

July 27, 2005



# SIKAND

Bakersfield City School District  
1501 Feliz Drive  
Bakersfield, CA 93307

Attention: Mr. Robert Van Tassel

Subject: **CESAR CHAVEZ ELEMENTARY SCHOOL  
PROPOSAL 1002-2857**

Engineering  
Planning  
Surveying

4017 Stockdale Highway  
Bakersfield, CA 93309-2021

Tel: 661/837-0000  
Fax: 661/835-9827  
E-mail: info@sikand.com

Dear Mr. Van Tassel:

As requested, Sikand Engineering Associates, a California corporation ("SIKAND"), appreciates the opportunity to submit our proposal for professional engineering services for the referenced project.

We will provide a Topographic and Design Survey for the above described properties, in the areas of proposed class rooms as shown on site plans provided.

Our fee for the described services is as follows:

1. Office set-up for field survey ..... \$ 175
2. Field survey including requested items as mentioned above..... \$ 1,850
3. Office calculations and mapping including requested items as mentioned above ..... \$ 1,200
4. Preparation of base map incorporating survey information into existing site plan ..... \$ 600

**TOTAL..... \$3,825**

*General Conditions:*

*Any required governmental fees or permit fees paid on Client's behalf will be billed separately at SIKAND's cost as will reimbursable expenses including blue printing and reproduction. All fees and other charges due SIKAND will be billed monthly and shall be due at the time of billing unless specified otherwise in this agreement. Client agrees that all billings from SIKAND to Client are correct and binding on Client unless Client, within ten (10) days from the date of receipt of such billing, notifies SIKAND in writing of alleged inaccuracies, discrepancies, or errors in billing.*

*Client agrees to pay a monthly late payment charge, which will be the lesser of one and one-half percent (1 ½ %) per month or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing. Additionally, if Client fails to pay SIKAND within sixty (60) days after invoices are rendered, SIKAND shall have the right in its sole discretion to consider such default in payment a material breach of this entire agreement and, upon written notice, SIKAND's duties, obligations and responsibilities under this agreement may be suspended or terminated. In such event, Client shall promptly pay SIKAND for all outstanding fees and charges due SIKAND at the time of suspension or termination.*

*SIKAND'S fees reflect its current insurance package, which is established to provide its clients meaningful insurance coverage while maintaining moderate engineering fees. If a client requires additional insurance coverage over that which is normally provided, then SIKAND'S fee quote will be modified upward to cover the additional insurance burden. SIKAND'S normal insurance is as follows:*

<i>Professional Liability</i>	<i>\$1,000,000 per claim</i>	<i>\$2,000,000 aggregate</i>
<i>General Liability</i>	<i>\$1,000,000 per claim</i>	<i>\$2,000,000 aggregate</i>
<i>Automobile</i>	<i>\$1,000,000</i>	
<i>Workers' Compensation</i>	<i>\$1,000,000</i>	

*Client agrees that if Client requests services not specified in the scope of services described in this agreement, Client will pay for all such additional services as extra services, in accordance with SIKAND's current billing rates which are adjusted and effective each October 1<sup>st</sup>.*

*If any term, condition or covenant of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this agreement shall be valid and binding on Client and SIKAND.*

*In the event of any litigation arising from or related to the services provided under this agreement, the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees including in house counsel fees, experts' fees and other related expenses.*

*SIKAND is not responsible for delay caused by activities or factors beyond its reasonable control.*

*In the event of a conflict between this agreement and any additional agreement to which they may be attached and incorporated, the General Conditions shall control.*

*This agreement shall be governed by and construed in accordance with the laws of the State of California.*

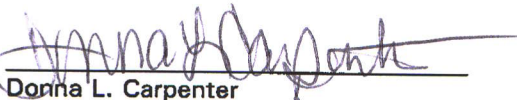
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**Legislation mandates that we have an executed written contract prior to commencing work. Accordingly, if the terms set forth herein meet with your approval, at your earliest convenience, please sign and initial the executed agreement (to which a copy of this letter is attached as Exhibit A and incorporated therein) and forward the executed agreement to our office. We will forward a fully executed copy to your office for your files. Receipt of the**

above will serve as sufficient authorization for us to proceed. We look forward to working with you on this project.

