

MASTER PROJECT INSPECTOR OF RECORD SERVICES AGREEMENT

This MASTER PROJECT INSPECTOR OF RECORD SERVICES AGREEMENT (“Agreement”) is made and entered into this 8th day of March, 2023, between the Santa Rosa High School District/City of Santa Rosa Elementary School District (“District”), a California public school district, and DFE & Associates, Inc. (“DFE”). The District and DFE may be referred to herein individually as “Party” or collectively as “Parties.”

RECITALS

WHEREAS, the District anticipates design and construction of various works of improvement at multiple District locations (“Projects” or individually referred to herein as “Project”).

WHEREAS, the Projects are subject to the jurisdiction of the California Department of General Services, Division of the State Architect (“DSA”).

WHEREAS, in connection with construction of the Projects, the District is required by applicable law to retain the services of a DSA certified Project Inspector of Record.

WHEREAS, the District anticipates having work performed by DFE’s DSA Certified Project Inspectors Team to provide Project inspection services, with each Project to be assigned a Project Inspector (“Inspector”).

WHEREAS, DFE and its Certified Project Inspectors Team are duly qualified and capable of providing and performing the Project inspection services set forth herein and, if applicable, are properly licensed, certified or approved at all times while providing such Project inspection services.

WHEREAS, the District and DFE now desire to enter into a contract for the work necessary to complete the Project inspection services.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the District and Inspector agree as follows:

AGREEMENT

Section 1. General Scope of Work and Project Assignments. The District is engaged in a series of Projects. Each specific Project to be performed by DFE shall be enumerated in a written Letter Agreement and/or Project Assignment (“Project Assignment”). Such Project Assignment shall set forth the specific scope of work, contract price, scheduled term and any special conditions for that Project. Attached hereto as **Exhibit “A”** is a template for the Project Assignment. DFE shall not undertake any work or services ostensibly pursuant to this Agreement, and the District shall have no obligation to compensate DFE for any such work or services, unless authorized in writing by the District and specified in an executed Project Assignment from District. Any work performed or expenses incurred prior to DFE’s receipt of the executed Project Assignment shall be entirely at DFE’s risk. Work performed and expenses incurred after issuance of the Project Assignment will be eligible for reimbursement under the terms of this Agreement and/or the terms of the Project Assignment. Project Assignments and/or any amendments will be an attachment to this Agreement. These Project Assignments should be approved in a timely manner for each DSA Application Number agreed to by DFE and the District for any and all jobs covered by this Agreement.

Section 2. Inspector Qualifications. The Inspector shall, at all times during this Agreement, be qualified and duly approved and authorized by DSA to conduct inspection services, and shall at all times maintain the proper qualifications (“DSA Certification”) to perform the duties of, and act as, a general building inspector on school building construction projects or modernization projects of the type and classification of the Project. The Inspector warrants that its DSA Certification has not, either at the time of this Agreement or at any time previously, expired, been revoked, suspended, or withdrawn, or otherwise declared invalid.

Section 3. Verification of DSA Certification Status. The Inspector authorizes the District to confirm with DSA the status and history of the Inspector’s DSA Certification. Inspector shall provide verbal or written permission to DSA as required to release information regarding the Inspector’s DSA Certification consistent with this Section.

Section 4. Inspection Services. The Inspector shall, with respect to the Project, discharge the duties and responsibilities of an inspector as specified in currently applicable law, including but not necessarily limited to Title 24 of the California Code of Regulations (“CCR”), and the most recently published DSA Interpretation of Regulations (“IR”) A-8 (collectively, “Inspection Services”). The Inspection Services shall include, but are not limited to, the following:

- a. The Inspector shall act under the direction of the District’s architect or structural engineer (“Design Professional”). The Inspector shall be responsible, however, to DSA for enforcement of the plans and specifications for the Project.
- b. The Inspector’s responsibilities shall include:
 - i. Complying with all inspection requirements required by DSA, including, but not limited to, any applicable DSA rules, regulations, procedures, IR, or other issuances or orders from DSA controlling Inspector’s provision of Inspection Services (collectively, “DSA Regulations”). The DSA Regulations applicable to this Agreement include, but are not limited to, the requirements and guidelines set forth in the DSA Form 152 Inspection Card Manual, DSA IR A-8, and DSA Procedure 13-01, as such may be amended from time to time by DSA.
 - ii. Ensuring that the correct quantity of project inspection cards (DSA Form 152) are issued for the Project. The Inspector is required to be in possession of the necessary DSA Form 152s before commencement of construction of the Project.
 - iii. Obtaining a copy of the construction documents approved by DSA for the Projects, including the plans and specifications (“DSA Approved Documents”) from the Design Professional and/or the District’s Construction Manager. These documents are to be provided to the Inspection Team at no cost to the Project Inspector or Inspection Team. All other materials necessary or desirable for discharge of the Inspection Firm’s obligations hereunder shall be obtained by the Inspection Firm at its sole cost and expense.
 - iv. Providing personal, competent, adequate, and continuous construction inspections of all aspects of the construction of the Project.

