of Interest

10.1 School Inspector represents that it is familiar with Section 1090 and Section 87100 et seq. of the Government Code of the State of California, and that it does not know of any facts that constitute a violation of said sections. School Inspector represents that it has completely disclosed to District all facts bearing upon any possible interests, direct or indirect, which School Inspector believes any member of District, or other officer, agent or employee of District or any department presently has, or will have, in this Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute ground for termination of this Agreement by District for cause School Inspector agrees to comply with all conflict of interest codes adopted by Berryessa Union School District and its reporting requirements.

10.2 School Inspector covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of Services required under this Agreement. Without limitation, School Inspector represents to and agrees with District that School Inspector has no present, and will have no future, conflict of interest between providing District the Services hereunder and any interest School Inspector may presently have, or

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will have in the future, with respect to any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to District, as determined in the reasonable judgment of District. The provisions of this Section 10 shall remain fully effective indefinitely after termination of Services to District hereunder.

11. Confidentiality

11.1 School Inspector acknowledges and agrees that, in the performance of the Services under this Agreement or in the contemplation thereof, School Inspector may have access to private or confidential information which may be owned or controlled by District and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to District. School Inspector agrees that all information disclosed by District to or discovered by School Inspector shall be held in strict confidence and used only in performance of the Agreement. School Inspector shall exercise the same standard of care to protect such information as a reasonably prudent School Inspector would use to protect its own proprietary data, and shall not accept employment adverse to District's interests where such confidential information could be used adversely to District's interests. School Inspector agrees to notify District immediately in writing if it is requested to disclose any information made known to or discovered by School Inspector during the performance of or in connection with this Agreement.

11.2 Any publicity or press releases with respect to the Project or Services shall be under District's sole discretion and control. School Inspector shall not discuss the Services or Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without District's prior written consent. School Inspector shall have the right, however, without District's further consent, to include representations of Services among School Inspector's promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this Agreement.

11.3 The provisions of this Section 11 shall remain fully effective indefinitely after termination of Services to District hereunder.

12. Suspension and Termination of Services. (i.) District may direct School Inspector to suspend, delay or interrupt Services, in whole or in part, for such periods of time as District may determine in its sole discretion. District may issue such directives without cause. District will issue such directives in writing. Suspension of Services shall be treated as an excusable delay. (ii.) District may terminate performance of the Services under this Agreement in whole, or from time to time in part, for default, should School Inspector commit a material breach of this Agreement, or part thereof, and not cure such breach within ten (10) calendar days of the date of District's written notice to School Inspector demanding such cure. In the event District terminates this Agreement for default, School Inspector shall be liable to District for all loss, cost, expense, damage and liability resulting from such breach and termination. (iii.) District may terminate performance of the Services under this Agreement in whole, or from time to time in part, for convenience, whenever District determines that such termination is in District's best interests. In the event District terminates this Agreement for convenience, School Inspector shall be entitled to recover its costs expended up to the termination plus reasonable profit thereon to the termination date, but may recover no other cost, damage or expense.

13. Ownership of Work Product. Any interest (including copyright interests) of School Inspector or its subconsultants, in studies, reports, memoranda, computational sheets, drawings, plans or any other documents (including electronic media) prepared by School Inspector or its subconsultants at any time in connection with the Services, shall be, immediately upon its creation, the property of District. To the extent permitted by Title 17 of the United States Code, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of District. In the event that it is ever determined that any works and any former works created by School Inspector or its subconsultants under this Agreement are not works for hire under U.S. law, School Inspector hereby assigns to District all copyrights to such works when and as created. With District's prior written approval, School Inspector may retain and use copies of such works for reference and as documentation of experience and capabilities.

14. Audit/Inspection of Records.

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14.1 School Inspector shall maintain all documents and records prepared by or furnished to School Inspector during the course of performing the Services for at least three (3) years following completion of the Services, except that all such items pertaining to hazardous materials shall be maintained for at least thirty (30) years. Such records include, but are not limited to, correspondence, internal memoranda, calculations, books and accounts, accounting records documenting its work under its Agreement, and invoices, payrolls, records and all other data related to matters covered by this Agreement. School Inspector shall permit District to audit, examine and make copies, excerpts and transcripts from such records. The State of California or any federal agency having an interest in the subject of Agreement shall have the same rights conferred to District by this section. Such rights shall be specifically enforceable.