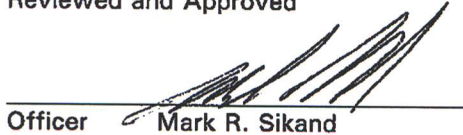
Very truly yours,

SIKAND ENGINEERING ASSOCIATES



Donna L. Carpenter  
Vice President / Project Director

Reviewed and Approved



Officer Mark R. Sikand  
President

License No: N035453

Attachments

cc: Accounting

## AGREEMENT FOR PROFESSIONAL SERVICES

Proposal Order No: 1002-2857

This AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made as of Bakersfield City School District, by and between Sikand Engineering Associates, a California Corporation ("SIKAND"), and the undersigned person or entity ("Client").

### Recitals

A. SIKAND provides professional services including civil engineering, planning and surveying.

B. Client desires to retain the professional services of SIKAND and SIKAND desires to provide professional services to Client, all upon the terms and conditions of this Agreement and Exhibit A attached hereto.

### Agreement

IN CONSIDERATION of the above recitals which are incorporated herein, the mutual covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, SIKAND and Client hereby agree as follows:

#### 1. Professional Services.

(a) Description of Services. SIKAND shall perform those certain professional services for Client described in Exhibit A attached hereto.

(b) Timing of Services. SIKAND shall commence performance of the Services upon receipt this Agreement executed by Client and shall thereafter diligently and continuously work to complete the Services.

I. SIKAND is not responsible for delay caused by activities or factors beyond SIKAND's reasonable control, including but not limited to, delays by reason of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of Client to furnish timely information or approve or disapprove of SIKAND's services or instruments of service promptly, faulty performance by Client or other contractors or governmental agencies. When such delays beyond SIKAND's reasonable control occur, Client agrees SIKAND shall not be responsible for damages nor shall SIKAND be deemed to be in default of this agreement. Further, when such delays occur, Client agrees that, to the extent such delays cause SIKAND to perform extra services, such services shall be paid for by Client as extra services.

(c) Standard of Performance. SIKAND shall perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the same profession who practice under conditions and in locations similar to those of SIKAND.

(d) Compliance with Laws. SIKAND shall comply with applicable federal, state and local laws, ordinances and/or rules and regulations in connection with the performance of its obligations under this Agreement. If any governmental permit or license shall be required for the

proper and lawful conduct of SIKAND's business, SIKAND, at SIKAND's expense, shall duly procure and thereafter maintain such license or permit and submit the same to inspection by Client upon request. SIKAND shall at all times comply with the terms and conditions of each such license or permit.

2. Costs for Services.

(a) Payments to SIKAND. Client shall pay SIKAND for the Services in accordance with Exhibit A attached hereto.

(b) Cost and Fees. Any required governmental fees or permit fees paid on Client's behalf will be billed separately at SIKAND's cost as will reimbursable expenses including blue printing and reproduction.

(c) Invoices. All fees and other charges due SIKAND will be billed monthly and shall be due at the time of billing unless specified otherwise in this agreement. Client agrees to pay a monthly late payment charge, which will be the lesser of one and one-half percent (1 ½%) per month or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing. Additionally, if Client fails to pay SIKAND within sixty (60) days after invoices are rendered, SIKAND shall have the right in its sole discretion to consider such default in payment a material breach of this entire agreement and, upon written notice, SIKAND's duties, obligations and responsibilities under this agreement may be suspended or terminated. In such event, Client shall promptly pay SIKAND for all outstanding fees and charges due SIKAND at the time of suspension or termination.

I. Suspension/Termination. Client acknowledges SIKAND has the right to complete all services agreed to be rendered pursuant to this agreement. In the event this agreement is terminated before the completion of all services, unless SIKAND is responsible for such early termination, Client agrees to release SIKAND from all liability for services performed. In the event all or any portion of the services by SIKAND are suspended, abandoned, or otherwise terminated, Client shall pay SIKAND all fees and charges for services provided prior to termination, not to exceed the contract limits specified herein, if any. Client acknowledges if the project services are suspended and restarted, there will be additional charges due to suspension of the services which shall be paid for by Client as extra services. Client acknowledges if project services are terminated for the convenience of Client, SIKAND is entitled to reasonable termination costs and expenses, to be paid by Client as extra services.

