

APPROVED
11/18/2021 Bb.MTG.



SPIEZLE ARCHITECTURAL GROUP, INC.

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Hamilton, NJ 08691

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100% employee-owned

November 19, 2021

Mr. Geoffrey Hastings
School Business Administrator
Asbury Park Board of Education
910 Fourth Avenue
Asbury Park, NJ 07712

Re: Architect of Record Agreement from 11/19/21 through 6/30/22
Spiezle Professional Services Proposal

Dear Mr. Hastings:

We appreciate the opportunity to serve the Asbury Park School District (Owner) as Architect of Record from 11/19/21 through 6/30/22, please find enclosed standard hourly rates.

Under this proposal, Architect will provide professional services to Owner, including but not limited to feasibility studies, design services and construction contract administration, for the various projects initiated during this term. Owner further agrees that Architect shall be the primary, if not exclusive, provider of professional architectural services during this term. Professional services authorized or provided during this Agreement are subject to the terms and conditions attached herewith whether or not those services are subject of a subsequent secondary written agreement.

Please signify acceptance of this Agreement by executing below and returning a copy to me at your earliest convenience. We appreciate the opportunity to be of service to the Board and should you have any questions, please do not hesitate to contact us.

On behalf of Spiezle Architectural Group, Inc., I thank you for your kind consideration. Should you have any questions or require any additional information during your consideration process, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Steven Siegel".

Steven Siegel, AIA, LEEDap
Principal

A handwritten signature in black ink that reads "Kristine Adam ElBouazzaoui".

Kristine Adam ElBouazzaoui, AIA, LEEDap
Project Manager

Accepted: Geoffrey Hastings
Business Administrator/Board Secretary
Asbury Park School District

A handwritten signature in blue ink, appearing to read "G. Hastings".

Date: 12/21/21

**Attachment 1: Standard Hourly Rates and Compensation**

The Architect will be compensated for work performed on an hourly basis according to the below listed standard hourly rates. Reimbursable costs as described below are in addition to these rates and any applicable Not-to-Exceed fee figures that may be agreed upon. These standard hourly rates are subject to adjustment consistent with the annual salary review practices of the Architect and the Architect's consultants.

2021 HOURLY RATE SCHEDULE:

Title	Rate
CEO / Principal	\$170
Associate Principal	\$165
Director	\$155
Senior Project Manager	\$155
Project Manager	\$145
Senior Designer	\$145
Construction Administrator	\$145
Senior Project Architect	\$140
Senior Interior Designer	\$140
Project Architect	\$125
Landscape Project Architect	\$125
Marketing Director	\$125
Senior Project Coordinator	\$120
Electrical Designer	\$120
Project Coordinator	\$115
Interior Designer	\$105
Architectural Designer	\$95
Landscape Architect	\$95
Executive Administrator	\$85
Administrative Assistant	\$85
Senior Marketing Coordinator	\$75
Engineers / Consultants	1.20 x actual costs

REIMBURSABLES:

Reimbursable Expenses will be billed as noted below and are in addition to compensation for the Architect's services and include expenses incurred by the Architect and Architect's employees and consultants directly related to the Project as follows:

1. Authorized out-of-town travel and subsistence, with mileage billed at standard IRS rates.
2. Fees paid for securing approval of authorities having jurisdiction over the Project (1.0 x actual costs).
3. Reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service (billed at 1.10 x actual costs).

TERMS AND CONDITIONS TO ARCHITECT OF RECORD AGREEMENT

Contract Term. The term of this Agreement shall be from November 1, 2021 through June 30, 2022 and shall not automatically renew upon the expiration of the term.

Owner's Responsibilities.

The Owner shall furnish surveys to describe the physical characteristics, legal limitations and utility locations for the site of any Project and any written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights of way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All information on the survey shall be referenced to a project benchmark.

The Owner shall furnish the services of geotechnical engineers and other consultants when such services are requested by the Architect.

The Owner shall furnish all legal, accounting and insurance services that may be necessary at any time for any Project to meet the Owner's needs and interests.

