



OAKLAND UNIFIED
SCHOOL DISTRICT

*Community Schools,
Thriving Students*

Oakland Unified School District

Proposed Notice of Intent to Revoke American Indian Model Charter Schools v5

**OUSD Board of Education
January 23, 2013 Board Meeting**

Presented by:

Tony Smith, Ph.D., Superintendent of Oakland Unified School District

David Montes de Oca, Executive Director of Quality Community Schools Development

Jacqueline P. Minor, General Counsel

John R. Yeh, Burke Williams & Sorensen, LLP



OVERVIEW

PART I:	OUSD's Priorities and Objectives
PART II:	Timeline of Events
PART III:	Board Duties and Obligations as Charter Authorizer
PART IV:	AIMS Response to Notice of Violation
PART V:	AIMS Proposed Remedies
PART VI:	Focus on Educational Program Performance
PART VII:	Next Steps
PART VIII:	AIMS Documentation Submitted



PART I:

OUSD Priorities and Objectives



OAKLAND UNIFIED
SCHOOL DISTRICT

*Community Schools,
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Commitments

OUSD is committed to the following:

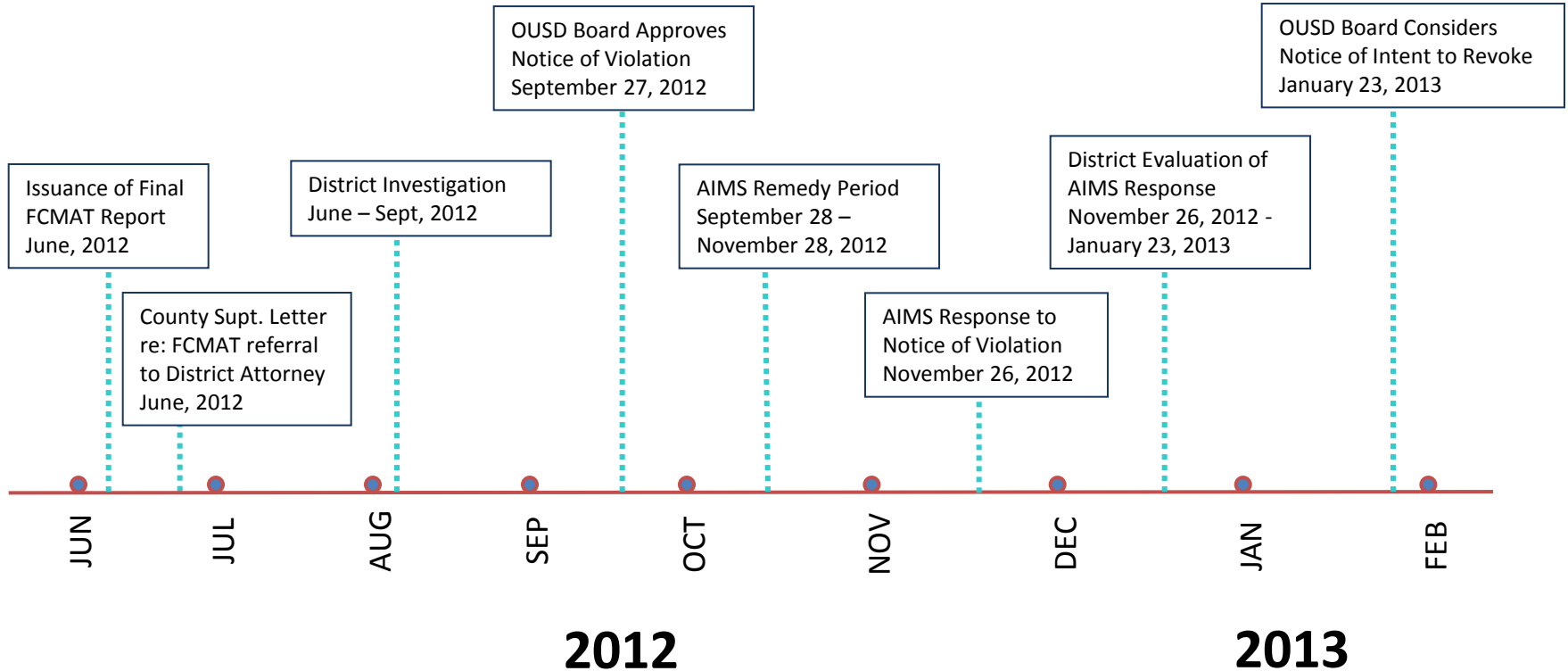
- Provide the highest level of academic support and services to all students, including students of AIMS charter schools
- Fulfill its obligations as a charter authorizer to ensure that charter schools meet their legal and moral obligations as set forth in their charter and under the law, as well as safeguard the proper use of public funds.