- v. Having a thorough understanding of all requirements of the construction documents for the Project.
- vi. Inspecting all portions of the construction of the Project for compliance with the requirements of the DSA Approved Documents.
- vii. Identifying, documenting, and reporting deviations in the construction of the Project from the DSA Approved Documents.
- viii. Submitting verified DSA Form 6-PI reports, noting any outstanding deviations in the construction of the Project from the DSA Approved Documents. (Letter of Deviation, DSA Form 154)
- ix. Obtaining a copy of the DSA approved “Statement of Structural Tests and Special Inspections” (DSA Form 103) from the Design Professional before the commencement of construction on the Project.
- x. Meeting with a District representative, the Design Professional, and the contractor(s) as often as is needed to mutually communicate and understand the testing and inspection program and the methods of communication appropriate for the Projects.
- xi. Meeting with the “Laboratory of Record” on site or by teleconference to mutually communicate and understand the testing and inspection program (DSA Form 103) and methods of communication appropriate for the Project.
- xii. Immediately notifying the DSA Regional Office (with simultaneous notification to the District's Construction Manager, hereinafter referred to as the "Project Manager") with construction oversight authority over the Project, by telephone or electronically, if (1) construction on the Project commences without all required DSA Form 152s in the possession of the Inspector; or (2) applicable sections of DSA Form 152s have not been signed off by the Inspector and the contractor proceeds with construction activity that will conceal the unapproved work.
- xiii. Utilizing information found in the DSA Form 152 Inspection Card Manual to ensure necessary tests and inspections are completed and that necessary documents are in the Job File (defined in Section 4(c)(iii)) before approving or otherwise signing off on each applicable block and section of the DSA Form 152s. All members noted on the Form 102 have access to the DSA BOX where this information may be found.
- xiv. As required by DSA Regulations and the California Building Code (“CBC”), (1) providing “special inspection” of aspects of the construction allocated to the Inspector on the “Test or Special Inspection List” (DSA Form 103), (2) providing “special inspection” of aspects of construction requiring special inspection by Title 24 of the CCR. Any changes to the Inspector’s responsibilities shown on the DSA Approved Documents (including DSA Form

103) must be approved by change order or field change document (DSA IR A-6) prior to proceeding with the related construction work.

- xv. Inspector shall become familiar with the Project plans and specifications, other Contract Documents and all Contractors' operations during all phases of the Project.
- xvi. Inspector shall strive to maintain an effective working relationship with the Contractor, District personnel, and the Design Professional.
- xvii. Inspector shall personally observe and check items used on the project for compliance with the Contract Documents and technical instructions from the Design Professional, as well as rely on the Designers field visits and knowledge of that portion of the Projects as required by the DSA Form 152.
- xviii. Intentionally left blank.
- xix. Inspector shall be tactful, firm and fair in insisting that Contractors adhere to the Contract Documents. Project Inspector has the right to deny approval for payment for non-compliant work until corrected or approved by DSA as constructed.
- xx. Inspector and Contractor shall inspect all materials promptly upon their delivery to the site to ensure that they comply with the Contract Documents and are in a good and acceptable condition and monitor materials that are installed.
- xxi. Inspector shall attempt to foresee methods or materials which will not be acceptable and immediately bring those facts to the District's representative, Design Professional's and Contractor's attention, in order to avoid removal of work already in place.
- xxii. Intentionally left blank.
- xxiii. Inspector shall exert extreme care to ensure that none of Inspector's communications to the Contractor or Contractor's agents are misinterpreted as changes in the scope of the work.
- xxiv. Intentionally left blank.
- xxv. Intentionally left blank.
- xxvi. Inspector shall review General Contractor's payment requests to help ensure that they accurately reflect progress on the Project.
- xxvii. Inspector shall report to the District and the Design Professional when any related work is being installed prior to shop drawings having received final approval from the Design Professional.