The services, information, surveys and reports set forth above shall be furnished at the Owner's expense and the Architect shall be entitled to rely upon the accuracy and completeness thereof. Without altering the foregoing, the Architect shall, however, provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services, information, surveys and reports. The Architect will not be responsible for the Owner's inability to construct the project due to site conditions unknown to Architect or due to zoning restrictions.

The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in any Project, including any errors, omissions or inconsistencies in the plans or Instruments of Service for any Project.

Architect's Responsibilities.

The Architect shall perform its services under this Agreement and/or any subsequent secondary agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent



with such professional skill and care and the orderly progress of the Project. The Architect makes no representations or warranties, whether express or implied, with respect to the services rendered hereunder.

The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

Qualifications. The Architect represents that its staff, consultants, subcontractors, and representatives possess, and will continue to possess throughout this Agreement, all the required licenses, certifications, and/or any other approvals, as applicable, required to provide architectural and engineering services to the Owner. The Architect, its staff, consultants, subcontractors, and representatives shall adhere to any, and all, safety and health requirements of the Owner, State of New Jersey, Centers for Disease Control, any entity of the State of New Jersey or as required by the Owner in the performance of this Agreement.

Criminal History Background Check and Child Abuse and Sexual Misconduct

Compliance. Prior to the commencement of services for the Owner, the Architect, its staff, consultants, subcontractors, and representatives shall comply with the requirements of N.J.S.A. 18A:6-7.1 et seq. and N.J.S.A. 18A:6-7.6 et seq. regarding criminal history record checks and Child Abuse and Sexual Misconduct Reviews for any and all officers and employees with direct contact with children.

Harassment, Intimidation and Bullying ("HIB"). The Architect, its staff, consultants, subcontractors, and representatives shall comply with all provisions of the New Jersey Anti-Bullying Bill of Rights and the Owner's policies and regulations regarding same. In the event that the Architect, its staff, consultants, subcontractors, and/or representatives witness or have reliable information that a student has been subject to harassment, intimidation or bullying, they shall immediately report the incident to the Superintendent, School Business Administrator or school resource officer.

Instruments of Service. Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service to be used solely with respect to the Project for which they were prepared. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights including copyright. The Architect grants to the Owner a revocable non-exclusive license to reproduce the Architect's Instruments of Service solely for the purposes of constructing, using and maintaining the Project for which they were prepared, provided that the Owner shall comply with all obligations, including prompt payment of all sums when due. Any termination of this Agreement

prior to its expiration, or termination of the Architect's services on any Project prior to completion of that Project shall terminate this license. Upon such termination, the Owner shall refrain from making any further reproduction of the Instruments of Service and shall return to the Architect with seven (7) days of termination all original and reproductions in the Owner's possession or control. Notwithstanding the foregoing, upon such termination, the Owner shall retain one (1) copy of the Instruments of Service for its records. If and upon the date the Architect is adjudged in default of this Agreement, by a court of competent jurisdiction, the foregoing license will be deemed terminated and replaced by a second nonexclusive license permitting the Owner to authorize other similarly credentialed design professionals to reproduce and where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for the purposes of completing, using and maintaining the Project for which they were prepared. The foregoing requirement for the Architect to produce a second non-exclusive license in the event of its default of this Agreement shall survive the termination of this Agreement.

Except for the aforesaid, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sub-license, pledge or otherwise transfer any license granted herein to any other party without the prior written agreement of the Architect. However, the Owner shall be permitted to authorize its contractors to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the work by license granted above. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with a Project is not to be construed as publication and derogation of the reserved rights of the Architect and the Architect's consultants. The Owner shall not use the Instruments of Service for future additions or alterations of the Project for which they were prepared or other projects unless the Owner obtains a prior written agreement of the Architect and the Architect's consultants. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, or in violation of this Agreement, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to defend, indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from such use by the Owner.