PART II:

Timeline of Events



Timeline Through Notice of Intent to Revoke: January 23, 2013



NEXT STEPS

- **Jan 23, 2013** **Staff recommends Board of Education issue Notice of Intent to Revoke**
- **February, 2013** *If the Board issues Notice of Intent to Revoke:*
Public Hearing (no later than Feb 24, 2013)
- **March, 2013** **Board of Education Decision (no later than Mar 24, 2013)**
If the Board revokes the charter:
- **March/April, 2013** **Alameda County Board of Education Appeal**
If the County supports revocation of charter:
- **May/June, 2013** **State Board of Education Appeal**
- **June 30, 2013** **Date Revocation Would Take Effect If Upheld**



PART III:

Board Duties and Obligations as Charter Authorizer



Board's Duty as Charter School Authorizer

- School boards are entrusted with the duty to ensure that the charter schools they authorize:
- follow the promises made in their charters
- meet generally accepted accounting principles
- use public education funding with integrity
- follow the law

Board's Duty as Charter School Authorizer

- The legislative intent of Charter Law is that action be taken by the authorizer when grounds for revocation are not remedied.

GROUNDS FOR REVOCATION *Highlight represents AIMS violations*

A) Committed a material violation of any conditions, standards, or procedures set forth in the charter

B) Failed to meet or pursue any of the pupil outcomes set forth in the charter

C) Failed to meet generally accepted accounting principals or engaged in fiscal mismanagement

D) Violated any provision of law



Key Actions That Have Occurred To Date:

- Alameda County Superintendent requested FCMAT Investigation of AIMS
- FCMAT Investigation Report found conflict of interest violations resulting in founder and spouse personally profiting from \$3.8 million in public education funding, inadequate governance, and inadequate fiscal oversight
- County Superintendent referred the FCMAT report to the District Attorney
- California Department of Education terminated ASES funding to AIMS due to misappropriation of funds
- California Finance Authority found AIMS in default of Facilities Grant Agreements



PART IV:

AIMS Response to Notice of Violation



Response Summary

VIOLATIONS

- Conflict of Interest Violations: Contracts with Founder and/or Spouse
 - Founder and/or spouse had ownership interest in companies contracting with AIMS (including ADS, Lumbee, SAIL, AAFS*)
 - Construction Contracts
 - Lease for AIMS school sites
 - After School Program
 - Administrative Services
 - Founder and spouse personally profited from those contracts
 - Approximately \$3.8 million in public education funding

AIMS' RESPONSE

- Conflict of Interest Violations: Contracts with Founder and/or Spouse
 - AIMS admits that contracts were entered
 - AIMS denies they were improper or unlawful
 - AIMS board members claimed they were approved by AIMS' Board with knowledge of Founder's interests
 - AIMS claims financial savings/returned donations by Founder

* ADS: American Delivery Systems; Lumbee: Lumbee Properties, LLC;
SAIL: Stanford Academic Institute of Learning; AAFS: A&A Business Solutions



Response Summary

AIMS' RESPONSE

- **AIMS inappropriately applies the conflict of interest laws**
 - “Savings” to AIMS do not validate transactions
 - AIMS failed to follow the law and its own policies in ensuring that the founder was not involved in, or could not influence, these agreements
- **AIMS claimed “savings” are based on invalid assertions**
 - AIMS claims that it pays \$1.089 per square foot monthly to ADS/Lumbee under its lease, whereas OUSD charges its charter schools \$2.50 per square foot, resulting in an alleged savings of \$2,802,824 to AIMS
 - AIMS is wrong. The OUSD charge is annual
 - A charter school occupying 65,000 square feet of District facilities would pay \$162,500 annually, at \$2.50 annual per square foot rate. AIMS pays its Founder \$1,950,000.
 - AIMS claimed to be saving \$1,099,867.80 a year by leasing space from Founder as opposed to obtaining District facilities; it is in fact **paying \$687.632.20 MORE annually to the Founder.**