II. Bankruptcy. SIKAND shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations pursuant to this agreement if Client files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against Client in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing.

III. Billings. Client agrees that all billings from SIKAND to Client are correct and binding on Client unless Client, within ten (10) days from the date of receipt of such billing, notifies SIKAND in writing of alleged inaccuracies, discrepancies, or errors in billing.

(d) Extra Services. Client agrees that if Client requests services not specified in the scope of services described in this agreement, Client will pay for all such additional services as extra services, in accordance with SIKAND's billing rate schedule, a copy of which is attached. The rate schedule is subject to increase each October 1.

3. Indemnification.

(a) SIKAND's Indemnification. SIKAND covenants and agrees to indemnify and hold Client, its partners, officers, employees and agents, harmless from and against any and all liabilities, losses, damages, claims, demands, costs and expenses (including courts costs, costs of arbitration, and reasonable attorneys' fees) (collectively, "Liabilities") to the extent they arise from or are connected with a breach of this Agreement by SIKAND, or the negligence, or willful misconduct of SIKAND or SIKAND's Agents. The foregoing indemnification provision shall not require payment as a condition precedent to recovery thereon and shall survive the termination of this Agreement to and until the expiration of the period for the bringing of any claim as to which indemnification may be sought hereunder and until the settlement, payment or other final disposition of any such claim.

(b) Client's Indemnification. Client covenants and agrees to indemnify and hold SIKAND, its partners, officers, employees and agents, harmless from and against any and all Liabilities to the extent they arise from or are connected with Client's breach of this Agreement, Client's negligence, or willful misconduct. The foregoing indemnification provision shall not require payment as a condition precedent to recovery thereon and shall survive the termination of this Agreement to and until the expiration of the period for the bringing of any claim as to which indemnification may be sought hereunder and until the settlement, payment or other final disposition of any such claim.

#### 4. Insurance.

(a) Workers' Compensation and Employer Liability Insurance. SIKAND shall be liable for all Liabilities arising from or related to the employees of SIKAND and SIKAND's Agents. SIKAND represents to Client that SIKAND and SIKAND's Agents are covered and protected by both workers' compensation insurance in the statutory required amount and employer liability insurance. SIKAND further represents that it will not cancel or reduce the coverage or amount of its workers' compensation and employer liability insurance during the duration of this Agreement.

(b) Comprehensive General and Professional Liability Insurance.

I. Coverage. Prior to commencing the performance of the Services, SIKAND shall procure and maintain with a reputable insurance company or companies domiciled or licensed to do business in California and with a rating of A:XII, or better, in the then most recent version of Best Insurance Guide, or in the equivalent thereof, a policy or policies of comprehensive general liability insurance for the Services to be rendered by SIKAND pursuant to this Agreement and the acts of SIKAND or SIKAND's Agents on or about the Property, including, but not limited to, professional liability, owned, non-owned and hired automobile (vehicle) liability, personal injury blanket contractual, broad form property damage, products/completed operations coverage and manufacturers' and contractors' basic coverage with XC&U exclusions deleted for not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury, death and property damage liability per occurrence.

II. Named Insured. SIKAND shall provide that the policy of insurance required in Section 4(b)(i) shall be primary, and, except for professionally liability insurance, shall name Client as additional insured and shall apply severally as to Client and SIKAND, with the provision or endorsement satisfactory to Client that any other insurance carried by Client shall be excess and noncontributing. Such policy shall contain a provision that the naming of an additional insured shall not negate any right the additional insured would have had as claimant under the policy if not so named.

