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| Board Office Use: Legislative File Info. | |
| File ID Number | 18-1183 |
| Introduction Date | 6-6-2018 |
| Enactment Number | 18-0929 |
| Enactment Date | 6/6/18 os |



OAKLAND UNIFIED
SCHOOL DISTRICT
Community Schools. Thriving Students!

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent and Secretary, Board of Education
Timothy White, Deputy Chief, Facilities Planning and Management

Board Meeting Date June 6, 2018

Subject Independent Contractor (Consultant) Agreement Greater than \$90,200 - Verde Design - Emerson Elementary School Ball Field Project

Action Requested Approval by the Board of Education of an Independent Contractor (Consultant) Agreement Greater than \$90,200 between the District and Verde Design, Santa Clara, CA., for the latter to provide design for a new synthetic softball field, including fencing, chain link fence dugouts, new basketball courts, relocated play structure, volleyball court, playground striping, garden area, underground conduit design, in conjunction with the Emerson Elementary School Ball Field Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing June 7, 2018, and concluding no later than August 21, 2020, in an amount not-to exceed \$198,600.00.

Discussion Design services needed for the design of new synthetic softball field.

LBP (Local Business Participation Percentage) 50.9%

Recommendation Approval by the Board of Education of an Independent Contractor (Consultant) Agreement Greater than \$90,200 between the District and Verde Design, Santa Clara, CA., for the latter to provide design for a new synthetic softball field, including fencing, chain link fence dugouts, new basketball courts, relocated play structure, volleyball court, playground striping, garden area, underground conduit design, in conjunction with the Emerson Elementary School Ball Field Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing June 7, 2018, and concluding no later than August 21, 2020, in an amount not-to exceed \$198,600.00.

Fiscal Impact Fund 21, Measure J

Attachments

- Independent Contractor(Consultant) Agreement including scope of work
- Consultant Proposal
- Certificate of Insurance

2) Please check the competitive bid exception relied upon:

- Educational Materials**
 - Special Services** contracts for financial, economic, accounting, legal or administrative services
 - CUPCCAA Exception** (Uniform Public Construction Cost Accounting Act)
 - Professional Service Agreements** of less than \$90,200 (increases a small amount on January 1 of each year)
 - Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
 - Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternative energy supply sources)
 - Emergency** contracts
 - Technology** contracts
 - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - Western States Contracting Alliance Contracts (WSCA)
 - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
 - "Piggyback" Contracts** with other governmental entities
 - Perishable Food**
 - Sole Source**
 - Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
 - Other, please provide specific exception**
- 3) **Not Applicable - no exception - Project was competitively bid**



OAKLAND UNIFIED
SCHOOL DISTRICT

LOCAL BUSINESS PARTICIPATION WORKSHEET

PRIME: **Verde Design, Inc.**

Project: Emerson Playfields and Playgrounds

Project #:

Estimate:

Bid Opening Date:

Time:

Project Mgr:

Architect:

| |
|-----------------------------------|
| LBU Credit Based on Policy |
| 50.9% |

Based Bid \$ 198,600.00

Verified Local Business Participation Discount 2 pts * \$ 3,972.00

Based Bid W/ LBP Discount \$ 194,628.00

*This firm meets the 50% LBU requirement and receives 2 preference pts/2% bid discount toward its based bid

| | Total Dollar Amount of Work | LBE % | SLB% | SLBR% | COMMENTS: |
|--|-----------------------------|-------|-------|-------|-----------|
| PRIME Company: Verde Design, Inc. | | | | | 1 |
| Address: | \$ - | | | | 2 |
| City/State: | | | | | 3 |
| Phone: () | | | | | 4 |
| | | | | | |
| Company: PLS Surveys | | | | | 1 |
| Address: 2220 Livingston St, Ste 202 | \$ 8,700.00 | | 4.38% | | 2 |
| City/State: Oakland, CA | | | | | 3 |
| Phone: (510) 261-0900 | | | | | 4 |
| | | | | | |
| Company: Terraphase | | | | | 1 |
| Address: 1404 Franklin Street | \$ 11,000.00 | | 5.54% | | 2 |
| City/State: Oakland, CA | | | | | 3 |
| Phone: (510) 645-1850 | | | | | 4 |
| | | | | | |
| Company: Salas O'Brien | | | | | 1 |
| Address: 180 Grand Avenue Ste 1325 | \$ 5,500.00 | 2.77% | | | 2 |
| City/State: Oakland, CA | | | | | 3 |
| Phone: (510) 272-9958 | | | | | 4 |



