



June 10, 2019

Ara K. Zareczny, LEED AP
Director, Facilities Development, Planning and Design
Newport Mesa Unified School District
2985 Bear Street, Bldg. E.
Costa Mesa, CA 92626

**Re: Surveying Proposal
Harper School
425 E 18th Street
Costa Mesa, CA 92627**

Blue Peak Engineering, Inc is pleased to submit this proposal to provide surveying services for the future ADA improvements at Harper School located at 425 E 18th St in Costa Mesa, California. This proposal is based on an email from Studio + Architecture with the survey limits on June 7, 2019.

SCOPE OF WORK

SURVEYING SERVICES

Task 1.1: Topographic Survey

Blue Peak Engineering will perform the topographic surveying of the site for design purposes.

- Topographic elevations will be plotted, paying particular attention to the information affecting ADA access, drainage, slopes, and critical joint transitions for the area to be surveyed.
- Locate all visible improvements in the area to be surveyed, including buildings, drainage structures, utility features, lights, poles, and grade breaks.
- The limits of the survey are based on the attached Survey Limit Exhibit.
- The street right-of-way will be plotted for horizontal control.
- All work will be performed under the direction of a California Professional Land Surveyor.

FEES

Blue Peak Engineering, Inc. will perform each task based on the fees below:

SURVEYING SERVICES

1.1: Topographic Survey	\$4,900
Total	\$4,900

GENERAL TERMS & CONDITIONS

The tasks listed above are estimated to be required for this project. We will notify you if any additional scopes of work will increase our fee to complete the work. The fees quoted above are valid for 90 days from the date of the proposal.

Costs for reimbursable expenses, reprographics, and associated out-of-pocket costs will be invoiced at cost plus ten percent. The costs for these reimbursable expenses are not included in the fee estimates shown herein.

Please see the attached Standard Terms and Conditions that are considered part of this proposal.

Our billing procedure is to invoice monthly for payment within 30 days. The invoice format will identify the work completed during the invoice period and reimbursable expenses for the period.

LIST OF EXCLUSIONS

The following items are excluded from this proposal and are assumed to be provided by others:

- Geotechnical Engineering
- Structural Engineering incl. retaining walls
- Construction staking
- Civil Engineering
- ALTA or Mapping
- As-Built Plans
- Traffic Studies / Signal plans
- Landscaping Plans
- Electrical or Site lighting plan
- Public Utility Plans
- SWPPP (project is less than one acre)
- Dry Utilities
- Hydrology / Hydraulics
- Street Improvements

With your written approval of this proposal, we are prepared to begin work immediately. We thank you for the opportunity to propose on this project and we look forward to a successful project as a member of your team!

Sincerely,



Thomas Hawksworth, PE
Senior Vice President

Accepted:
Blue Peak Engineering, Inc

Agreed and Accepted by:

By: _____
Robert J. DePrat, PE Date
President/CEO

Attachments: Survey Limits; Standard Terms and Conditions



BLUE PEAK ENGINEERING, INC.

STANDARD TERMS AND CONDITIONS

I. Standards of Performance

A. The standard of care for all professional engineering and related services performed or furnished by BLUE PEAK ENGINEERING, Inc. under this Agreement will be the care and skill ordinarily used by members of BLUE PEAK ENGINEERING, Inc.'s profession practicing under similar circumstances at the same time and in the same locality. BLUE PEAK ENGINEERING, Inc. makes no warranties, express or implied, under this Agreement or otherwise, in connection with its services.

B. BLUE PEAK ENGINEERING, INC. shall be responsible for the technical accuracy of its services and documents resulting there from, and CLIENT shall not be responsible for discovering deficiencies therein. BLUE PEAK ENGINEERING, INC. shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in CLIENT-furnished information.

C. BLUE PEAK ENGINEERING, INC. may employ such Consultants as BLUE PEAK ENGINEERING, INC. deems necessary and with CLIENT's approval, to assist in the performance or furnishing of the services. BLUE PEAK ENGINEERING, INC. shall not be required to employ any Consultants unacceptable to BLUE PEAK ENGINEERING, INC.