14.2 The School Inspector shall maintain full and adequate records in accordance with District requirements to show the actual costs incurred by the School Inspector in the performance of this Agreement. If such books and records are not kept and maintained by School Inspector within a radius of fifty (50) miles from the offices of District at 1376 Piedmont Road, San Jose, California 95132-2498, School Inspector shall, upon request of District, make such books and records available to District for inspection at a location within said fifty (50) mile radius or School Inspector shall pay to District the reasonable, and necessary costs incurred by District in inspecting School Inspector's books and records, including, but not limited to, travel, lodging and subsistence costs. School Inspector shall provide such assistance as may be reasonably required in the course of such inspection. District further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by District, and the School Inspector shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any matter whatsoever for three (3) years after District makes the final or last payment or within three (3) years after any pending issues between District and School Inspector with respect to this Agreement are closed, whichever is later.

15. Non-discrimination. School Inspector shall not discriminate against any employee or applicant for employment, nor against any subconsultant or applicant for a subcontract, based on of race, color, religion, age, sex, actual or perceived sexual orientation, national origin, disability as defined by the ADA or veteran's status. To the extent applicable, School Inspector shall comply with all federal, state and local laws (including, without limitation, County ordinances, rules and regulations) regarding non-discrimination, equal employment opportunity, affirmative action and occupational-safety-health concerns, shall comply with all applicable rules and regulations thereunder, and shall comply with same as each may be amended from time to time. School Inspector shall provide all information reasonably requested by District to verify compliance with such matters. School Inspector stipulates, acknowledges and agrees that District has the right to monitor School Inspector's compliance with all applicable non-discrimination requirements, and may impose sanctions upon a finding of a willful, knowing or bad faith noncompliance or submission of information known or suspected to be false or misleading.

16. Disputes. School Inspector shall continue its work throughout the course of any dispute, and School Inspector's failure to continue work during a dispute shall be a material breach of this Agreement.

17. Non-Judicial Administrative Claim Settlement Procedure For School Inspector Claims. It is the intent of School Inspector and District to make concerted efforts to resolve informally any and all disputes that may arise between them during the performance of this Agreement. In the event such efforts prove unsuccessful and there remains a dispute between School Inspector and District regarding any claim, demand or request by School Inspector for time, money, or additional compensation for any reason whatsoever (including, without limitation, any alleged failure of District to make a decision), then School Inspector shall submit to the District a written and fully documented administrative claim that shall provide a narrative of the pertinent events, School Inspector's theory of entitlement, pricing calculations and that attaches supporting documentation. District will then review School Inspector's fully documented administrative claim; may conduct an administrative hearing, in which case School Inspector shall attend, present documentation and information as requested; and District will then make a final administrative decision thereon. This non-judicial settlement procedure shall be a pre-requisite to any other claim or legal proceeding. Pursuant to Government Code section 930.2: (i.) School Inspector shall initiate this non-judicial settlement procedure by presenting its administrative claim within 60 days of the first event giving rise to the claim or dispute, (ii.) School Inspector's timely submittal of the administrative claim and District's decision thereon shall be an unwaivable condition precedent to School Inspector thereafter filing a Government Code Claim under the California Government Code Section 901 *et seq.*, (iii.) any and all such Government Code Claims in connection with this Agreement shall be presented to the District no later than 120 days following substantial completion or termination of this Agreement (whichever first occurs); and (iv.) except as so modified, the Government Code claims presentation requirements remain unchanged.

18. No Special or Incidental Damages. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or

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incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

19. California Law. This Agreement shall be deemed to have been executed in the City of San Jose, Santa Clara County, California. Enforcement of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Both parties hereby waive their rights under California Code of Civil Procedure Section 394 to file a motion to transfer any action or proceeding arising out of this Agreement to another venue. The exclusive venue for all litigation arising from or relating to this Agreement shall be in Santa Clara County, California. Should any clause, provision or aspect of this Agreement be determined at any time to be unenforceable or in contravention of law, then the remaining clauses and provisions of this Agreement shall be enforceable to the fullest extent permitted by law and construed to give effect to fullest extent possible the intent of this Agreement. In the event of litigation, the terms of this Agreement shall be enforced first, and only when an answer to a dispute is not found in the terms of the Agreement, then by reference to California law.