INSURANCE. The Architect shall maintain the following insurance until termination of this Agreement and any successor agreements and/or amendments:

- A. **Commercial General Liability Insurance** with policy limits of not less than one million dollars (\$1,000,000) for each occurrence and five million dollars (\$5,000,000) in the aggregate for bodily injury and property damage. The Architect shall also name the Asbury Park Board of Education as an additional insured on such insurance policy. The Architect shall provide a copy of its certificate of insurance to the Owner, indicating: (1) insurance coverage in the aforementioned amounts; and (2) the inclusion of the Asbury Park Board of Education as an additional insured under such policy.
- B. **Automobile Liability Insurance** covering vehicles owned (if any vehicles are owned by the consultant), and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars (\$1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage. The Architect shall provide a copy of its certificate of insurance to the Owner, indicating insurance coverage in the above-referenced type and amounts.
- C. **Combination of Policies Permitted** The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under this Agreement, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. All such applicable primary and excess or umbrella liability insurance certificates of insurance shall be supplied by the Architect to the Owner, indicating insurance coverage of the types and coverage amounts required pursuant to the terms of this Agreement.
- D. **Workers' Compensation Insurance** shall be at statutory limits. The Architect shall provide a copy of its certificate of insurance to the Owner, indicating insurance coverage in the above-referenced type and amounts.
- E. **Employers' Liability Insurance** with policy limits not less than five hundred thousand dollars (\$ 500,000) for each accident/incident/claim, five hundred thousand dollars (\$ 500,000) for each employee, and a policy limit of one million dollars (\$ 1,000,000) policy limit. The Architect shall provide a copy of its certificate of insurance to the Owner, indicating insurance coverage in the above-referenced type and amounts.
- F. **Professional Liability Insurance** covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one



million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate. The Architect shall provide a certificate of insurance to the Owner, indicating insurance coverage in the above-referenced type and amounts.

G. Additional Insured Obligations To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

H. Certificates of Insurance to evidence compliance with the above-listed insurance requirements shall be provided by the Architect to the Owner.

Law and Venue. This Agreement and any subsequent secondary agreement shall be governed by the Law of the State of New Jersey, and any litigation arising out of this Agreement or any subsequent secondary agreement shall be brought in a court of competent jurisdiction in the State of New Jersey.

Limitations Period. Causes of action between the parties to this Agreement pertaining to acts or failures to act on any Project shall be deemed to have accrued and the applicable statutes of limitations and/or statutes of repose shall commence to run not later than either the date of substantial completion for acts or failures to act occurring prior to Substantial Completion, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after substantial completion. In no event shall such statutes commence to run any later than the date when the Architect's services are substantially completed.

Successors and Assignment. The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign a subsequent secondary agreement for a Project to an institutional lender providing financing for that Project. In such event, the lender shall assume the Owner's rights and obligations under the subsequent secondary agreement or that Project, including full payment of all sums due for services rendered. The Architect shall execute all consents reasonably required to facilitate such assignment.



Iran Certification. Pursuant to N.J.S.A. 52:32-57 et seq., the Architect hereby certifies that neither it, nor any of its parents, subsidiaries, or affiliates, is identified on the New Jersey Department of the Treasury's Chapter 25 List as a person or entity engaged in investment activities in Iran, and has provided the required certification to the Owner.

Federal Debarment Certification. Pursuant to N.J.S.A. 52:32-44.1, the Architect certifies that neither it nor its affiliates are debarred at the federal level from contracting with a federal government agency, and has provided the required certification to the Owner.

Equal Employment Opportunity. The Architect shall comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq. and the anti-discrimination provisions of N.J.S.A. 10:2-1 and N.J.A.C. 6A:7-1.1 et seq. during the performance of this Agreement.

Entire Agreement. This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations and agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and the Architect. This Agreement may be supplemented by a subsequent secondary agreement for a specific Project.

Third Parties. Nothing contained in this Agreement or any subsequent secondary agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

Hazardous Substances. Unless otherwise specifically provided for in a subsequent secondary agreement, the Architect and the Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at any Project site or in the existing building. The Architect and the Architect's consultants have no responsibility for the identification, discovery, presence, handling, removal of, or exposure to mold or associated damage of any type at the project site or in the existing building.