- xxviii. Inspector shall attempt to foresee the need for all required tests and inspections, and coordinate scheduling with General Contractor and testing lab in advance to ensure the Project is not delayed.
- xxix. Inspector shall timely arrange for all tests and inspections which are requested by the District or the Contractor, arrange for prompt notification of Design Professional of the tests and inspections, and record the Design Professional's approval or rejection. All of this information will be posted to the DSA BOX and available to members listed on the DSA Form 102.
- xxx. Inspector shall coordinate and monitor on-site testing and ensure that all required tests are performed by the selected testing laboratory, or others as specified in the Contract Documents. The Inspector is not responsible for the internal scheduling of any laboratory.
- xxxi. Inspector shall check and report to the District, the Design Professional and laboratory indicating defective materials or other problems and seek instructions regarding how to proceed. DSA is to be informed and all reports will be found in the DSA BOX.
- xxxii. Inspector shall review billings from testing laboratories to see that billings reflect only tests actually requested and performed.
- xxxiii. Inspector shall advise the District (or the District's representative) and the Design Professional of circumstances surrounding requested changes in work. Per the DSA Form 152, the Inspector has the right to request a site visit from the Design Professional responsible for said portion of work.
- xxxiv. Inspector shall report to the District (or the District's representative) and the Design Professional verbally and in writing: (1) poor performance by the Contractor; (2) acts prejudicial to the District's interest; and (3) work performed or materials used which are not in conformance with the Contract Documents. If necessary, the Inspector shall issue a DSA Form 154.
- xxxv. Intentionally left blank.
- xxxvi. Inspector shall take into account the Design Professional's field trip notes received from the Design Professionals field visit.
- xxxvii. Inspector shall help make sure that the required record as-built drawings are accurately marked monthly, or as required as a condition to signing the General Contractor pay request.
- xxxviii. Inspector shall certify at completion of the construction on acceptable forms, that all materials used were in good condition and comply with the Contract Documents, that all work was performed in accordance with the Contract

Documents and that the Project was constructed according to the Contract Documents. The Inspector shall provide all DSA BOX required documentation.

- xxxix. Inspector shall cooperate with the District (or the District's representative) and the Design Professional in the final inspection, punch list and Project acceptance/closeout phase.
- xl. Inspector shall cooperate with the District, DSA and the Design Professional to timely and properly complete all reports requested by the District, DSA, the Design Professional, or as required by law. Inspector agrees that all reports and other records created or maintained by Inspector shall be the District's sole property.
- c. The Inspector is required to:
 - i. *Perform Continuous Inspections.* The Inspector must have actual personal knowledge of the continuous construction of the assigned Project, obtained from their personal continuous inspection of the Project during all stages of its progress when work is performed at the Project site. For work performed at locations other than the Project site, the Inspector must have personal knowledge obtained through the reporting of others on the testing or inspection of materials and workmanship for compliances with the plans, specifications, or applicable standards for the Project.

Continuous inspection means complete and timely inspections of every part of the construction of the Project, as the work progresses. Verbal notification of a deviation shall be promptly made to the contractor(s) performing the non-conforming work, so that the deviation may be immediately corrected. In the event the contractor fails to immediately correct any non-conforming work, then the Inspector shall provide a written notice of deviation, as provided in Section 4(c)(vii). (DSA Form 154)
 - ii. *Relationship to the Design Professional.* The Inspector shall work under the general direction of the Design Professional. The Inspector shall promptly report to the Design Professional (and the District's Project Manager) any perceived inconsistencies or errors in the Project plans and specifications for the Design Professional's interpretation or instruction. In no case, however, shall the Design Professional's instruction cause work to be performed that is not in conformity with the DSA Approved Documents.
 - iii. *Job File.* The Inspector shall maintain a file including, but not limited to, approved plans and specifications (including all approved addenda and change orders) and complete and accurate testing and inspection records with respect to all records for the Project ("Job File"), and shall immediately return any unapproved documents to the Design Professional for proper action. The Inspector shall have and maintain on the Project site at all times all codes and documents referred to in the plans and specifications for the Project. The Job File shall be kept and maintained in an organized manner and readily accessible

to DSA during site visits. The Inspector shall make the Job File available to the District's construction manager and/or its Superintendent and any members of the District's staff at the direction of the District.

At the completion of construction, the Inspector shall provide a copy of the Job File, with the exception of building codes and standards, to the District for its permanent records. The Job File shall include all records required to be maintained by the Inspector by DSA regulations including without limitation IR A-8 and DSA Procedure 13-01. Consistent with the requirements of DSA, the Job File should be maintained in electronic format, and it shall be sufficient if the Job File is maintained by the Inspector within the DSA's electronic database.

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

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

- iv. *Inspector's Semi-Monthly Reports.* The Inspector shall keep the District and the Design Professional thoroughly informed as to the progress of the work by making semi-monthly reports in writing, as required by applicable rules including without limitation Section 4-342 of Part 1 of Title 24 of the CCR ("Semi-Monthly Reports"). The Semi-Monthly Reports shall be made utilizing DSA Form 155. Unless otherwise required by law or regulation of DSA, the Semi-Monthly Reports shall be made and submitted electronically on the 1st and 16th of every month consistent with DSA IR A-8. Copies of the Semi-Monthly Reports shall be provided electronically, unless otherwise requested, to the Design Professional, the District, and DSA.
- v. *DSA Notifications.* The Inspector shall notify DSA, as required by applicable rules including without limitation Section 4-342(b)(5) of Part 1 of Title 24 of the CCR, of (1) the start of work on the Project; (2) at least forty-eight (48) hours before the completion of foundation trenches; (3) at least forty-eight (48) hours before the first foundation concrete placement and twenty-four (24) hours in

advance of any subsequent and significant concrete placement; and (4) anytime the work on the Project is suspended for more than two (2) weeks. Such notification shall be made on DSA Form 151, and sent electronically to DSA. For purposes of the “start of work,” the Inspector shall use the date on which the contractor mobilizes on the Project site to begin work on the Project. Notifications required by this Section shall be made in writing, with email notification sufficient to satisfy this requirement to the extent accepted by DSA. All notifications made to DSA pursuant to this section shall simultaneously be made to the District's Project Manager. The Inspector shall be responsible for entering the “Card Start Date” on DSA Form 152 and submitting the DSA Form 151.