Response Summary

AIMS RESPONSE ASSERTION

Lessor	Square Footage	Cost psf	Monthly Charge	Annual Charge
OUSD	65,000	\$2.50	\$162,000	\$1,950,000.00
Founder	65,000	\$1.089	\$70,844.35	\$ 850,132.20

ANNUAL SAVINGS ASSUMPTION	\$ 1,099,867.80
2 yr SAVINGS ASSUMPTION	\$ 2,199,735.60

(Adapted from assertions contained in AIMS Response, Binder 2 Chart, p. 17)

ACTUAL COST COMPARISON

Lessor	Square Footage	Cost psf	Monthly Charge	Annual Charge
OUSD	65,000	\$2.50 (annual)	\$13,500.00	\$ 162,000.00
Founder	65,000	\$1.089	\$70,844.35	\$ 850,132.20

ACTUAL ANNUAL DIFFERENCE PAID TO FOUNDER	\$ 688,132.20
ACTUAL 2 yr DIFFERENCE PAID TO FOUNDER	\$ 1,376,264.40



OUSD Review of AIMS Response

- The AIMS board allowed the founder to personally profit by violating conflict of interest laws
- AIMS' response provides no legal or factual justification for these transaction
- AIMS' response does not acknowledge wrongdoing, but attempts to justify it
- AIMS' response provides insufficient evidence that the governance or financial oversight has meaningfully improved



PART V:

AIMS Proposed Remedies



District's Review of AIM's Proposed Remedies

- Same two-page conflict of interest policy; new one-page conflict of interest disclosure form
- Revised fiscal policy, new fiscal administrator and Financial Specialist Committee – experience weighted in private sector; committee had not yet met
- No significant institutional or organizational changes, or change in fiscal agent
- No introduction of alternative charter management organization
- New Board handbook, 3-4 Board training sessions, but no overhaul in procedures or continuing board education/ training
- Status of school and governing body relationship with Founder not explicitly addressed



District's Review of AIM's Proposed Remedies

The Notice of Violation Identified 5 Areas of Remedy

Management of the AIMS organization to ensure compliance with applicable legal requirements, including enrollment and teacher credentials	NOT REMEDIED
Changes to structure and operation of AIMS governing board to ensure greater fiscal and operational control	NOT REMEDIED
Identification of responsible agent for AIMS fiscal operations	NOT REMEDIED
Institution of conflict of interest enforcement procedures	NOT REMEDIED
Appropriate separation of founder and spouse from all aspects of AIMS operations	NOT REMEDIED



Response Summary

OPPORTUNITIES FOR COMMUNICATION:

September 2012: Meeting between Director of OUSD Charter Office, AIMS Board president and board member, and counsel to deliver Notice of Violation. Emphasized that channels of communication remained open for AIMS to discuss proposed remedies - AIMS did not request meeting

September 2012: Discussion with Director of OUSD Charter Office, District counsel and AIMS counsel after OUSD Board meeting - AIMS encouraged to communicate with District during 60-day remedy period - AIMS did not request meeting

November 2012: After not hearing from AIMS, OUSD Office of General Counsel reached out to AIMS board to offer to meet regarding Notice of Violations - AIMS did not request meeting



PART VI:

Focus on Educational Performance



Educational Program Performance

Education Code §47607(c)(2) (eff. 1/1/13)

“The authority that granted the charter shall consider increases in pupil academic achievement for all groups of pupils served by the charter school as the most important factor in determining whether to revoke a charter.”

AIPCS: 974 API 2012

AIPCS II: 981 API 2012

AIPHS: 928 API 2012

Board is not prohibited from revoking a charter with high academic achievement, but must consider academic performance.

Balance between AIMS’ academic track record and violations of law and fiscal mismanagement must be taken into account.

Superintendent and staff commit to supporting families in maintain high quality school program opportunities.



PART VII:

Next Steps



NEXT STEPS

- Jan 23, 2013** **Staff recommends Board of Education issue Notice of Intent to Revoke**
- February, 2013** *If the Board issues Notice of Intent to Revoke:*
Public Hearing (no later than Feb 24, 2013)
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PART VIII:

Appendix I: Sample AIMS Documentation Submitted





OAKLAND UNIFIED
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Community Schools, Thriving Students

– Excerpt of Statement from Former Board Members: Awareness of Conflict of Interest



American Indian Model Schools

171 12th Street Oakland, CA 94607


We were board members of the American Indian Model Schools Board when the AIM Schools board approved the following:

The American Delivery Systems (ADS) construction proposal in January 20, 2006 and the Lumbee Properties, LLC construction proposal at the March 15, 2007 AIM Schools Board meeting.