III. Form and Procedures. Any policies or certificates of insurance required under the provisions of Section 4(b)(i) shall contain an endorsement or provision that no less than thirty (30) days prior written notice be given to Client prior to cancellation or reduction of coverage or amount of such policy. SIKAND shall deliver to Client a certificate issued by the insurance carrier of each policy of insurance required to be maintained by SIKAND, stating the limits and other provisions required hereunder, concurrently with the execution of this Agreement, and thereafter not later than thirty (30) days prior to the expiration of the term of each such policy. Any policies required hereunder may be made a part of a blanket policy of insurance, so long as such blanket policy contains all of the provisions required herein and does not in any way reduce the coverage or impair the rights of Client hereunder.

5. Plans, specifications, etc.

(a) Client acknowledges all reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by SIKAND are instruments of service, and shall remain the property of SIKAND and may be used by SIKAND without the consent of Client. Upon request and payment of all costs involved, Client is entitled to a copy of all final plans and specifications for use in connection with the project for which the plans and specifications have been prepared. Client acknowledges that its right to utilize final plans and specifications and the services of SIKAND provided pursuant to this agreement will continue only so long as Client is not in default, pursuant to the terms and conditions of this agreement, and Client has performed all its obligations under this agreement.

(b) Client agrees not to use or permit any other person to use plans, specifications, drawings, cost estimates, reports or other documents prepared by SIKAND which plans, specifications, drawings, cost estimates, reports or other documents are not final and which are not signed and stamped or sealed by SIKAND. Client shall be responsible for any such use of non-final plans, specifications, drawings, cost estimates, reports or other documents not signed and stamped or sealed by SIKAND. Client hereby waives any claim for liability against SIKAND for such use. Client further agrees that final plans, specifications, drawings, cost estimates, reports or other documents are for the exclusive use of Client and may be used by Client only for the project which is the subject of this agreement. Such final plans, specifications, drawings, cost estimates, reports or other documents may not be changed or used on a different project without written authorization or approval by SIKAND. If signed check-prints are required to be submitted with a stamp or seal, they shall not be considered final for purposes of this paragraph.

(c) In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by SIKAND, Client covenants and agrees that all such electronic files are instruments of service of SIKAND, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights. Client agrees not to reuse these electronic files, in whole or in part, for any purpose or project other than the project that is the subject of this agreement. Client agrees not to transfer these electronic files to others without the prior written consent of SIKAND. Client further agrees to waive all claims against SIKAND resulting in any way from any unauthorized changes or reuse of the electronic files for any other project by anyone other than SIKAND.

(d) Client and SIKAND agree that any electronic files furnished by either party shall be in AutoCAD 2004 format.

(e) Electronic files furnished by either party shall be subject to an acceptance period of fifteen (15) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

(f) Client is aware that differences may exist between the electronic files delivered and the printed hard copy construction documents. In the event of a conflict between the signed construction documents prepared by SIKAND and electronic files, the signed and stamped or sealed hard copy construction documents shall govern. In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless SIKAND, its officers, directors, employees, agents and subconsultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than SIKAND or from any reuse of the electronic files without the prior written consent of SIKAND. Under no circumstances shall delivery of electronic files for use by Client be deemed a sale by SIKAND, and SIKAND makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall SIKAND be liable for indirect or consequential damages as a result of Client's use or reuse of the electronic files.

6. Termination.

(a) Client may terminate this Agreement, with or without cause, upon seven (7) days written notice to SIKAND. In the event Client exercises its right to terminate this Agreement, and provided that SIKAND is not in default hereunder, Client shall promptly pay SIKAND for all outstanding fees and charges due SIKAND at the time of termination.

(b) If Client fails to pay SIKAND within sixty (60) days after invoices are rendered, SIKAND shall have the right in its sole discretion to consider such default in payment a material breach of this entire agreement and, upon written notice, SIKAND's duties, obligations and responsibilities under this agreement may be suspended or terminated. In such event, Client shall promptly pay SIKAND for all outstanding fees and charges due SIKAND at the time of suspension or termination.

7. Miscellaneous.

(a) No Assignment. Neither SIKAND nor Client shall assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other.