- vi. *Written Notice of Deviation.* If a deviation, following verbal notification to a contractor of a deviation in construction on the Project from the DSA approved plans, is not immediately corrected, then the Inspector shall promptly issue a written notice of deviation to the contractor, with a copy sent electronically to the Design Professional, the District, and DSA. The written notice of deviations shall be made utilizing DSA Form 154. The status and resolution of all deviations must be documented on the Semi-Monthly Reports.
- vii. *Report to Design Professionals.* The Inspector shall report to the Design Professional and the District in writing all uncertainties in the Inspector or contractors’ comprehension of the DSA Approved Documents.
- viii. *Monitoring of Materials Testing and Special Inspection Program.* The Inspector shall be responsible, under the direction of the Design Professional, for monitoring the work of any special inspectors and materials testing laboratories to ensure that all materials testing and special inspections required for the Project are satisfactorily completed in accordance with the DSA Approved Documents.

The Inspector shall monitor the following aspects of the “Materials Testing and Special Inspection Program”:

1. Identify and report any special inspectors on the Project site that are not DSA-approved;
2. Verify that the materials testing laboratory the District hires is included on the “List of DSA Accepted Testing Laboratories” published on the DSA website at <https://www.apps.dgs.ca.gov/tracker/ApprovedLabs.aspx>, and that all sampling and testing is performed by that testing laboratory;
3. Verify that the materials testing lab and special inspectors have received sufficient advance notice to perform the required material sampling or special instruction;
4. Verify that all required material sampling and special inspections have been performed, and to observe any special inspector’s on-site presence,

performance of duties, the special inspector's documentation of complying and non-complying work, and the issuance of deviation notices; and

5. Review all materials tests and special inspection reports, and report the status and resolution of deviations reports by any materials testing lab or special inspector on the Semi-Monthly Reports.
- ix. *Reporting for Project with Work Stoppage.* The Inspector shall comply with any specific instructions from DSA, for additional reporting and/or oversight of construction or otherwise, arising in connection with a documented non-compliant condition that causes, or results in, a work stoppage. Such additional reporting may be required in the case of a Stop Work Order, Order to Comply, or Request for District/Owner to Stop Work, arising in accordance with DSA IR A-13.
- x. *Verified Reporting.* Consistent with the requirements of applicable rules including without limitation Section 4-336 of Part 1 of Title 24 of the CCR, the Inspector shall electronically submit verified reports ("Verified Reports"), utilizing DSA Form 6-PI and DSA Form 152, as appropriate, directly to DSA (with copies to the Design Professional and District) when any of the following occur:
1. Work on the Project is suspended for more than one (1) month.
 2. Inspector is terminated for any reason prior to the completion of the Project, and termination is not a result of a work stoppage.
 3. DSA requests a Verified Report.
 4. The District occupies any building involved in a Project before the completion of the entire DSA approved scope of work for the Project.
 5. The Project is substantially complete. "Substantially complete" shall mean that the Project is sufficiently complete in accordance with the DSA Approved Documents that the District may occupy or utilize the Project for its intended use, as determined by the District and the Design Professional.
- xi. *Approval of DSA Form 152.* The Inspector shall sign-off on applicable blocks and sections of DSA Form 152 when: (1) the completed work is in compliance with the DSA Approved Documents; (2) all necessary testing and inspections are complete; (3) any deviations from the DSA Approved Documents are resolved; (4) any DSA field trip note issues are resolved; and (5) all necessary documents are received by the Inspector. If any block or section is not applicable to the construction of the Project, the Inspector shall enter "NA" and initial.
- d. The Inspector is prohibited from performing functions associated with actual construction work, including, but not limited to: (1) constructing any portion of the

Project; (2) ordering or purchasing materials; (3) directing the work of the contractor, subcontractor, volunteer labor, or any other entity performing construction work on the Project; (4) coordinating or scheduling the work on the Project; or (5) performing “quality control” of construction.

Section 5. Conflict of Interest in Employment of Inspector. Inspector hereby warrants that Inspector is not employed by a construction manager, project manager, or laboratory performing work for, or otherwise under contract with, the District, either for the Project or any other project of the District. To the extent the Inspector is employed by a construction manager, project manager, or laboratory performing work on another project of the District, other than the Project, that commenced prior to the District's, such conflict shall not bar the Inspector from providing Inspection Services to the District for the Project, provided the construction manager, project manager, or laboratory are not performing work, or otherwise under contract to perform work, on the Project defined in the Project Assignment.