20. No Third Party Beneficiaries. Except as expressly provided in this Agreement, nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement. Time is of the essence in the performance of this Agreement.

21. Entire Agreement. This Agreement and any written modification shall represent the entire and integrated agreement between the parties hereto regarding the subject matter of this Agreement, shall constitute the exclusive statement of the terms of the parties' agreement, and shall supersede any and all prior negotiations, representations or agreements, written or oral, express or implied, that relate in any way to the subject matter of this Agreement or written modification. All prior negotiations are merged into this Agreement and shall be inadmissible in any enforcement of this Agreement.

22. No Waiver. The granting of any payments, and any inspections, reviews, approvals or oral statements by any District representative, or certification by any governmental entity, shall in no way limit School Inspector's obligations under this Agreement. Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require strict performance of any provision of this Agreement, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel strict compliance with every provision hereof. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by fully authorized representatives of District and School Inspector.

23. Statutes of limitation. As between the parties to this Agreement, any applicable statute of limitations for any act or failure to act shall commence to run on the date of District's issuance of the final Certificate for Payment, or termination of this Agreement, whichever is earlier, except for latent defects, for which the statute of limitation shall begin running upon discovery of the defect and its cause.

24. Severability. Any provision or portion thereof of this Agreement prohibited by, or made unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting other provisions or portions thereof of this Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding agreement enforceable in accordance with its terms to the greatest extent permitted by applicable law.

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LIST OF APPENDICES AND SCHEDULES

Appendix A	Scope of Services
Appendix B	Payments to School Inspector
Appendix C	Insurance
Appendix D	Deliverables List (NOT USED)
Schedule of Assigned Personnel	Professional Personnel (including resumes)

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APPENDIX A – SCOPE OF SERVICES

This is an appendix attached to, and made a part of, the Professional Services Agreement dated May 20, 2008 (“**Agreement**”) between the Berryessa Union School District, a political subdivision of the State of California, hereinafter referred to as (“**District**”) and Larry Perkins (“**School Inspector**”), for the provision of professional services (“**Services**”).

School Inspector’s Services are inclusive, but not limited to California Department of General Services Division of State Architect Interpretation of Regulations Document A-8 (“IR A-8”), Project Inspector & Assistant Inspector Duties and Performance Rating by DSA, dated January 25, 2002, and shall include, but are not limited to providing the following construction phase inspection services to District:

1. **School Inspector Services Generally.** The School Inspector shall perform specific Services in accordance with Title 24, Part I, Sections 4-333 and 4-332 of the California Code of Regulations (“CCR”). The School Inspector acts under the direction of the responsible design professional (“A/E”) and is subject to supervision by the Division of the State Architect (“DSA”).

- 1.1 Purpose of Services. Services under this Agreement are to provide assurance that the Project is built according to the approved construction documents.
- 1.2 School Inspector shall attend all Project Meetings.
- 1.3 School Inspector’s Services shall also conform to the California Department of General Services Division of State Architect Interpretation of Regulations Document A-8 (“IR A-8”), Project Inspector & Assistant Inspector Duties and Performance Rating by DSA, dated January 25, 2002

2. **School Inspector’s Job File and Library.** The School Inspector must maintain approved, DSA-stamped, construction documents at the designated central job-site in an organized, readily accessible manner. The School Inspector must also maintain any other construction documents or directives received from the A/E. The following documents and codes must be maintained at the job-site during construction:

- 2.1 Approved plans and specifications.
- 2.2 Construction Contract
- 2.3 Test and Inspection List, per Form DSA-103-1.
- 2.4 Building Codes. The code edition must be as referenced on the approved plans and specifications:
 - 2.4.1 Title 24, Part 1 (Administrative Code);
 - 2.4.2 Title 24, Part 2, Volumes 1, 2, and 3 (Building Code);
 - 2.4.3 Title 24, Part 3 (Electrical Code);
 - 2.4.4 Title 24, Part 4 (Mechanical Code); and
 - 2.4.5 Title 24, Part 5 (Plumbing Code, and Title 24, Part 6 (Energy Code).
- 2.5 Approved addenda.
- 2.6 Approved deferred approval documents.
- 2.7 Approved preliminary change orders.
- 2.8 A copy of shop drawings, samples, submittals, and records.