Promotion. The Architect shall have the right to include photographic or artistic representations of the design of any Project among the Architect's promotional and professional materials. The Owner agrees to make the Projects reasonably available to Architect to obtain such representations.

Extension of Services. If any services covered by this Agreement, including any Projects pursuant to a subsequent secondary agreement, have not been completed prior to the

expiration of this Agreement, extension of the Architect's services beyond that time may be granted by the Owner in order to complete the services or Projects.

Payments and Collection. Payments are due and payable 30 days from the date of the Architect's invoice. Amounts unpaid 30 days after the invoice date shall bear interest at the rate of one and one-half percent per month. Payment of all sums due is a condition precedent to Architect releasing any or all deliverables under this Agreement, including but not limited to plans, specifications and reports. Architect shall have no responsibility or liability for any damages, including indirect and consequential, sustained by Owner as a result of non-payment and Architect's withholding of deliverables. Nothing in this Agreement prevents the Architect from invoicing and recovering fees and expenses for the value of services completed at the time the project or services were either suspended, halted or discontinued, or the project or this Agreement terminated at the option of either party.

Site Visits; Responsibility of Contractor. The Architect shall be responsible for the Architect's negligent acts or omissions and those of consultants retained by the Architect but the Architect shall not have control over or charge of and shall not be responsible for the acts or omissions of the Owner, Builder or Contractor, or any of their subcontractors, consultants or their agents or employees, or of any other persons or entities performing portions of the Work.

In the event the Architect provides any construction contract administration services that include site visits as a representative of the Owner, then the Architect shall visit the site as agreed upon to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, and to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be substantially in accordance with the Instruments of Service. However, unless expressly agreed upon in writing, Architect shall not be required to make any inspections, or exhaustive or continuous on-site observations to check the quality of the Work. Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

Concealed or Unknown Conditions in Existing Buildings. In the event the Architect provides services to the Owner in making changes to an existing facility, if the Owner does not provide documentation or information beyond that which is apparent by non-intrusive observations of the existing facility and the Owner does not contract with the Architect or others to perform destructive testing or to investigate concealed or unknown conditions, the Owner shall assume sole responsibility, including the cost of



Change in Services or Additional Services of the Architect, if any, for all unknown or concealed conditions that are encountered during construction that require changes in the design or construction of the Project. On projects involving existing conditions and electrical service, the Owner shall hire a licensed electrical contractor to open and examine all electrical panels, transformers and switchgears, and furnish a report to the Architect regarding the condition and capacity of the equipment including wire size, amperage, voltage, operating conduits available and code compliance.

Americans with Disabilities Act. The Architect shall use reasonable professional effort and judgment in interpreting and advising the Owner as to the necessary requirements for any Project to comply with the Americans with Disabilities Act (ADA). The Architect shall rely on the local building department for interpretations of the ADA at the time the service is rendered. The architect does not warrant or guarantee that the Project will fully comply with interpretations of ADA requirements by regulatory or judicial bodies.

Termination of Agreement. Either party may terminate this Agreement or any subsequent secondary agreement upon not less than fourteen (14) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

The Owner may terminate this Agreement or any subsequent secondary agreement upon not less than fourteen (14) days' written notice to the Architect for the Owner's convenience and without cause. In the event Owner terminates this Agreement or terminates or suspends any Project pursuant to a subsequent secondary agreement, the Architect shall be paid all sums due prior to termination or suspension.

IN WITNESS WHEREOF, the parties have set their hands and seals to this Agreement, effective on the day and year first above written.