D. BLUE PEAK ENGINEERING, INC. and CLIENT shall comply with applicable Laws and Regulations and CLIENT-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to CLIENT's responsibilities or to BLUE PEAK ENGINEERING, INC.'s scope of services, times of performance, or compensation.

E. CLIENT shall be responsible for, and BLUE PEAK ENGINEERING, INC. may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by CLIENT to BLUE PEAK ENGINEERING, INC. pursuant to this Agreement. BLUE PEAK ENGINEERING, INC. may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

F. CLIENT shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of BLUE PEAK ENGINEERING, INC.

G. BLUE PEAK ENGINEERING, INC. shall not be required to sign any documents, no matter by whom requested, that would result in BLUE PEAK ENGINEERING, INC.'s having to certify, guarantee or warrant the existence of conditions whose existence BLUE PEAK ENGINEERING, INC. cannot ascertain. CLIENT agrees not to make resolution of any dispute with BLUE PEAK ENGINEERING, INC. or payment of any amount due to BLUE PEAK ENGINEERING, INC. in any way contingent upon BLUE PEAK ENGINEERING, INC.'s signing any such certifications.

H. During the Construction Phase, BLUE PEAK ENGINEERING, INC. shall not supervise, direct, or have control over Contractor's work, nor shall BLUE PEAK ENGINEERING, INC. have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, or safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

I. BLUE PEAK ENGINEERING, INC. neither guarantees the performances of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contractor Documents.

J. BLUE PEAK ENGINEERING, INC. shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or employees or any other persons (except BLUE PEAK ENGINEERING, INC.'s own employees and subconsultants) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by CLIENT without consultation and advice of BLUE PEAK ENGINEERING, INC.

II. Authorized Project Representative

A. Contemporaneous with the execution of this Agreement, BLUE PEAK ENGINEERING, INC. and CLIENT shall designate specific individuals to act as BLUE PEAK ENGINEERING, INC.'s and CLIENT's representatives with respect to the services to be performed or furnished by BLUE PEAK ENGINEERING, INC. and responsibilities of CLIENT under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

III. Use of Documents

A. All Documents are instruments of service in respect to this Project, and BLUE PEAK ENGINEERING, INC. and CLIENT shall retain an ownership and property interest therein (including the right of reuse at the discretion of BLUE PEAK ENGINEERING, INC.) whether or not the Project is completed.

B. Copies of CLIENT-furnished data that may be relied upon by BLUE PEAK ENGINEERING, INC. are limited to the printed copies (also known as hard copies) that are delivered to BLUE PEAK ENGINEERING, INC. Files in electronic media format of text, data, graphics, or of other types that are furnished by CLIENT to BLUE PEAK ENGINEERING, INC. are only for convenience of BLUE PEAK ENGINEERING, INC.

C. Copies of Documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by BLUE PEAK ENGINEERING, INC. Files in electronic media format of text, data, graphics, or of other types that are furnished by BLUE PEAK ENGINEERING, INC. to CLIENT are only for convenience of CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the Client's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. The party delivering the electronic files will correct any errors detected within the 60-day acceptance period. BLUE PEAK ENGINEERING, INC. will not be responsible to maintain documents stored in electronic media format after acceptance by CLIENT.

E. When transferring documents in electronic media form, BLUE PEAK ENGINEERING, INC. makes no representations as to long term capability, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by BLUE PEAK ENGINEERING, INC. at the beginning of this Project.