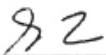
We were aware that Dr. Ben Chavis was the owner of American Delivery Systems (ADS) and Lumbee Properties, LLC and married to Mrs. Marsha Amador. They also completed Form 700s which listed their various businesses.


Mrs. Amy Cai, Signature

10-1-12
Date


Ms. Rose H. Lee, Signature

11-25-12
Date


Ms. Sylvia Thomas, Signature

10-15-12
Date

Source: AIMS Response



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

Statement Not Supported by AIMS Board Agendas/Minutes, Jan. 20, 2006

American Indian Public Charter School
3637 Magee Ave. Oakland, CA 94619
(510) 482-6000

Board Meeting
January 20, 2006
7:00 p.m.

Agenda

- I. Call to Order
- II. Approval of Minutes
- III. Public Comment or Announcements
- IV. Director's Report
 - a. Blue Ribbon School.
 - b. Students taking SAT.
 - c. Title I School.
- V. Unfinished Business
 - a. High School charter submitted to OUSD.
- VI. New Business
None.
- VII. Action Items
 - a. Budget for 2006-2007.
- VIII. Adjournment

American Indian Public Charter School
3637 Magee Ave. Oakland, CA 94619
(510) 482-6000

Board Meeting
January 20, 2006
7:00 p.m.

Minutes

Members Present: Lee, Martinez, Hanson
Guest: Mr. Ruper Lupe, Ms. Glover

- I. Quorum established and meeting is called to order at 7:03 p.m.
- II. Approval of Minutes:
Mr. Martinez motioned to approve the minutes. It was seconded by Mr. Hanson.
- III. Public Comment or Announcements:
Pastor Mila of the Tongan Church said he wanted to thank AIPCS for helping start a new day care at the church.
- IV. Director's Report
 - a. The director state AIPCS has been nominated a National Blue Ribbon School.
 - b. About 40 students will be taking the SAT this month.
 - c. AIPCS has won the Title 1 Academic Award again.
- V. Unfinished Business
 - a. High School charter was submitted to OUSD. It will take about 60 days for the process to be complete.
- VI. New Business
None.
- VII. Action Items
 - a. The board voted unanimously to approve budget for 2006-2007 for AIPCS. The school has about 20% reserve of cash.
- VIII. Adjournment
Meeting ended at 8:04 p.m.

Source: FCMAT



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

Statement Not Supported by AIMS Board Agendas/Minutes, Mar. 15, 2007

American Indian Public Charter School
3637 Magee Ave. Oakland, CA 94619
(510) 482-6000

Board Meeting
March 15, 2007
12:00 p.m.

Agenda

I. Call to Order

II. Approval of Minutes

III. Public Comment or Announcements

IV. Director's Report

V. Unfinished Business

- New Site Administrator for High School
- Carey Blakely will return to San Diego in September.

VI. New Business

- President Lee's term ends in June
- Change meetings back to 7:00 p.m.
- Recruit former student to board
- Secure lease for new middle school with Moyer Reality
- Recruit new director for AIPCS.

VII. Action Items

- Contract for 171 12th Street
- Recruit new director for AIPCS
- Approve new 6th grade teacher
- Change board meeting to 7:00 p.m.

VIII. Adjournment

American Indian Public Charter School
3637 Magee Ave. Oakland, CA 94619
(510) 482-6000

BOARD MEETING
March 15, 2007
12:00 p.m.

Minutes

Members Present: Atiba Thomas, Rose Lee, Evelia Lopez, Clark Amador
Guests: Amy Cai (Parent), Janet Shewmon (Teacher)

I. Quorum established, meeting called to order at 12:00 am.

II. Members reviewed minutes. Mr. Amador motioned to approve minutes from the December 21, 2007 meeting, seconded by Ms. Lopez. Minutes approved unanimously.

III. Announcements

- State testing will begin on Monday April 24 - May 3, 2007. We will once again be testing on Tuesdays - Thursdays.
- AIPCS II charter was approved by OUSD State Administrator

IV. Reports

Director's Report

- Over 60 AIPCS students qualified for the CTY program.
- 30 7th graders will be attending Merritt College Summer Math Program.
- Dr. Chavis expects students to score above 950 on the API this year based on his class observations.
- 8th grade students field trip to Washington D.C. planning is under way. Have secured the rooms, and flights.
- Graduation is set for Friday June 5th @ 6 p.m.
- Graduation keynote is selected. Jeanne Allen, the president of The Center for Education Reform, will be the keynote speaker.

