

**AGREEMENT FOR PRE-BOND ISSUE CONSULTING SERVICES
BETWEEN
NORTON CITY SCHOOL DISTRICT
BOARD OF EDUCATION AND
MKC ASSOCIATES, INC.**

This Agreement for Pre-Bond Issue Consulting Services ("Agreement") between the Board of Education of the Norton City School District ("School District Board"), 4128 Cleveland Massillon Rd., Norton, Ohio 44203 and MKC Associates, Inc. ("MKC" or "Architect"), 40 W. 4th St. Mansfield, Ohio, is entered into this ____ day of March, 2013, with an effective date of _____, for the services described in this Agreement (School District and Architect are collectively, hereinafter, the "Parties").

BACKGROUND INFORMATION

- The School District anticipates undertaking a comprehensive capital improvements program, which may include renovations, additions, and new construction as part of its Master Facilities Plan in cooperation with the Ohio Facilities Construction Commission ("OFCC") through the OFCC's Classroom Facilities Assistance Program ("CFAP"), as well as improvements outside the scope of the OSFC Master Facilities Plan that the School District determines to undertake at its sole cost (all of which are together referred to as the "Project" in this Agreement). This Agreement shall serve as an interim agreement for specific consulting services described herein prior to the School District securing its local share funding for the Project and commencement of the actual design of the Project.
- The School District selected and ranked firms for professional design services in compliance with Ohio Revised Code Sections 153.65-.71, and MKC Associates, Inc. was determined to be the most qualified firm to provide the required services for the Project.
- It is the intent of the School District to use the services of the Architect for facility planning related to the Project, including the evaluation of both the OFCC Master Facilities Plan and any improvements funded independently by the School District (referred to as the "Local Project" or "Locally Funded Initiative Improvements"), as well as community engagement in the planning process for the Project, and for design and construction administration services for the Project if approved by the OFCC.
- The parties acknowledge their understanding that the OFCC is implementing a new policy through which it will participate in the selection of all professional members of the project team, including but not limited to the design professional, the construction manager, the construction manager at risk, the criteria architect or engineer, and the design/builder, depending

upon which project delivery method is selected by the School District and the Commission for design and construction of the Project.

I. Summary of Consulting Services:

A. Basic Services.

Basic Services to be provided during the term of this Agreement and prior to the execution of one or more agreements for professional design services by the Parties include the following:

1. Generally advise the School District Board on the OFCC CFAP requirements and the Ohio School Design Manual guidelines for classroom facilities and to provide assistance with planning for improvements that are outside the scope of an OFCC program project.
2. Review previous facility studies, assessments and strategic planning efforts of the School District Board related to its facilities.
3. Develop an understanding of current and future School District Curriculum requirements.
4. Interface with the public, School District Board, the School District Board's Facilities Committee, and any other School District stakeholders to obtain facility input and direction.
5. Assist the School District Board to plan, and complete the scope and budget, for an OFCC CFAP Project, as well as to develop a plan for improvements that are not within the scope of a co-funded OFCC Master Facilities Plan.
6. The Consultant under separate agreement has been assisting the School District Board in evaluating a site suitable for the construction of the new facility. The proposed site is located just north of the current HS.
7. Provide assistance to the School District Board in the organization of a bond issue campaign to provide the local share of funds needed for any CFAP improvements and for other non-CFAP improvements after the School District Board is notified by the OFCC that it is eligible to participate in the CFAP or the District determines to pursue funding for construction of improvements outside the scope of an OFCC co-funded program.

B. Additional Services

Additional Services may be provided upon request of the Architect or School District Board, but are outside the scope of this Agreement. Typical Additional Services may include a facility evaluation assessment, evaluation of enrollment projections, development of community and school profiles, development of building Programs of Requirements (bracketing), preparation of concept or preliminary schematic floor plans, preparation of elevations, performance of additional site analysis studies, and preparation of computer-generated or professional renderings of possible facilities. Bond issue assistance, however, shall not be an additional service, but will be provided informally and without charge to the School District Board. Additional Services shall only be undertaken upon the prior written approval of the School District Board, which may be given through its Superintendent. Additionally, the compensation for Additional Services shall be negotiated and approved by the School District Board, through its Superintendent prior to beginning of any additional services.

II. Term of Agreement

This Agreement shall be effective for thirty-six (36) months or until funding is secured by the School District Board to proceed with all or a portion of the Project, unless the parties agree to extend the Agreement in monthly increments or for such period of time as the School District Board, in its discretion, requests and the Architect agrees. When funding is secured to proceed with all or a portion of the Project, this Agreement shall be replaced with an agreement for design services related to the improvements to be undertaken; for classroom facilities to be designed and constructed in partnership with the OFCC, if the OFCC agrees to recognize the School District Board's selection of the Consultant for the Project, the form of agreement will be the current version of the OFCC's professional design services agreement for whatever project delivery method the School District Board has selected, which the Parties shall negotiate at that time.