OAKLAND UNIFIED
SCHOOL DISTRICT

| | Total Dollar Amount of Work | LBE % | SLB% | SLBR% | COMMENTS: |
|----------------------------|-----------------------------------|-------|------|--------|--------------|
| Company: PGA Desgin | | | | | 1 |
| Address: 444 17th Street | \$ 75,900.00 | | | 38.22% | 2 |
| City/State: Oakland, CA | | | | | 3 |
| Phone: (510) 465-1284 | | | | | 4 |
| TOTAL PARTICIPATION | \$ 101,100.00 | 2.8% | 9.9% | 38.2% | 50.9% |

[Handwritten Signature]

APPROVAL- LBU Compliance Officer

**INDEPENDENT CONSULTANT
FOR PROFESSIONAL SERVICES
Greater Than \$90,200**

This Independent Contractor Agreement ("Agreement" or "Contract") is made as of the 4th day of May in the year 2018, between the **Oakland Unified School District** and **Verde Design, Inc.** The District and Consultant may be individually referred to herein as a "Party" or collectively referred to herein as the "Parties."

WHEREAS, the District is authorized to contract with and employ any persons for the furnishing of special and professional services and advice if those persons are specially trained and experienced and competent to perform the services required;

WHEREAS, the District is in need of such services and advice and the Consultant warrants that it is specially trained, licensed and experienced and competent to perform the services required by the District;

WHEREAS, the Consultant agrees to perform the services described in this Agreement in accordance with the standards of its profession, to District's satisfaction, and in accordance with this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Consultant shall furnish to the District the following services, as more fully described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"):

Scope of work to provide design of new synthetic softball field, including fencing, chain link fence dugouts, new basketball courts, relocated play structure, volleyball court, playground striping, garden area, future field lighting underground conduit design and out door space.

2. **Term.** Consultant shall commence providing Services under this Agreement on June 7, 2018, and will diligently perform as required or requested by District as applicable. The term for these Services shall expire on August 21, 2020. This Agreement may be extended upon mutual approval of both parties in writing on an annual basis to the extent permissible under applicable law.
3. **Submittal of Documents.** The Consultant shall not commence the Work under this Contract until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

| | |
|---|--|
| <u> X </u> Signed Agreement | <u> X </u> W-9 Form |
| <u> X </u> Insurance Certificates & Endorsements | <u> X </u> Workers' Compensation Certificate |
| <u> X </u> Debarment Certification | Other: _____ |
| <u> X </u> Fingerprinting/Criminal Background Investigation Certification | |

4. **Compensation.** District agrees to pay the Consultant for Services satisfactorily rendered pursuant to this Agreement, at the rates indicated and as more specifically described in **Exhibit "B,"** on an hourly basis and a per-item basis, as applicable, and up to a **maximum amount not-to-exceed ONE HUNDRED NINETY-EIGHT THOUSAND SIX HUNDRED NO/100 DOLLARS (\$198,600.00)**. District shall pay Consultant only for all undisputed amounts in installment payments within thirty (30) days after the Consultant submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or the portion of the Work for which payment is to be made.
5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing the Work. Expenses will not be charged on this Work above the

Contract #11: Independent Consultant Greater than \$90,200 – OUSD & Verde Design, Inc. – Emerson Ball Field Project - \$198,600.00

6. maximum not-to-exceed amount of the Contract Price. Rates for expenses are included on the Schedule of Fees and Charges attached hereto as **Exhibit "B"**.
7. **Materials.** Consultant shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
8. **Local, Small Local and Small Local Resident Business Enterprise (L/SL/SLRBE) Program:** Consultant shall comply with the requirements of District's L/SL/SLRBE Program, as applicable, which may require a fifty percent (50%) mandatory minimum local participation requirement in the performance of this Agreement. A copy of the District's Local Business Participation Policy can be obtained on the District's website, at www.ousd.k12.ca.us, under District Services, Facilities Planning & Management Department, Bids and Requests for Proposals.
9. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees.
10. **Standard of Care.**
 - 10.1. Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Consultant's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
 - 10.2. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources; and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
 - 10.3. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.
 - 10.4. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.
11. **Originality of Services.** Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
12. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission.