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- 2.9 Supplements
- 2.10 Field orders
- 2.11 Structural and utility records
- 2.12 Correspondence
- 2.13 All reports
- 2.14 Any other documents or directives received from the A/E.

3. School Inspector Review of the Construction Documents. School Inspector shall study the requirements of the construction documents in order to provide competent inspection of the work. Inspector shall raise issues and questions with the A/E as necessary to thoroughly understand the Construction Documents. The School Inspector must:

- 3.1 Notify District immediately of any inconsistencies or errors.
- 3.2 Consult the A/E to resolve any uncertainties in the School Inspector's comprehension of the plans and specifications prior to construction of that portion of the work.
- 3.3 Identify non-compliant work as the construction progresses, to expeditiously facilitate prompt corrective action.
- 3.4 Verify code-compliant implementation of the materials testing and special inspection programs.

4. Continuous Inspection of the Work. Continuous inspection means complete and timely inspection of every part of the work. School Inspector shall:

- 4.1 Promptly inspect the work as it progresses, and promptly verbally notify the contractor of any deviation, so that the deviation can be immediately corrected.
- 4.2 Be constantly present at work that can be inspected only as it is placed, such as concrete work or masonry work. Certain types of work which can be completely inspected after the work is installed may be carried out while the School Inspector is not present, provided that the School Inspector promptly identifies and reports all deviations.
- 4.3 Obtain personal knowledge of the construction through School Inspector's own physical inspection of the work in all stages of progress. When special inspectors or approved assistant inspectors are required on a project, the School Inspector's personal knowledge may include that knowledge obtained from these individuals.
- 4.4 Verify that the General Contractor maintains a set of prints of the Construction Documents that are annotated daily by the General Contractor to become the "As Built" Drawings. Verify that the General Contractor reviews these annotated Construction Documents weekly. Verify that the General Contractor does a final review of these annotated Construction Documents, and approves and signs them as the "As Built" Drawings prior to forwarding them to District for archival storage at the end of the job.
- 4.5 Verify that the General Contractor maintains a current set of Plans and Specifications, which incorporate all changes, revisions, and clarifications received from the District and designated **district architects**. Verify that the General Contractor prepares a set of reproducible record prints of the Plans and Specifications, showing "As Built" conditions, significant changes in the work made during construction, and the locations of utilities, based on marked up prints, plans and other data furnished by the General Contractor to District.
- 4.6 Verify that the General Contractor provides a Punchlist of items to be adjusted, corrected or completed at Substantial Completion. Verify that the General Contractor confirms that the electrical grounding tests,

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mechanical air balance tests, fire alarm tests, security system tests and communication system tests have been successfully completed. Verify that the General Contractor provides District with all training, manuals, guarantees, and extra stock items pursuant to the Agreement. Verify that the General Contractor resolves all items on the Punchlist before recommending that District release funds held in retention.

4.7 Complete all other related inspection tasks specified in the Agreement and as directed by District.

5. Records of Inspections. Maintain a detailed record of all inspections. School Inspector records must provide a comprehensive and timely documentation of the inspected work, promptly identifying all compliant and non-complaint construction. The records of inspections must be readily accessible and maintained in an organized manner. The following inspection records must be maintained at the job site:

- 5.1 Records of Inspections systematically maintained, including inspections of all work required by the construction documents. The School Inspector must also record the resolution of reported deviations.
- 5.2 Construction Procedure Records per Title 24, Part 1, Section 4-342(6), including, but not limited to concrete placement operations, welding operations, pile penetration blow counts, and other procedural records specified on the approved construction documents.
- 5.3 Photographic Record Log of activities and conditions at the Project Site. The log should record the date, time, and location where each photograph was taken, along with a brief description of what each photograph shows.
- 5.4 Time Logs of School Inspector's and Assistant Inspector's time spent at the job-site during all phases of the work.
- 5.5 Record Set of Documents, which the Contractor shall update and review with the A/E prior to submittal of Payment Requests.
- 5.6 All other related records specified in the Agreement and as directed by District.