F. CLIENT may make and retain copies of Documents for information and reference in connection with use on the Project by CLIENT. Such Documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by BLUE PEAK ENGINEERING, INC., as appropriate for the specific purpose intended, will be CLIENT's sole risk and without liability or legal exposure to BLUE PEAK ENGINEERING, INC. or BLUE PEAK ENGINEERING, INC.'s Consultants. CLIENT shall indemnify and hold harmless BLUE PEAK ENGINEERING, INC. and BLUE PEAK ENGINEERING, INC.'s Consultants from all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting there from.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

IV. Insurance

A. BLUE PEAK ENGINEERING, INC. agrees to maintain at its own expense, Worker's Compensation insurance, Comprehensive General Liability insurance, Excess Liability (Umbrella) and Professional Errors and Omissions Liability insurance and will, upon request furnish insurance certifications to CLIENT naming CLIENT as additional insured. BLUE PEAK ENGINEERING, INC. agrees to purchase whatever additional insurance is requested by CLIENT (presuming such insurance is available, from carriers acceptable to BLUE PEAK ENGINEERING, INC. providing the premiums for additional insurance are reimbursed by the CLIENT).

B. CLIENT shall procure and maintain similar insurance and shall cause BLUE PEAK ENGINEERING, INC. and BLUE PEAK ENGINEERING, INC.'s Consultants to be listed as additional insured on any general liability or property insurance policies carried by CLIENT which are applicable to the Project.

C. CLIENT shall require Contractor to purchase and maintain General Liability and other insurance as specified in the Contract Documents and to cause BLUE PEAK ENGINEERING, INC. and BLUE PEAK ENGINEERING, INC.'s Consultants to be listed as additional insured with respect to such liability and other insurance purchases and maintained by Contractor for the Project.

D. CLIENT and BLUE PEAK ENGINEERING, INC. shall each deliver to the other certifications of insurance evidencing the coverages indicated above. Such certificates shall be furnished prior to commencement of BLUE PEAK ENGINEERING, INC.'s services and at renewals thereafter during the life of the Agreement.

E. All policies of property insurance shall contain provisions to the effect that BLUE PEAK ENGINEERING, INC.'s and BLUE PEAK ENGINEERING, INC.'s Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insured or additional insured thereunder.

F. At any time, CLIENT may request that BLUE PEAK ENGINEERING, INC., at CLIENT's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified. If so requested by CLIENT, with the concurrence of BLUE PEAK ENGINEERING, INC., and if commercially available, BLUE PEAK ENGINEERING, INC. shall obtain and shall require BLUE PEAK ENGINEERING, INC.'s Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by CLIENT.

V. Termination

A. The obligation to provide further services under this Agreement may be terminated by CLIENT effective upon the receipt of notice by BLUE PEAK ENGINEERING, INC.

B. Failure of the Client to make payments to BLUE PEAK ENGINEERING, INC. in accordance with the Agreement shall be considered substantial nonperformance and cause for termination by BLUE PEAK ENGINEERING, INC.

C. In the event of termination not the fault of BLUE PEAK ENGINEERING, INC., BLUE PEAK ENGINEERING, INC. shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

VI. Controlling Law

A. This Agreement is to be governed by the law of the State of California.

VII. Successors, Assigns, and Beneficiaries

The CLIENT and BLUE PEAK ENGINEERING, INC. each binds itself, its partners, successors, legal representatives and assigns to the other and neither the CLIENT nor BLUE PEAK ENGINEERING, INC. shall assign nor transfer its interest in this Agreement without the other's written consent.

VIII. Payment

A. Invoices will be submitted periodically (customarily on a monthly basis), and are due and payable upon receipt of the invoice. Unpaid balances shall be subject to an additional charge at the rate of one and one-half percent (1.5%) per month from the date of invoice if the unpaid balance is not paid within 30 days. In addition, BLUE PEAK ENGINEERING, INC. may suspend services without liability until the CLIENT has paid in full all amounts due BLUE PEAK ENGINEERING, INC. on account for services rendered and expenses incurred, including interest on past due invoices. Reimbursable expenses will be billed at 115% of cost to BLUE PEAK ENGINEERING, INC. Payment of invoices is not subject to discounting by the CLIENT or withholding retainages from without the written consent of BLUE PEAK ENGINEERING, INC. Time is of the essence in payment of invoices, and timely payment is a material part of the consideration of any Agreement between BLUE PEAK ENGINEERING, INC. and the CLIENT.