13. Termination.

13.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.

13.2. **Without Cause by Consultant.** Consultant may, upon sixty (60) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

13.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

13.3.1. material violation of this Agreement by the Consultant; or

13.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or

13.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required Services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

13.4. Upon termination, Consultant shall provide the District with all documents produced maintained or collected by Consultant pursuant to this Agreement, whether or not such documents are final or draft documents.

14. **Indemnification.** To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Consultant in conjunction with this Agreement. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

15. Insurance.

15.1. The Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

15.1.1. **Commercial General Liability and Automobile Liability Insurance.**

Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that insure against all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from Consultant's performance of any portion of the Services. (Form CG 0001 and CA 0001)

15.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its

employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

- 15.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Consultant's profession.

| Type of Coverage | Minimum Requirement |
|---|---------------------|
| Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments | |
| Each Occurrence | \$ 1,000,000 |
| General Aggregate | \$ 2,000,000 |
| Automobile Liability Insurance - Any Auto | |
| Each Occurrence | \$ 1,000,000 |
| General Aggregate | \$ 2,000,000 |
| Professional Liability | \$ 1,000,000 |
| Workers Compensation | Statutory Limits |
| Employer's Liability | \$ 1,000,000 |

15.2. **Proof of Carriage of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage's have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

- 15.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
- 15.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
- 15.2.3. An endorsement stating that the District and the State and their representatives, employees, trustees, officers, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District.
- 15.2.4. All policies shall be written on an occurrence form, except for Professional Liability which shall be on a claims-made form.

15.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

16. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.

17. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended

in writing, or this Contract shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

18. **Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.
19. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
20. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
21. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).
22. **Fingerprinting of Employees.** The Consultant shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Consultant shall not permit any employee to have any contact with District pupils until such time as the Consultant has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Consultant's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant. Verification of compliance with this section shall be provided in writing to the District prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student.
23. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any manner which is permissible under the law. The District's evaluation may include, without limitation:
 - 24.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.

24.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).

25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

26. **Disputes:** In the event of a dispute between the parties as to performance of Work, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Consultant shall neither rescind the Agreement nor stop Work.

27. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

28. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

Oakland Unified School District
Facilities Planning & Mangement
955 High Street
Oakland, CA 94601
Tel: 510-535-7038; Fax: 510-535-7082
ATTN: Timothy White

Consultant
Verde Design, Inc.
2455 The Alameda, Suite 200
Santa Clara, Ca 95050
Tel: 408-985-7200
ATTN: Devin Conway

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

29. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

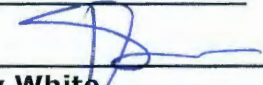
30. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the California county in which the District's administration offices are located.

31. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

32. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

33. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: The District certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>



Timothy White
Deputy Chief of Facilities Planning & Management

5/10/18

→ ~~TAKASHI~~ NAKAJI GAWA FOR

ACCEPTED AND AGREED on the date indicated below:

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Eng 6/7/18
Aimee Eng, President, Board of Education Date

[Signature] 6/7/18
Kyla Johnson-Trammell, Superintendent & Secretary, Board of Education Date

[Signature] 5-16-18
Timothy White, Deputy Chief, Facilities Planning and Management Date

APPROVED AS TO FORM:

[Signature] 5/18/18
OUSD Facilities Legal Counsel Date

CONSULTANT

[Signature] MAY 7, 2018
DEVIN CONWAY, PRINCIPAL Date

Information regarding Consultant:

Consultant: VERDE DESIGN INC

License No.: 109297

Address: 2455 THE ALAMEDA
SANTA CLARA
SUITE 200 CA 95050

Telephone: 408-985-7200

Facsimile: 408-985-7260

E-Mail: devin.verdedesigninc.com

Type of Business Entity:
 Individual
 Sole Proprietorship
 Partnership
 Limited Partnership
 Corporation, State: CA
 Limited Liability Company
 Other: _____

20-8974203
Employer Identification and/or
Social Security Number
NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.