6. Communications Required of the School Inspector. The School Inspector must, during the course of construction, provide specific code-prescribed notices and reports to the A/E, DSA, District, and contractor. The School Inspector must maintain records of all communications. These records must be readily accessible and maintained in an organized manner. The date and recipients of all communications must be clearly indicated. The School Inspector is required to provide the following communications during the course of a construction project:

6.1 **Notifications to DSA.** Per Title 24, Part 1, Section 342(b)5, notifications to DSA must be made at the following times:

- 6.1.1 The start of work;
- 6.1.2 A minimum of 48 hours prior to completion of foundation trenches;
- 6.1.3 A minimum of 48 hours prior to first concrete placement; and
- 6.1.4 When work is suspended for more than two weeks.

6.2 **Daily Reports.** The School Inspector shall keep daily reports of all activities that take place on the site subject to the School Inspector's own personal observation. These reports shall be kept on site and are for the School Inspector's personal use in preparing the required Semi-Monthly Reports. A copy of these daily reports shall be filed at the School Inspector's office and kept as a permanent record.

6.3 **Weekly Project Meetings.** Project Meetings shall be held weekly. The School Inspector shall attend all Project Meetings. The School Inspector shall meet with the District, A/E, and Contractor, and shall keep a running log of Corrective items for review. Upon written notice from the Contractor that work is substantially

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complete, the School Inspector shall compile a written Punch List of all construction items that are not in conformance with the construction documents. School Inspector shall review corrective measures with the Contractor made pursuant to the Punch List and report findings to the District.

- 6.4 **Semi-Monthly Reports.** The School Inspector must make Semi-Monthly Reports on the 5th and 20th of every month reporting on the progress of construction, per Title 24, Part 1, Section 4-337. Semi-Monthly Reports must be submitted to the A/E in general responsible charge and structural engineer, and a copy must be submitted to the DSA and District. Semi-Monthly Reports must be prepared in accordance with DSA's *Guideline for Inspector's Semi-Monthly Report*. (The guideline is available on-line at <http://www.dgs.ca.gov/dsa> – click on “Forms” – or at DSA regional office.)
- 6.4.1 **Single-Story Relocatable Building Projects.** At the discretion of the A/E the School Inspector may submit the DSA standard form *Checklist for Site Inspection of Relocatable Buildings* in lieu of Semi-Monthly Reports. (The *Checklist for Site Inspection of Relocatable Buildings* is available on-line at <http://www.dgs.ca.gov/dsa>, click on “Forms” or at the DSA regional offices.)
- 6.5 **Unit-Cost or Cost-Plus Type Work.** Draft report for submittal to District detailing labor performed, and equipment and materials used in any unit-cost or cost-plus type of work.
- 6.6 **Deviation / Correction Notices.** Per Title 24, Part 1, Section 4-342(b)7, when the School Inspector identifies deviations from the approved plans and specifications, the School Inspector must verbally notify the contractor. If the deviation is not immediately corrected, the School Inspector is required to promptly issue a written Notice of Correction to the contractor with a copy sent to the A/E and DSA. The resolution of reported deviations must be documented by the School Inspector.
- 6.7 **Record of Communications to the A/E.** All uncertainties in the School Inspector's or contractor's comprehension of the documents must be reported in writing to the A/E.
- 6.8 **Verified Reports.** Verified reports (Form DSA-6) (refer to Title 24, Part 1, Section 4-336) shall clearly describe all non-compliant work including work done in accordance with change orders that are pending DSA approval. The report shall state that the School Inspector knows of his or her own personal knowledge that the construction has, in every material respect, been performed in compliance with the DSA approved documents. The School Inspector shall declare under penalty of perjury that all information presented on the report is true. The School Inspector shall submit verified reports directly to DSA within seven days of any of the following:
- 6.8.1 Suspension of work on a project for a period of more than one month.
- 6.8.2 Termination of services of the School Inspector for any reason.
- 6.8.3 DSA request of a verified report.
- 6.8.4 Occupancy of any building or project.
- 6.8.5 Completion of the entire project.
- 6.9 Compare General Contractor's monthly Requests for Payment with the Schedule of Values originally prepared by General Contractor and approved by District to determine whether the Requests for Payment are consistent with the work completed. Certify that the Requests for Payment are accurate in conjunction with the Construction Manager.
- 6.10 School Inspector shall provide all other related communication specified in the Agreement and as directed by District.