Section 6. Compensation. In exchange for the Inspector's performance of the Inspection Services set forth in this Agreement, and as otherwise required by law or regulation, the District agrees to pay the Inspector a monthly rate as an agreed upon amount as set forth in an approved Project Assignment.

- a. The aforementioned rate shall constitute the only compensation that the District shall owe to the Inspector, and is agreed upon as full compensation and consideration for Inspector to take all required actions, and incur all necessary expenses, which are required for Inspector to perform the Inspection Services required by this Agreement.
- b. Invoices shall be submitted monthly, in a form acceptable to the District and shall be supported by substantiating data.
- c. District shall pay undisputed invoices within thirty (30) days of receipt from the Inspector. The District may, within fifteen (15) days of receipt of a payment request from Inspector, reasonably request additional information and supporting documentation, in which case the District's time to pay the pending invoice shall be extended by an amount of time equal to the time in which it takes Inspector to submit such information or documentation.
- d. The District may withhold final payment to the Inspector, following the completion of construction of the Project, until the Inspector has delivered the Job File to the District as required by this Agreement and DSA Procedure 13-01.
- e. There are no Reimbursable Expenses except for those authorized in advance by the District in writing. If the District authorizes any Reimbursable Expense, the Inspection Firm will be paid the direct actual costs (including credits for trade discounts) of the authorized Reimbursable Expense item without mark-up.
- f. Inspector agrees to be available when required, coordinated, or as directed by the District, or agreed to by mutual consent from the first day of work on the Project until completion.

g. Notwithstanding anything herein to the contrary, if Inspector can provide documentary evidence demonstrating to the District that this contract required it to procure insurance of types or amounts not possessed prior to this agreement, District shall reimburse Inspector for the associated cost of the increased insurance premium.

Section 7. Term of Agreement. The Agreement Term shall commence on May 1st, 2023 through May 1st, 2024, a period of one (1) year (“Term”). The Agreement Term may be extended in one (1) year increments for a period of up to four (4) years. The Agreement Term may be amended and/or extended as necessary in the Project Assignment.

Section 8. Violations. If the Inspector either (a) fails, neglects, or refuses to notify a contractor of any work on the Project that does not comply with the requirements of the DSA Approved Documents, or (b) fails, neglects, or refuses to report immediately, in writing, any such violation to the Design Professional, to the District, and to DSA, such failure, neglect, or refusal shall constitute a violation of the Field Act and this Agreement, and shall be cause for DSA to take action, and for the District to terminate this Agreement at its discretion pursuant to Section 10.

Section 9. Termination for Cause. This Agreement may be terminated by either Party upon fourteen (14) days written notice to the other Party, in the event of a substantial failure of performance by the other Party of the duties and obligations set forth in this Agreement (including but not limited to failing to maintain any of the insurance coverages required by this Agreement), provided that the Party has been provided ten (10) days notice to cure the alleged breach. In the event of a breach by the Inspector, including insolvency of the Inspector, all damages and costs associated with the termination, including increased inspection and replacement inspector costs arising in connection with the termination or underlying breach, shall be deducted from payments otherwise due to the Inspector. Except for those deductions permitted by this Section, in the event of a termination for cause, the Inspector shall otherwise be entitled to payment for all services performed to the District's satisfaction, until the date of notice of termination, plus any sums due to the Inspector for extra services, if any, which have been approved in writing by the District in advance of the provision of the services.

Section 10. Termination for Convenience. This Agreement may be terminated without cause by the District upon fourteen (14) days written notice to the Inspector. In the event of a termination for convenience (without cause), the District shall pay Inspector for all services performed to the District's satisfaction and approved by the District in writing up to the date of notice of termination, plus any sums due to the Inspector for extra services, if any, which were authorized and approved in writing in advance by the District. The District's right to terminate for convenience shall extend to any termination associated with the District's suspension (for any reason) or abandonment of the Project.

Section 11. Limitation on Other Projects. Inspector shall make the assigned Project its priority, and shall only work on other projects which are approved in writing by the District.

Section 12. Dispute Resolution. The Parties desire to quickly and cost-effectively resolve any disputes related to the interpretation or enforcement of this Agreement. Therefore, each Party shall make best efforts to resolve informally any such disputes. Each Party may thereafter initiate litigation or other proceedings as deemed appropriate by such Party.

- a. *Inspection Firm Continuation of Services.* Except in the event of the District's failure to make an undisputed payment of the Contract Price due the Inspection Firm, notwithstanding any disputes between District and the Inspection Firm hereunder, the Inspection Firm shall continue to provide and perform Project Inspector Services and authorized Additional Services pending a subsequent resolution of such disputes.
- b. *Mandatory Mediation.* All claims, disputes and other matters in controversy between the Inspection Firm and the District arising out of or pertaining to this Agreement shall be submitted for resolution by non-binding mediation.