Finance

- Dr. Chavis notes that the AIPCS budget has a 20% reserve.
- A copy of the school budget was passed to board members.

V. Unfinished Business

- Ms. Carey Blakely, will resign as Site Coordinator because she is returning to San Diego.
- Mr. Berniker was recommended as the new Site Coordinator for American Indian Public High School for 2007-2008. Dr. Chavis said Ms. Carey has done a great job.

VI. New Business

- Board President- Ms. Rose Lee has stated that this will be her 2nd last meeting as member of AIPCS Governance Board. She will continue working with us until June 21, 2007.

- Ms. Lopez suggested the board meetings be moved back to 7:00 p.m.
- Mrs. Rose noted that we should get Nathan Robles, former student who is in college to serve on the board. Nathan Robles was the 1st CTY/JHU student and is enrolled in college.
- Ms. Thomas noted that the board needs to secure a lease at 171 12th Street, Oakland, CA for the new American Indian Public Charter School II.
- Dr. Chavis has noted that he will work part-time next year 2007-2008 and will continue to donate his salary to the school for student's perfect attendance, field trips, bus passes, etc. This will also be his last year as the director of American Indian Public Charter School.

VII. Action Items

- Board unanimously approves signing a lease with Moyer Reality for AIPCS II at 171 12th Street.
- The board voted unanimously to begin a search for a new director for American Indian Public Charter School for 2008-2009 school year.
- Board voted unanimously to hire Ms. Ramamoorthy as a 6th grade teacher
- Board voted unanimously to move board meeting back to 7:00 p.m. beginning June 21, 2007.

VIII. Adjournment

Meeting is adjourned at 1:24p.m.

Source: FCMAT



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

- AIMS Response: “AIMS Schools Board has not violated any conflict of interest provisions regarding contracts”: AIMS Checks Signed by the Founder to His Own Companies

American Delivery Systems
3801 Mountain Blvd., Oakland, CA 94619
Phone (848) 203-4466

PROPOSAL
Project: American Indian Public Charter School
3637 Magee Avenue
Oakland, CA 94619

This is an outline of proposed work for AIPCS. The work will focus on the Mandarin class, downstairs boys bathroom and both upstairs bathrooms.

1. Upstairs girls and boys bathroom will be commercial toilets, energy efficient faucets, paint walls and replace wooden floor and tile as needed.-----\$31,000.00
2. Update bathroom in Mandarin class, install water fountain, repair walls, replace floor, and repaint walls.-----\$46,000.00
3. Downstairs boys bathroom will be replaced with commercial toilets, energy efficient faucets, paint walls, and floor a red commercial paint-----\$38,000.00

The work will be done during a time not to interfere with classroom instruction.

Proposed by: Ben Chavis 6-22-06
ADS, Dr. Ben Chavis Date

Approved by: Rose Lee 6-22-06
Ms. Rose Lee, Date
AIPCS Acting Chair

Amy Cai 6-22-06
Mrs. Amy Cai, Date
AIPCS Board Member

Source: AIMS Response



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

AIMS Checks Signed by the Founder to His Own Companies

ADS
3801 Mountain Blvd., Oakland CA 94619
848-203-4466

STATEMENT DATE: 8/15/07

American Indian Public Charter School
3637 Magee Avenue
Oakland, CA 94619
(510)482-6000

Date
7/8/07

Description
Remodel upstairs bathrooms to meet ADA & Commercial standards.
"Turn Key Upgrade".

\$31,000.00

A FINANCE CHARGE of 2% per month will be charged on balances over 30 days. In the event this account is placed in the hands of a collection agency or an attorney for collection, the debtor obligates himself to pay collection fees and or attorney fee plus expenses.