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7. School Inspector's Monitoring of the Materials Testing & Special Inspection Program. The School Inspector is responsible, under the direction of the A/E, for monitoring the work of any special inspectors and materials testing laboratories to ensure that the Materials Testing & Special Inspection Program for the project is satisfactorily completed. The School Inspector must monitor the following aspects of the Materials Testing & Special Inspection Program:

- 7.1 Verify Special Inspections when applicable. Verify that materials are stored in such a manner that they will neither interfere with other work nor incur damage from the weather or other causes. Reject materials not in conformance with the terms of the contract immediately.
- 7.2 Notify District if School Inspector does not feel qualified in making a judgment about questionable materials or workmanship. After School Inspector has notified District, District will take necessary action to provide additional information and/or inspection.
- 7.3 Coordinate, keep on file, and distribute copies as required of all special inspections, and materials lab testing reports. The cost of any actual special inspections and / or lab testing is paid directly to the Test Lab by the District.
- 7.4 Supervise the testing of materials or systems.
- 7.5 Identify and report any special inspectors on the job-site that are not DSA approved, when DSA approval for special inspectors is required.
- 7.6 Verify that the testing / engineering laboratory individuals are qualified to do the specific tests that they are hired to perform.
- 7.7 Verify that the materials testing lab has received sufficient advance notification to perform the required material sampling or special inspection.
- 7.8 Verify that all required material sampling and special inspections have been performed. Observe any special inspector's on-site presence and performance of duties, the special inspector's documentation of complying and non-complying work, and issuance of Correction Notices.
- 7.9 Review all materials test and special inspection reports. Review successful test results reported by any materials testing lab or special inspector and report any deviations from the requirements to District and A/E before installation. Once the A/E initiates a course of action for the resolution of deviations, School Inspector must verify that the course of action was followed and the deviations resolved.
- 7.10 Assure that where materials are required to be tested and that when shop drawings are required, that all necessary tests and approvals are in place before installation.

8. Monitoring of Assistant Inspector(s). The School Inspector must provide technical guidance to assistant inspector(s) and must verify the assistant inspector's comprehension of the construction documents. The School Inspector must also monitor the assistant inspector's performance, verifying that the assistant inspector is properly checking the construction, recording inspections, and performing other assigned duties. The School Inspector must ensure that any assistant inspector is performing the duties included on the assistant inspector's approval Form DSA-5A.

9. Personnel and Sub-consultants. School Inspector shall perform the Services using the personnel and sub-consultants listed in the attached schedules. Such personnel and sub-consultants shall not be replaced except upon District's written consent, which shall not be unreasonably withheld if School Inspector (i.) shows good cause, and (ii.) proposes comparable substitute personnel and/or sub-consultants.

END OF APPENDIX A

**Professional Services Agreement
For School Inspector**

SCHEDULE OF ASSIGNED PERSONNEL

SCHOOL INSPECTOR SHALL USE THE FOLLOWING PROFESSIONAL PERSONNEL ASSIGNED TO PROJECT:

*

[HERE LIST PERSONNEL AND ATTACH RESUMES]

NOT USED

**Professional Services Agreement
For School Inspector**

APPENDIX B - PAYMENTS TO SCHOOL INSPECTOR

This is an appendix attached to, and made a part of, the Professional Services Agreement dated May 20, 2008 (“**Agreement**”) between the Berryessa Union School District, a political subdivision of the State of California, hereinafter referred to as (“**District**”), and Larry Perkins, hereinafter referred to as (“**School Inspector**”) for the provision of professional services (“**Services**”).