(b) Notices. All notices or other communications provided for herein shall be in writing and shall be personally served or delivered by United States Mail, registered or certified, return receipt requested, postage prepaid, addressed as follows:

If to SIKAND:

Sikand Engineering Associates

15230 Burbank Blvd., Suite 100

Van Nuys, CA 91411

Attn: Donna Carpenter

If to Client:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_



(c) Confidentiality. SIKAND shall treat all information and data that it may receive or gather with respect to Client, the Property, or the Project as strictly confidential and shall not disclose or disseminate or permit the disclosure or dissemination of such information or data to any person

(d) Relationship of the Parties. SIKAND does hereby state, represent and warrant that it is an independent contractor. In no event and under no circumstance shall SIKAND in the performance of its contractual obligation hereunder be deemed or considered to be acting as a servant, agent or employee of Client. SIKAND agrees that it is solely responsible for all payments due or to become due to its employees, suppliers, or others providing goods, services or equipment to SIKAND, including the withholding of required tax, social security, insurance and union payments, and the compliance with any and all workers' compensation laws or similar employer obligations or requirements with respect to its employees. SIKAND has no authority to bind Client or to pledge Client's credit and shall not assert any such authority or attempt to do so.

(e) No Waiver. A waiver by either party of any breach by the other of any of the covenants, conditions, obligations or agreements under this Agreement shall not be construed as a waiver of a succeeding breach of the same or other covenants, conditions, obligations or agreements of this Agreement.

(f) Exhibit and Schedules. The Exhibits and Schedules attached to this Agreement are incorporated into this Agreement by reference.

(g) Amendment. Any amendment or modification to this Agreement must be in writing; signed by a duly authorized representative of the parties hereto, and must state that it is the intent of the parties to thereby amend or modify this Agreement.

(h) Sole Agreement. This Agreement and the attached exhibits represent the sole and entire agreement between the parties and supersede all prior agreements, negotiations and discussions between the parties with respect to the subject matter hereof.

(i) Severability. The provisions of this Agreement shall be considered severable so that if any provision or part thereof shall at any time be held invalid under any law or ruling, such provisions or part thereof shall remain in force to the extent allowed by law and in such event, all other provisions shall remain in full force and effect and enforceable.

(j) Construction of Agreement. This Agreement shall be construed as a whole in accordance with its fair meaning and in accordance with the laws of the State of California. The language of this Agreement shall not be construed for or against any particular party. The headings used herein are for reference only and shall not affect the construction of this Agreement.

(k) Enforcement of Agreement. If any party brings an action to interpret its rights hereunder, or to assert a breach of this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including court costs and attorneys' fees, if any, incurred in connection with such suit.

(l) Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which shall constitute one and the same Agreement.

8. Special Survey Provisions.

(a) If the scope of services to be provided by SIKAND pursuant to the terms of this agreement includes an ALTA survey, Client agrees that SIKAND may sign a 1999 ALTA/ACSM & NSPS Surveyor's Statement. In the event SIKAND is required to sign a statement or certificate which differs from the 1999 ALTA/ACSM & NSPS Surveyor's Statement, Client hereby agrees to indemnify and hold SIKAND harmless from any and all liability arising from or resulting from the signing of any statement which differs from those statements contained in the 1999 ALTA/ACSM & NSPS Surveyor's Statement.

(b) In the event that any staking or record monuments are destroyed, damaged or disturbed by an act of God or parties other than SIKAND, the cost of re-staking shall be paid for by Client as extra services.

(c) Client acknowledges and agrees that if SIKAND provides surveying services, which services require the filing of a Record of Survey in accordance with Business and Professions Code section 8762, or a Corner Record pursuant to Business and Professions Code section 8773, all of the costs of preparation, examination and filing for the Record of Survey or Corner Record will be paid by Client as extra services.

9. **Limitation of Liability.** Client agrees to limit the liability of SIKAND, its principals, employees and subconsultants, to Client and to all contractors and subcontractors on the project, for any claim or action arising in tort, contract, or strict liability, to the sum of Fifty Thousand Dollars (\$50,000) or SIKAND's fee, whichever is greater. Client and SIKAND acknowledge that this provision was expressly negotiated and agreed upon.

\_\_\_\_\_  
Initials

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year shown below.

SIKAND:

Sikand Engineering Associates  
(a California Corporation)

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Client: \_\_\_\_\_

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_

License No.: NO35453

\_\_\_\_\_  
Initials