Section 13. **Insurance.** Inspector shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Inspector, its agents, representatives, or employees. If Inspector can provide documentary evidence demonstrating to the District that this contract required it to procure insurance of types or amounts not possessed prior to this agreement, District shall reimburse Inspector for the associated cost of the new or increase in insurance premium.

- a. Coverage shall be at least as broad as:
 - i. Commercial General Liability ("CGL"): CGL on an "occurrence" basis for bodily injury and property damage with limits no less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Project or the general aggregate limit shall be twice the required occurrence limit.
 - ii. Automobile liability with limit no less than one million dollars (\$1,000,000) per accident for bodily injury and property damage.
 - iii. Workers' Compensation Insurance to the extent required by the State.
- b. If the Inspector maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by the Inspector.
- c. *Additional Insureds.* The District and its officers, officials, employees, and volunteers are to be covered as additional insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Inspector; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Inspector. General liability coverage can be provided in the form of an endorsement to the Inspector's insurance.
- d. *Primary Insurance.* For any claims related to this Agreement, the Inspector's insurance coverage shall be primary insurance as respect to the District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the District,

its officers, officials, employees, or volunteers shall be excess of the Inspector's insurance and shall not conflict with it.

- e. *Notice of Cancellation.* Each insurance policy required above shall state that coverage shall not be canceled, except with prior notice to the District of at least thirty (30) days (or ten (10) days for non-payment of premium).
- f. *Waiver of Subrogation.* Inspector hereby grants to District a waiver of any right to subrogation which any insurer of said Inspector may acquire against the District by virtue of the payment of any loss under such insurance. Inspector agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the District has received a waiver of subrogation endorsement from the insurer.
- g. *Deductibles and Self-Insured Retentions.* Any deductibles or self-insured retentions must be declared to and approved by the District. The District may require the Inspector to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- h. *Acceptability of Insurers.* Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.
- i. *Claims Made Policies.* If any of the required policies provide coverage on a claims-made basis: (a) the retroactive date must be shown and must be before the date of the contract or the beginning of contract work; (b) insurance must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the Agreement; and (c) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Agreement effective date, the Inspector must purchase "extended reporting" coverage for a minimum of one (1) year after completion of the Agreement.
- j. *Verification of Coverage.* Inspector shall furnish the District with original certificates and amendatory endorsements or copies of the applicable policy language affecting coverage required by this Section. All certificates and endorsements are to be received and approved by the District before work commences under this Agreement. However, failure to obtain the required documents prior to the work beginning shall not waive the Inspector's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Section 14. Indemnity. The Inspector shall indemnify, defend, and hold harmless the District against and from any and all claims, demands and liability for damage, loss or expense attributable to the injury or death of any person(s) or the damage to any property resulting from, arising out of, or in any way connected with the performance of the Agreement or work on the Project by Inspector, or its officers, agents, employees, or subcontractors. The Inspector shall reimburse the District for all damages, expenses and losses incurred by the District as a consequence of any claim, demand, or cause of action that may be brought against the District resulting from, arising out of, or in any way connected with the performance of this Agreement by Inspector or its officers, agents,

employees or subcontractors, including disputes between Inspector and its subcontractor(s). This indemnity shall survive termination of the Agreement. Nothing in this Agreement shall be construed or deemed to impose on the Inspector, or to relieve the District from, liability for the District's sole or active negligence or willful misconduct.

Section 15. Assignment or Subcontracting. All Inspector Services shall be deemed to be professional services. As such, the Inspector shall have no right or power to assign, sublet, transfer or otherwise substitute its interest in, or its rights and obligations pursuant to this Agreement without the prior written consent of the District.

Section 16. Administration. At no additional expense to the District aside from the compensation expressly provided for within this Agreement, the Inspector shall hire any and all independent contractors and consultants needed to implement and perform under this Agreement. Notwithstanding the foregoing, District will pay for all special inspections and lab work separately.

Section 17. Independent Contractor. The Inspector is an independent contractor and shall not be deemed or construed to be an employee, general agent or general representative of the District. Any limited agent or limited representative status conferred on the Inspector pursuant to this Agreement shall extend only so far as is reasonably necessary for the Inspector to perform its duties and responsibilities pursuant to this Agreement. The persons performing any of the Inspector Services pursuant to this Agreement on behalf of the Inspector shall at all times be under the Inspector's exclusive supervision, direction and control. The Inspector shall pay all wages, salaries, insurance benefits and other amounts due such personnel in connection with their performance of any services, including, but not limited to, services considered public works on the Project or any Inspector Services and as otherwise required by law.

Section 18. Conflict of Interest with District. For the term of this Agreement, no officer, employee, or agent of the District, during the term of his or her relationship with the District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising herefrom. This provision shall not apply to the Inspector to the extent it is determined that the Inspector is an agent of the District as a result of being a Party to this Agreement.