1. Amount of Compensation for Services of School Inspector

All Inspection services will be billed at a lump sum rate:

HVAC REPLACEMENT AT NOBLE ELEMENTARY SCHOOL:	\$18,500
HVAC REPLACEMENT AT SUMMERDALE ELEMENTARY SCHOOL:	\$12,500
HVAC REPLACEMENT AT TOYON ELEMENTARY SCHOOL:	\$12,500
PORTABLE CLASSROOMS AT MAJESTIC WAY ELEMENTARY SCHOOL:	\$ 3,000
FIRE ALARM REPLACEMENT AT LANEVIEW ELEMENTARY SCHOOL:	\$ 2,500

Excluding Additional Services only, the Guaranteed Maximum Payment to School Inspector for all Services performed under this Agreement shall not exceed **FIFTY ONE THOUSAND FIVE HUNDRED DOLLARS (\$51,500)**, referred to hereafter as the Guaranteed Maximum Price (“**GMP**”), including all Reimbursable Expenses. The GMP includes within its scope the cost of all Sub-consultants and shall constitute full compensation for the Services.

Additional Services, if required and approved by the District, shall be billed at SEVENTY DOLLARS (\$70) per hour.

- 1.1 School Inspector shall be paid for its Services (and for services of its Sub-consultants) rendered based upon the hourly “Billing Rates” of each School Inspector and Sub-consultant employee as described below, but except for Additional Services, in no event shall School Inspector invoice or receive (including Sub-consultants) any payment exceeding the GMP without prior approval of the district.
- 1.2 The Billing Rates used as a basis for payment apply to all of School Inspector’s and Sub-consultants’ principals, professional personnel and others engaged directly on the Project. The Billing Rates shall remain constant throughout this Agreement, and shall not be adjusted for inflation, salary adjustments, cost changes, or any other reason.
- 1.3 If District and School Inspector previously executed a purchase order for services within the scope of the Services of this Agreement, then the services performed and the compensation paid under that purchase order shall be subject to the terms of this Agreement and the previous payments deemed payments against the GMP.
- 1.4 School Inspector may not invoice or receive payment for the GMP greater than School Inspector’s percentage completion of the Services, as determined by District based on Services performed. In no event shall School Inspector invoice or receive (including Sub-consultants) payment for fees exceeding the GMP without prior approval of the district.

2. Methods of Payment to School Inspector

- 2.1 For Basic Services on the Project. School Inspector shall submit monthly invoices with reasonable detail of the daily time incurred by personnel assigned to the Project, along with a schedule of Sub-consultant and Reimbursable Expenses incurred, supported by invoices and appropriate backup documentation. Each invoice shall report on School Inspector’s total billings and Reimbursable Expenses to date.

**Professional Services Agreement
For School Inspector**

2.2 For Additional Services. District shall pay School Inspector for Additional Services, as defined below, as follows:

- 2.2.1 General. For Additional Services of School Inspector's professional staff engaged directly on the Project, on the basis of a lump sum negotiated between the parties, or, at District's option, at School Inspector's Billing Rates.
- 2.2.2 Sub-consultants. For Additional Services of Sub-consultants employed by School Inspector to render Additional Services, the amount billed to School Inspector therefore times [1.05] for general and administrative expenses.
- 2.2.3 For Additional Services on an hourly basis, School Inspector agrees that all Sub-consultant billing will be limited to a not-to-exceed amount upon prior written approval of District.

3. Definitions

- 3.1 **"Additional Services"** mean services beyond the scope of the Services defined in this Agreement.
- 3.2 The **"Billing Rates"** are the hourly rates indicated on Exhibit 1 attached hereto.
- 3.3 **"Reimbursable Expenses"** shall be limited to the specific expenses identified in Exhibit 2 attached hereto. All other expenses are not reimbursable and are deemed included in the Billing Rate.
- 3.4 **"Reimbursable Expenses Related to Additional Services"** shall be limited to the specific expenses identified below. All other expenses are not reimbursable and are deemed included in the Billing Rate.
 - 3.4.1 Travel Costs. The reasonable expense of travel costs incurred by School Inspector when requested by District to travel to a location more than 50 miles from either the Project site, the School Inspector's office(s), or District's office, incurred performing Additional Services.
 - 3.4.2 Long Distance Telephone Costs. Long distance telephone calls and long distance telecopier costs incurred performing Additional Services.
 - 3.4.3 Delivery Costs. Courier services and overnight delivery costs incurred performing Additional Services.
 - 3.4.4 Reproduction Costs. Reproduction and postage costs of required plans, specifications, bidding and Contract Documents, if any, incurred performing Additional Services.