VERDE DESIGN

www.VerdeDesignInc.com

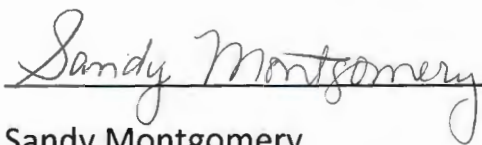
Date: May 07, 2018

Re: Verde Design Inc Authorized Signatories

To whom it may concern:

The employees bearing the title Principal are hereby authorized to sign on behalf of Verde Design Inc.

Sincerely,



Sandy Montgomery
Finance Administration
Verde Design Inc

LANDSCAPE ARCHITECTURE • CIVIL ENGINEERING • SPORT PLANNING & DESIGN

2455 The Alameda
Santa Clara, CA 95050
p: 408.985.7200

1843 Iron Point Road, Suite 140
Folsom, CA 95630
p: 916.415.6554

3558 Round Barn Blvd., Suite 200
Santa Rosa, CA 95403
p: 707.800.4204

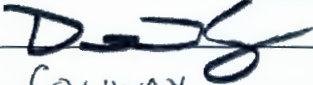
WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.
- b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: MAY 7, 2018
Proper Name of Consultant: VERDE DESIGN INC
Signature: 
Print Name: DEVIN CONWAY
Title: PRINCIPAL

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION**

I am aware of and hereby certify that neither Verde Design, Inc. nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. I further agree that I will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

Where the Consultant or any lower participant is unable to certify to this statement, it shall attach an explanation hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named Consultant on the 7TH day of MAY 2018 for the purposes of submission of this Agreement.

By: 
Signature

DEVIN CONWAY
Typed or Printed Name

PRINCIPAL
Title

CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the Consultant currently under contract ("Contract") with the District; that I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant. Consultant has taken at least one of the following actions with respect to the construction Project that is the subject of the Contract (check all that apply):

_____ Consultant has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Consultant's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

Pursuant to Education Code section 45125.2, Consultant has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Consultant's employees and District pupils at all times; and/or

_____ Pursuant to Education Code section 45125.2, Consultant certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Consultant who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Consultant's employees and its subcontractors' employees is

Name: _____

Title: _____

The Work on the Contract is at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of Contract shall come in contact with the District pupils.

Megan's Law (Sex Offenders). I have verified and will continue to verify that the employees of Consultant that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

Consultant's responsibility for background clearance extends to all of its employees, Subcontractors, and employees of Subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Consultant.

Date: MAY 7, 2018

Proper Name of Consultant: VERDE DESIGN INC

Signature: 

Print Name: DEVIN CONWAY

Title: PRINCIPAL

EXHIBIT "A"
Scope of Services

Consultant shall perform the following Services:

To provide design of new synthetic softball field, including fencing, chain link fence dugouts, new basketball courts, relocated play structure, volleyball court, playground striping, garden area, future field lighting underground conduit design and out door space. (As stated in attached Proposal)

Client#: 14483

VERDEDESI

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/07/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER: Dealey, Renton & Associates... CONTACT NAME: Doris A. Chambers... INSURER(S) AFFORDING COVERAGE: Travelers Casualty & Surety Co. NAIC #: 31194

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL SUBR INSR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes rows for Commercial General Liability, Automobile Liability, Umbrella Liab, Workers Compensation, and Professional Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) REF: EMERSON FIELD.

CERTIFICATE HOLDER: Oakland Unified School District... CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF...