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AMERICAN INDIAN PUBLIC CHARTER SCHOOL
3637 MAGEE AVENUE
OAKLAND, CA 94619
(510) 482-6000

COMMUNITY BANK OF THE BAY
OAKLAND, CA 94612
90-4240-1211

8/31/2007

TO THE ORDER OF ADS \$ **31,000.00

Thirty-One Thousand and 00/100..... DOLLAR

ADS

MEMO remodel bathroom

AMERICAN INDIAN PUBLIC CHARTER SCHOOL	8/31/2007	476
ADS		31,000.00
CBOB CHECKING 2 remodel bathroom		31,000.00
AMERICAN INDIAN PUBLIC CHARTER SCHOOL		476
ADS	8/31/2007	31,000.00

Source: AIMS Response



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

AIMS Checks Signed by the Founder to His Own Companies

ADS
3801 Mountain Blvd., Oakland CA 94619
848-203-4466

STATEMENT DATE: 9/10/07

American Indian Public Charter School
3637 Magee Avenue
Oakland, CA 94619
(510)482-6000


Date
9/1/07

Description
Remodel downstairs bathrooms to meet ADA & Commercial standards.
"Turn Key Upgrade".

\$38,000.00

A FINANCE CHARGE of 2% per month will be charged on balances over 30 days. In the event this account is placed in the hands of a collection agency or an attorney for collection, the debtor obligates himself to pay collection fees and or attorney fee plus expenses.

480



AMERICAN INDIAN PUBLIC CHARTER SCHOOL
3637 MAGEE AVENUE
OAKLAND, CA 94619
(510) 482-6000

COMMUNITY BANK OF THE BAY
OAKLAND, CA 94612
90-4240-1211

9/17/2007

TO THE ORDER OF ADS **\$**38,000.00**

Thirty-Eight Thousand and 00/100***** DOLLARS

MEMO remodeling bathroom downstairs

AMERICAN INDIAN PUBLIC CHARTER SCHOOL				9/17/2007	480	
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
9/18/2007	Bill		38,000.00	38,000.00		38,000.00
				Check Amount		38,000.00
CBOB CHECKING 2 remodeling bathroom downstairs						38,000.00

AMERICAN INDIAN PUBLIC CHARTER SCHOOL				9/17/2007	4801	
Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
9/18/2007	Bill		38,000.00	38,000.00		38,000.00
				Check Amount		38,000.00

Source: AIMS Response



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

AIMS Checks Signed by the Founder to His Own Companies

306

LUMBEE Properties, LLC
171 12th Street, #4
Oakland, CA 94607
Phone (520) 743-0771

PROPOSAL
Project: American Indian Public Charter School II
171 12th Street
Oakland, CA 94607

This is an outline of proposed work for AIPCS II. We will demolish existing walls for classrooms and offices. Remove all demolition material. Repaint walls with white semi-gloss paint. Locate rebar and tension cables embedded in the concrete slab of floor.

I. Complete new or alternate existing walls with metal studs, sheet rock and smooth texture. Six classrooms will be designed and created to accommodate 20-35 students. The school will be charged for two classes.

1) _____ \$75,000.00

II. Remove all carpet and padding. Replace with 16x16 tile in six classrooms, two offices and center mixed used space. American Indian symbols will be designed in the floor in each room.

2) _____ \$35,000.00

III. Girls bathroom will be remodeled to reflect modern design, energy efficient, replace tile on walls, floor, and paint walls.

3) _____ \$38,000.00

IV. Create at least two rooms that will be used as administrative offices or multi-purpose room.

4) _____ \$47,500.00

Proposed by: _____ Approved by: _____
Lumbee Holdings, LLC Date: 4/2/07 AIPCS Board member Date: 4-22-07

_____ Date: 4-2-07
AIPCS Board member Date

Lumbee Holdings, LLC
171 12th Street #4
Oakland, CA 94607
P(520)743-0771

INVOICE

American Indian Public Charter School II
171 12th Street
Oakland, CA 94607
510)893-8701

Date: 9/7/07 Terms: Due upon Receipt

Date	CHARGES and DESCRIPTION	BALANCE
9/7/07	Description: 171 12 th St. Suite #102 Remodeling the floors of six classrooms and two offices and in center area with 16x16 ceramic tile.	\$35,000.00
TOTAL		\$35,000.00

AIPCS II
25 10TH STREET
OAKLAND, CA 94607

COMMUNITY BANK OF THE BAY
OAKLAND, CA 94612
9/13/2007

Lumbee Holdings
Thirty-Five thousand and 00/100
Lumbee Holdings
MEMO classrooms remodeling
\$35,000.00
DOLLAR

101

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
9/13/2007	Bill		35,000.00	35,000.00		35,000.00
					Check Amount	35,000.00
		CBOB CHECKING 2				35,000.00

101

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
9/13/2007	Bill		35,000.00	35,000.00		35,000.00
					Check Amount	35,000.00
		CBOB CHECKING 2				35,000.00

Source: AIMS Response