END OF APPENDIX B

**Professional Services Agreement
For School Inspector**

EXHIBIT 1 "BILLING RATES"

TO APPENDIX B

NOT USED

EXHIBIT 2 "REIMBURSIBLE EXPENSES"

TO APPENDIX B

NOT USED

**Professional Services Agreement
For School Inspector**

APPENDIX C - INSURANCE

This is an appendix attached to, and made a part of, the Professional Services Agreement dated May 20, 2008 (“**Agreement**”) between the Berryessa Union School District, a political subdivision of the State of California, hereinafter referred to as (“**District**”), and Larry Perkins, hereinafter referred to as (“**School Inspector**”) for the provision of professional services (“**Services**”).

1. School Inspector’s Duty to Show Proof of Insurance. Prior to the execution of this Agreement, School Inspector shall furnish to District satisfactory proof that School Inspector has taken out for the entire period required by this Agreement, as further described below;

1.1 Commercial General Liability Insurance

Commercial general liability insurance, written on an “occurrence” basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, products liability, blasting, explosion, collapse of buildings or structures, damage to underground structures and utilities, liability for slander, false arrest and invasion of privacy arising out of construction management operations, blanket contractual liability, broad form endorsement, a construction management endorsement, products and completed operations, personal and advertising liability, with per location limits of not less than **\$2,000,000** general aggregate and **\$1,000,000** each occurrence, subject to a deductible payable by School Inspector.

1.2 Business Automobile Liability Insurance

Business automobile liability insurance with limits not less than **\$300,000** each occurrence including coverage for owned, non-owned and hired vehicles, subject to a deductible payable by School Inspector.

2. Insurance policies shall contain an endorsement containing the following terms:

2.1 Status of Berryessa Union School District as Additional Insured.

On School Inspector’s Commercial General Liability policy and Automobile Liability Policy BERRYESSA UNION SCHOOL DISTRICT and its affiliates, directors, officers, officials, partners, representatives, employees, consultants, subconsultants and agents, shall be named as additional insureds, but only with respect to liability arising out of the activities of the named insured, and there shall be a waiver of subrogation as to each named and additional insured.

2.2 The policies shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company’s liability.

2.3 Written notice of cancellation, non-renewal or of any material change in the policies shall be mailed to District thirty (30) days in advance of the effective date thereof.

2.4 Insurance shall be primary insurance and no other insurance or self insured retention carried or held by any named or additional insureds other than that amount School Inspector shall be called upon to contribute to a loss covered by insurance for the named insured.

**Professional Services Agreement
For School Inspector**

- 2.5 Certificates of Insurance and Endorsements shall have clearly typed thereon the title of the Agreement, shall clearly describe the coverage and shall contain a provision requiring the giving of written notice described above in subsection 2.3.
- 2.6 Nothing herein contained shall be construed as limiting in any way the extent to which School Inspector or any of its permitted subcontractors or subconsultants may be held responsible for payment of damages resulting from their operations.
- 2.7 If School Inspector fails to maintain any required insurance, District may take out such insurance, and deduct and retain amount of premium from any sums due School Inspector under this Agreement.

END OF APPENDIX C

**Professional Services Agreement
For School Inspector**

APPENDIX D – DELIVERABLES LIST

This is an appendix attached to, and made a part of, the Professional Services Agreement dated _____ (“**Agreement**”) between the Berryessa Union School District, a political subdivision of the State of California, hereinafter referred to as (“**District**”), and _____, hereinafter referred to as (“**School Inspector**”) for the provision of professional services (“**Services**”).

1. Project Deliverables

1.1 [_____].

1.2 [_____].

1.3 [_____].

END OF APPENDIX D

NOT USED