B. It is understood that payments to BLUE PEAK ENGINEERING, INC., for work performed, is in no way dependent on actions of any third party which may be involved in the Project or the CLIENT's ability to obtain financing. Payments to BLUE PEAK ENGINEERING, INC. shall be in accordance with the provisions of this Agreement.

IX. Dispute Resolution

In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the CLIENT and BLUE PEAK ENGINEERING, INC. agree that all disputes between them arising out of or relating to the Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise.

X. Hazardous Environmental Condition

A. CLIENT represents to BLUE PEAK ENGINEERING, INC. that to the best of its knowledge a Hazardous Environmental Condition does not exist.

B. CLIENT has disclosed to the best of its knowledge to BLUE PEAK ENGINEERING, INC. the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, BLUE PEAK ENGINEERING, INC. shall have the obligation to notify CLIENT and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that BLUE PEAK ENGINEERING, INC.'s scope of services does not include any services related to a Hazardous Environmental Condition. In the event BLUE PEAK ENGINEERING, INC. or any other party encounters a Hazardous Environmental Condition, BLUE PEAK ENGINEERING, INC. may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until CLIENT: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

E. CLIENT acknowledges that BLUE PEAK ENGINEERING, INC. is performing professional services for CLIENT and that BLUE PEAK ENGINEERING, INC. is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with BLUE PEAK ENGINEERING, INC.'s activities under this Agreement.

F. If BLUE PEAK ENGINEERING, INC.'s services under this Agreement cannot be performed because of Hazardous Environmental Condition, the existence of the condition shall justify BLUE PEAK ENGINEERING, INC.'s terminating this Agreement for cause on 30 days notice.

XI. Allocation of Risks

A. Indemnification

1. To the fullest extent permitted by law, BLUE PEAK ENGINEERING, INC. shall indemnify and hold harmless CLIENT, CLIENT's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorney's and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of BLUE PEAK ENGINEERING, INC. or BLUE PEAK ENGINEERING, INC.'s officers, directors, partners, employees, and BLUE PEAK ENGINEERING, INC.'s Consultants in the performance and furnishing of BLUE PEAK ENGINEERING, INC.'s services under this Agreement.

2. To the fullest extent permitted by the law, CLIENT, shall indemnify and hold harmless BLUE PEAK ENGINEERING, INC., BLUE PEAK ENGINEERING, INC.'s officers, director's partners, employees, and BLUE PEAK ENGINEERING, INC.'s Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorney's and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of CLIENT or CLIENT's officers, directors, partners, employees, and CLIENT's Consultants with respect to this Agreement or the Project.

3. To the fullest extent permitted by the law, BLUE PEAK ENGINEERING, INC.'s total liability to CLIENT and anyone claiming by, through, or under CLIENT for any cost, loss, or damages caused in part by the negligence of BLUE PEAK ENGINEERING, INC. and in part by the negligence of CLIENT or any other negligent entity or individual, shall not exceed the percentage share that BLUE PEAK ENGINEERING, INC.'s negligence bears to the total negligence of CLIENT, BLUE PEAK ENGINEERING, INC., and all other negligent entities and individuals. Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Client or BLUE PEAK ENGINEERING, INC., their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profits.

4. In addition to the indemnity provided under paragraph XI.A.2. of this Agreement, and to the fullest extent permitted by the law, CLIENT shall indemnify and hold harmless BLUE PEAK ENGINEERING, INC. and its officers, directors, partners, employees, and BLUE PEAK ENGINEERING, INC.'s Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorney's and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such costs, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting there from, and (ii) nothing in this paragraph XI.A.4. shall obligate CLIENT to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

XII. Notices

Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

XIII. Survival

All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

XIV. Severability

Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CLIENT and BLUE PEAK ENGINEERING, INC., who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

XV. Waiver

Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

END OF TERMS AND CONDITIONS