Section 19. Conflict with DSA Rules and Regulations. To the extent either the DSA Regulations or this Agreement provide stricter requirements than the other, the stricter requirements shall apply. In the event any of the provisions of this Agreement conflict with DSA Regulations, the DSA Regulations shall govern over the Agreement relative to the Inspector's provision of Inspection Services to the extent of such conflict.

Section 20. Interpretation. In interpreting this Agreement, it shall be deemed to have been prepared by the Parties jointly and no ambiguity shall be resolved against either Party on the premise that it or its attorneys were responsible for drafting this Agreement or any particular provision hereof.

Section 21. Prevailing Wage. DFE understands and acknowledges that the Project contemplated by this Agreement is a public work subject to applicable prevailing wage regulations and that in order to be qualified to perform this Agreement, DFE must be registered with the Department of Industrial Relations ("DIR") pursuant to Labor Code § 1725.5 and DFE's employees and subcontractors must also be registered with DIR and must be paid not less than the prevailing wage rate

established for the labor provided, if so applicable. Pursuant to Labor Code § 1771.4(a)(4), the prevailing wage rate monitoring and enforcement shall be by the Department of Industrial Relations.

Section 22. Governing Law. This Agreement and all rights and obligations arising out of it shall be construed in accordance with the laws of the State. Any arbitration, litigation or other proceeding arising out of or related to this Agreement shall be initiated and conducted only in Sonoma County.

Section 23. Third Party Beneficiaries. The Parties have entered into this Agreement solely for their own benefit, and no third party shall be entitled, directly or indirectly, to base any claim or to have any right arising from, or related to, this Agreement.

Section 24. Severability. If any Section, subsection, paragraph, sentence, clause, or phrase contained in this Agreement shall, for any reason, become or be held by a court of competent jurisdiction to be illegal, null, or void or against public policy, the remaining Sections, subsections, paragraphs, sentences, clauses, and phrases contained in this Agreement shall not be affected thereby and shall, to the extent possible in light of the illegal, null, or void language, continue in full force and effect.

Section 25. Time of the Essence. Time is of the essence with respect to this Agreement and each provision herein.

Section 26. Entire Agreement. This Agreement sets forth the entire agreement and understanding concerning the provision of Inspection Services for the Projects from DFE to the District and supersedes and replaces all prior discussions and agreements, written or oral. Each Party acknowledges that the other Party and the other Party's agents, attorneys, and other representatives have not made any promise, representation, or warranty whatsoever, express or implied, other than those contained herein to induce the execution of this Agreement and acknowledges that this Agreement has not been executed in reliance upon any promise, representation, or warranty outside this Agreement.

Section 27. Captions and References. The captions or headings set forth in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any Section, subsection, or other provision of this Agreement. Any reference in this Agreement to a Section or subsection, unless specified otherwise, shall be a reference to a Section or subsection of this Agreement.

Section 28. Waiver. The failure of a Party at any time to require performance by any other Party of any provision hereof shall not affect in any way the full right to require such performance at any time thereafter. The waiver of any breach of any provision of this Agreement by a Party shall not be deemed to be a waiver of any preceding or subsequent breach of the same or any other provision of this Agreement.

Section 29. Notice and Demands. Unless otherwise specified in this Agreement, all notices and demands required or permitted pursuant to this Agreement must be duly addressed as indicated below and sent via: (i) personal delivery (signature on delivery receipt requested); (ii) registered or certified U. S. Mail (postage prepaid and return receipt requested); (iii) FedEx, U.P.S., or other reliable private express delivery (signature on delivery receipt requested); (iv) by facsimile transmission (with

transmission confirmation retained in sender's records); or (v) email, provided that the original of the communication is deposited into the U. S. Mail within twenty-four (24) hours after transmission, first-class postage prepaid. Any such communication shall be deemed received only upon actual receipt by the addressee. This Section shall not be construed as applying to day-to-day communications between the Parties for purposes of administering the Inspection Services or supervision of the construction of the Project, or to service of process pursuant to any applicable law or rule of court. A Party may change its below-specified name, address, facsimile number, or person to whom attention should be directed by giving notice as specified in this Section. Notices and demands must, as applicable, be addressed as follows:

To the District:

**Santa Rosa High School District/City of
Santa Rosa Elementary School District**
Attn: Lisa Cavin, Associate Superintendent
211 Ridgway Ave.
Santa Rosa, CA 95401

To the Inspection Team:

DFE & Associates, Inc.
204 E. 2nd Ave #132
San Mateo, CA 94401
ATTN: David Eddings
dfeassociates@sbcglobal.net

Section 30. Amendment. This Agreement may be amended or modified only by written consent duly approved and executed by the Parties.

Section 31. Due Authority. Each individual signing this Agreement represents and warrants that he or she has been authorized by appropriate action of the Party that he or she represents to sign, and thereby bind such Party to, this Agreement.