III. Compensation for Services

The Parties agree that Basic Services to be provided pursuant to this Agreement will be provided at no cost, if the School District Board is permitted to use the Consultant for the CFAP portion of the Project. Compensation for these services will be negotiated, following OFCC guidelines, after funding is secured for the CFAP portion of the Project. Additional Services provided pursuant to this Agreement (if any) will be invoiced based upon the agreed compensation at the beginning of the month immediately following the performance of said services using the attached hourly billing rates. Any amounts paid for additional services will be credited to the compensation to be

paid for the Project. The Architect shall keep accurate records of time expended and expenses incurred in connection with the Project and shall make such records available to the School District Board upon request.

Due to the policy changes being precipitated by the new Ohio Construction Reform rules as they apply to OFCC projects and in the event that the Architect does not provide professional design services for the Project, the School District Board will pay the Architect for all hours and expenses allocated to the project at the Architect's current hourly rates up to a maximum amount of \$35,000. The Architect will provide monthly statements as to the total hours dedicated to the Project to aid the School District Board in tracking the services provided related to the Project.

IV. Design Services Agreement

It is understood and acknowledged by the Architect and the School District that the OFCC has indicated it will participate as an equal partner with the School District in the selection of the design professional for the Project after funding from both the School District and the OFCC is in place and a Project Agreement between those two parties has been signed. The parties will follow the qualification-based selection process outlined in the Ohio Revised Code, unless the OFCC agrees that the selection of the Architect by the School District is acceptable and a second process is not required. Following conclusion of this process, the parties will negotiate the required form of professional design services agreement provided by the OFCC for co-funded classroom facilities program projects.

- a. If MKC Associates, Inc. is selected as the most qualified design professional by the OFCC and the School District, and the OFCC required form of professional design services agreement is signed by the parties for the Project, the compensation stated in Paragraph III for Basic Services will be waived and amounts paid for Additional Services will be credited to the negotiated compensation for design services.
- b. If MKC Associates, Inc. is not selected as the most qualified design professional by the OFCC and the School District for the Project, the amount stated as Basic Services compensation in Paragraph 3, together with any amounts added and unpaid for Additional Services or an extension of the Agreement, shall be paid to the Architect within thirty (30) days after the Board selects the most qualified design professional for the Project.
- c. If the OFCC agrees that MKC Associates, Inc. is the most qualified design professional for the Project, based upon the statutory qualification-based selection process conducted by the Board, the compensation for Basic Services stated in Paragraph 3 will be waived, so long as the parties are

able to negotiate and enter into the OFCC form of professional design services agreement for the Project, which is approved by the OFCC.

V. Other non-OFCC Program Projects

For any improvements that are separate from the co-funded Master Facilities Plan improvements, that are not included in the OFCC's professional design services agreement for the Project, or that the School District determines to undertake on its own without the OFCC's participation and using the services of the Architect, based upon the qualification-based selection process followed initially by the School District, the Architect and School District will agree on the appropriate form of agreement for those services, which may consist of an AIA-based agreement, such as the AIA Document B101-2007, that defines the scope of improvements for which services are to be provided and the related compensation, as appropriate to the nature of the improvements.

VI. Termination

Either party may terminate this Agreement at any time during the term of this Agreement upon seven (7) days written notice. If so, the Architect shall be paid for its Services provided through the date of termination.

VII. Dispute Resolution

Any dispute arising under this Agreement may be resolved by mediation, under terms mutually agreeable to the Parties hereto, or any other mutually agreed to form of informal or formal dispute resolution.

VIII. Unresolved Finding for Recovery

The Architect represents that the Architect is not subject to a finding for recovery under Section 9.24, ORC, or that Architect has taken the appropriate remedial steps required under Section 9.24, ORC, or otherwise qualifies under this section.

IX. Ownership of Documents

The Architect shall retain ownership of all drawings and documents created to support the services provided under this Agreement. The School District Board is granted license to use such documents to support the advancement of the Project in its sole discretion, with the understanding and agreement that the Architect is not responsible or liable for any information contained in the documents that is relied upon by the School District Board and others.

X. Corporate Protection

It is intended by the parties to this Agreement that MKC's services in connection with the Project shall not subject MKC's individual employees,

officers or directors to any personal legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, the School District Board agrees that as its sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against MKC, a corporation, and not against any of MKC's individual employees, officers or directors.

Agreed to as of the effective date indicated above

SCHOOL DISTRICT
Norton City School District
Board of Education

ARCHITECT
MKC Associates, Inc.

By: _____
Board President

By: _____

Date: _____

Title: _____

By: _____
Treasurer

Date: _____

Date: _____

By: _____
Superintendent

**CERTIFICATE of FUNDS
(Section 5705.41, R.C.)**

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the Norton City School District Board under the attached Agreement for Basic Services Compensation have been lawfully appropriated for such purposes and are in the treasury of the School District or are in the process of collection to an appropriate fund, free from any previous encumbrance.

NORTON CITY SCHOOL DISTRICT

By: _____
Treasurer

Date: _____