**Oakland Unified School District
Department of Facilities Planning and Management
955 High Street Oakland CA 94601**

REQUEST FOR QUALIFICATIONS AND PROPOSALS (RFQ/P) #011-1718

**Design Services for Outdoor Sports Fields and Athletic Facilities
at Castlemont High School and Various School Sites**

April 11, 2018 (Issued)

The Oakland Unified School District ("District") is requesting proposals from experienced design firms, partnerships, corporations, associations, persons or professional organizations ("Design Consultants") to provide professional services associated with the design of outdoor sports fields and renovations to other athletic facilities.

Interested firms are invited to submit a completed Statement of Qualifications ("SOQ") along with the Proposal (collectively "RFQ/P Packet") as described below, with one (1) unbound original, five (5) bound copies and a PDF version on a flash drive of requested materials to:

Oakland Unified School District
Tadashi Nakadegawa, Director
Department of Facilities Planning and Management
955 High Street, Oakland, CA 94601

All Statements of Qualifications and Proposals must be received on or before May 3, 2018, no later than 4:00 p.m. Oral, telegraphic, facsimile, telephone or email RFQ/P Packets will not be accepted. RFQ/P Packets received after this date and time will not be accepted and returned unopened. The District reserves the right to waive any informalities or irregularities in the RFQ/P Packets. The District also reserves the right to reject any and all RFQ/P Packets and to negotiate contract terms with one or more Respondents.

If you have any questions regarding this RFQ/P please email Colland Jang, Design Manager at colland.jang@ousd.org, and cc: to David Colbert, Facilities Coordinator at david.colbert2@ousd.org.

LOCAL, SMALL LOCAL AND SMALL LOCAL RESIDENT BUSINESS ENTERPRISE PROGRAM The Local Business Utilization Policy requires that there is a mandatory fifty percent (50%) LBU participation with a 25% or less Local Business (LBE) participation and a 25% or more Small Local or Small Local Resident Business (SLBE/SLRBE) participation for all capital program/construction-related contracts and professional services agreements. The full version of OUSD's latest Local, Small Local and Small Local Resident Business Enterprise Program can be found by going to the OUSD home page: ousd.org > Offices > Facilities Planning & Management Department > For Contractors and Developers > Bids and Requests for Proposals > Bid Information > 2014 Amendment to Local Business Participation Policy.

Schedule of Activities

Listed below is the "Schedule of Activities" which outlines pertinent dates of which firms responding to this solicitation should make themselves aware.

| DATE | ACTIVITY |
|----------------|--|
| April 11, 2018 | RFQ/P #011-1718 Issued. |
| April 19, 2018 | Non-Mandatory Pre-Proposal Meeting at Facilities Planning & Management. 1 p.m. to 2 p.m. |
| April 25, 2018 | Written requests for Interpretation, Correction or Modification are due. |
| April 27, 2018 | District will respond to requests for clarification. |
| May 3, 2018 | Proposals Due by 4:00 p.m. |
| TBD | Announcement of Short List for Interviews (for Castlemont High School Project) and/or inclusion to the Pre-qualified List. |
| TBD | Notice of Intent to award (for Castlemont High School Project). |
| TBD | Board meeting – tentative approval of Contract (for Castlemont High School Project). |
| TBD | Tentative Notice to Proceed issued to Consultant (for Castlemont High School Project). |

ESTIMATED CONSTRUCTION BUDGET: \$3.5 Million for Castlemont High School Project

PROJECT DURATION: TBD for Castlemont High School Project

REQUEST FOR QUALIFICATIONS & PROPOSALS

The purpose of this RFQ/P is solicit fee proposals from design firms for the Castlemont High School Project and to create a pre-qualified "pool" of firms in which the District would for future projects solicit fee proposals through the District's informal procurement process.