Section 32. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Signature pages may be detached from counterpart originals and combined in one (1) or more copies of this Agreement to physically form copies of this Agreement having original signatures of both Parties.

[SIGNATURES ON THE FOLLOWING PAGE]

In Witness Whereof, each of the undersigned duly-authorized representatives of the Parties have executed this Agreement on behalf of the Party that person represents.

**SANTA ROSA HIGH SCHOOL
DISTRICT/CITY OF SANTA ROSA
ELEMENTARY SCHOOL DISTRICT**

DFE & ASSOCIATES, INC.

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: David F. Eddings
Title: President
Date: _____

EXHIBIT A

PROJECT ASSIGNMENT #1

This Project Assignment ("Project Assignment") is entered into as of June 1, 2023 ("Effective Date") by and between SANTA ROSA HIGH SCHOOL DISTRICT/CITY OF SANTA ROSA ELEMENTARY SCHOOL DISTRICT ("District") and DFE & ASSOCIATES, INC. ("IOR") pursuant to the Agreement for Project Inspector Services ("Agreement") between the District and Contractor dated March 8, 2023. By this reference, the Agreement is incorporated herein as if set forth in full.

1. Project Description.

Cesar Chavez Language Academy HVAC and Roof Replacement Project, commencing June 1, 2023.

2. IOR Services to be Provided.

- a. Inspect work performed and materials supplied by the contractors to assist with the verification of conformity with the contract documents.
- b. Carry out the instructions of the Project Architect and the Division of the State Architect for the portions covered by DSA.
- c. Prepare all necessary reports, including semi-monthly reports, DSA Box documentation, and the final verified report to the Division of the State Architect.
- d. Assist the efforts of all parties concerned to expedite the completion and ensure the quality of the project per approved documents, current governing codes, and DSA requirements.

3. Project Schedule and Project Term.

Construction commencing June 1, 2023 and completing November 30th, 2023 for a term of six (6) months.

4. Project Budget.

Twelve Million Fifty-Three Thousand Fifty-Four Dollars (\$12,053,054.00) – Construction Budget

5. IOR Budget, Compensation and Payment.

\$120,000.00. The consultant will bill monthly at \$20,000 per month for a contract duration beginning June 1, 2023, and completing November 30, 2023.

6. Special Conditions and/or Miscellaneous Provisions.

Intentionally Blank

IN WITNESS WHEREOF, the Parties hereto have executed this Project Assignment as of the Effective Date.

IOR:

DFE & Associates, Inc.

By:

Name: David F. Eddings

Title: President

Date: _____

648-5/6548170.1

DISTRICT:

Santa Rosa High School District/City of Santa Rosa Elementary School District

By:

Name: _____

Title: _____

Date: _____

PROJECT ASSIGNMENT #2

This Project Assignment ("Project Assignment") is entered into as of May 1, 2023 ("Effective Date") by and between SANTA ROSA HIGH SCHOOL DISTRICT/CITY OF SANTA ROSA ELEMENTARY SCHOOL DISTRICT ("District") and DFE & ASSOCIATES, INC. ("IOR") pursuant to the Agreement for Project Inspector Services ("Agreement") between the District and Contractor dated March 8, 2023. By this reference, the Agreement is incorporated herein as if set forth in full.

1. Project Description.

District-Wide Solar Project, commencing May 1, 2023.

2. IOR Services to be Provided.

- a. Inspect work performed and materials supplied by the contractors to assist with the verification of conformity with the contract documents.
- b. Carry out the instructions of the Project Architect and the Division of the State Architect for the portions covered by DSA.
- c. Prepare all necessary reports, including semi-monthly reports, DSA Box documentation, and the final verified report to the Division of the State Architect.
- d. Assist the efforts of all parties concerned to expedite the completion and ensure the quality of the project per approved documents, current governing codes, and DSA requirements.

3. Project Schedule and Project Term.

Construction commencing May 1, 2023 and completing August 21, 2024 for a term of sixteen (16) months.

4. Project Budget.

Solar PPA (not paid by SRCS) _____ Dollars (\$ _____ N/A _____)

5. IOR Budget, Compensation and Payment.

\$400,000.00. The consultant will bill monthly at \$25,000 per month for a contract duration beginning May 1, 2023, and completing August 31, 2024.

6. Special Conditions and/or Miscellaneous Provisions.

1-Year Term of Master Agreement expires before project completion. Unless termination of the agreement occurs prior to term expiry, the master agreement and project assignment #2 shall be renewed for another term on such a date that prevents the lapse of services and project oversight provided by consultant.

IN WITNESS WHEREOF, the Parties hereto have executed this Project Assignment as of the Effective Date.

IOR:

DFE & Associates, Inc.

By:

Name: David F. Eddings

Title: President

Date: _____

648-5/6548170.1

DISTRICT:

Santa Rosa High School District/City of Santa Rosa Elementary School District

By:

Name: _____

Title: _____

Date: _____