SPIEZLE ARCHITECTURAL GROUP

ASBURY PARK BOARD OF EDUCATION

By: Steven Siegel

By: [Signature]

Date: 12/21/21

Date: 12/21/21

11. Professional Services Renewals

Resolved that the Asbury Park Board of Education appoint the following professional services contracts as per N.J.S.A. 18a:18a-5(a1) for the 2022-2023 school year; July 1, 2022 through June 30, 2023:

a. District Engineer

Leon S. Avakian Inc. at a rate of \$150 per hour

b. District Architect

Spiezle Architectural Group, Inc. at a rate of \$170.00 (Principal) per hour

c. District Auditor

Holman Frenia Allison PC at an annual fee of \$70,225 (CAFR & SOC 1)

d. Board Attorney

The Busch Law Group LLC at a rate of \$150.00 per hour

12. Broker of Record

Resolved that the Asbury Park Board of Education renew the assignment of coverages for the 2022-2023 school year; July 1, 2022 through June 30, 2023:

Treadstone Risk Management:

Health/Medical/Prescription (SEHBP)

Dental (Delta Dental)

Property/Casualty (NJSIG)

School Board Legal Liability (SAIF)

Student Accident (Bob McCloskey Insurance)

Workers Compensation (SAIF)

13. Creation of Capital Reserve Account

WHEREAS, NJSA 6A:23A-14.1 et seq permit a Board of Education to establish and/or deposit into certain reserve accounts at year end, and

WHEREAS, the aforementioned statutes authorize procedures, under the authority of the Commissioner of Education, which permit a board of education to transfer anticipated excess current revenue or unexpended appropriations into reserve accounts during the month of June by board resolution, and

WHEREAS, the Asbury Park Board of Education wishes to deposit anticipated current year surplus into a Capital Reserve account at year end, and

WHEREAS, the Asbury Park Board of Education has determined that up to \$500,000 is available for such purpose of transfer;

Recommend that the Board accept and approve the separation agreement and general release of claims for Employee 61435 and further directs that the administration, business administrator and attorney take any and all actions necessary to effectuate the terms thereof.

Item C.1a

Motion to approve: Ms. Cook

Second: Ms. Lesinski

Aye: 6 **Nay:** 0 **Abs:** 1 Upon roll call the motion was adopted with Mr. Grillo abstaining.

Items C.1b through C.6b

Motion to approve: Ms. Cook

Second: Ms. Lesinski

Aye: 7 **Nay:** 0 **Abs:** 0 Upon roll call the motion was unanimously adopted.

Item C.6c

Motion to approve: Ms. Cook

Second: Ms. Lesinski

Aye: 6 **Nay:** 0 **Abs:** 1 Upon roll call the motion was adopted with Mr. Remy abstaining.

Items C.7 through C.3 Addenda

Motion to approve: Ms. Cook

Second: Ms. Lesinski

Aye: 7 **Nay:** 0 **Abs:** 0 Upon roll call the motion was unanimously adopted.

Motion to Go Into Executive Caucus

WHEREAS, the Open Public Meetings Act allows for the exclusion from discussion at the public portion of a meeting of certain matters as outlined below, and

WHEREAS, the Asbury Park Board of Education wishes to discuss such matters made and will make such discussion public when a proper conclusion has been reached:

NOW, THEREFORE BE IT RESOLVED that the Asbury Park Board of Education will hold a closed executive session on this date June 23, 2022 at Asbury Park, New Jersey, for the purpose(s) as outlined and described below. Upon return action may be taken.

- | | |
|--|-------|
| <u> </u> 1. Confidential Matters per Statute on Court Orders | _____ |
| <u> </u> 2. Impact Rights to Receive Federal Funds | _____ |
| <u> </u> 3. Unwarranted Invasion of Individual Privacy | _____ |
| <u> </u> 4. Collective Bargaining | _____ |
| <u> </u> 5. Acquisition of Real Property or Investment of Funds | _____ |
| <u> </u> 6. Public Safety Procedures | _____ |
| <u> </u> ✓ 7. Litigation or Contract Matters or Att./Client Privilege | _____ |
| <u> </u> ✓ 8. Personnel Matters | _____ |
| <u> </u> 9. Imposition of Penalties Upon an Individual | _____ |

Motion to enter into Executive Session at 7:40pm

Motion to approve: Ms. Lesinski

Second: Ms. Breech