A. PROJECT DESCRIPTIONS

1. An upcoming project includes sports facility improvements to Castlemont High School. Project scope would include stadium improvements consisting of replacing the synthetic turf field with a new synthetic turf field, re-surfacing the existing track, replacing the existing stadium bleachers and press box, and providing accessibility improvements to the stadium restrooms as required by DSA, etc. Gymnasium improvements shall consist of replacing the existing bleachers with a motorized bleacher, and providing minor accessibility improvements to restroom toilet accessories as required by DSA. See Attachments for Reference Drawings.
2. Sports Fields at Middle Schools, High Schools and potentially Elementary Schools include fields for soccer, baseball, softball, football, track and field. The District may also require design services for improvements to swimming pools, basketball courts, weight rooms, dance/step/gymnastics rooms, etc.
3. As an example of recently completed playfields, the District had replaced asphalt concrete paving and grass fields with synthetic turf. The typical scope of work included base preparation, drainage, related site work and benches. The replacement at sports fields with synthetic turf was to enable the better use of those facilities on a year-round basis. The District also intends to expand at select sites the use at night with field lighting.
4. Future work at some sites will require installation of natural grass.

B. BASIC SERVICES

Design Consultant agrees to provide the Services described below:

1. Design Consultant shall be responsible for the professional quality and technical accuracy of all designs, drawings, specifications and other services furnished by Design Consultant under the Agreement as well as design and existing conditions coordination. Design Consultant shall, without additional compensation, correct or revise any errors or omissions in its design, drawings, specifications and other Services.
2. Design Consultant will use all due care and diligence to confirm that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and publishes any potentially relevant information that could, in any way, have an impact on a Contractor's cost of performance. Design Consultant shall advise the District of the most effective methods of identifying and securing such information as part of each stage of design. Design Consultant shall track for District's benefit all such suggested and disclosed information.
3. **District Standards.** Design Consultant shall incorporate into its work and the work of all Consultants the District standards for facilities and construction at such time as they are adopted.

4. **Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the District's request, the Design Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. Design Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation ("Mandatory Assistance").

C. GENERAL STATEMENT OF WORK:

It is anticipated that the typical scope of services for a sports field project will include the following:

Project Start-up / Program Validation / Concept Design

1. Attend a project kick-off meeting with the District and confirm project intent, scope, budget and schedule.
2. Participate in setting up project coordination utilizing the District's electronic document management system, eaDocs.
3. Review all data provided by the District including, but not limited to, topographic and utility surveys, site maps, geotechnical reports, design and/or as-built drawings, and historical data.
4. Conduct site visits to verify and document existing conditions.
5. Prepare and establish the electronic base for developing the proposed improvements.
6. Attend and facilitate a project meeting with the District to review the initial field designs and construction cost budgets. The agenda for the meeting would be to review collected utility information, geotechnical findings and their relationship to the proposed field designs.
7. Refine the concept designs for the project site(s) based on the input received at the meeting with the District.
8. Develop two (2) dimensional colored design options for each project site.
9. Attend up to six (6) community meetings per site to present and discuss the project.
10. Prior to proceeding to Design Development, meet with District staff and submit electronic copies of the Final Conceptual Designs and aligned Construction Cost Budgets for District review and approval.

Design Development Phase

Documentation at Design Development shall be at an approximate 50% Construction Documentation level. Submittal to the District shall consist of, but not limited to, the following:

1. Demolition Plan
2. Grading Layout
3. Drainage and Utilities Layout
4. Material Selections and Layout
5. Planting Selections and Irrigation Layout
6. Preliminary Construction Details
7. Preliminary Construction Cost Estimate

Prior to proceeding to Construction Documentation, meet with District staff and submit electronic copies of the Final Design Development Documents and aligned Construction Cost Budget for District review and approval.

Construction Documentation Phase

Prior to the 100% Construction Document/DSA Submittal Set, the CD package shall be developed to a 95% level. The 95% CD set submitted to the District shall consist of, but not limited to, the following:

1. Cover Sheet with Project and Code Information
2. Existing Conditions and Demolition Plan
3. Accessibility Plan
4. Erosion and Sedimentation Control Plan
5. Grading Plan
6. Drainage and Utility Plan
7. Layout Plan
8. Material Selections Plan
9. Construction Details
10. Technical Specifications (in CSI format)
11. Statement of Probable Construction Costs

The following services shall be included during the Construction Document Phase:

1. Provide Final Internal Redline and Review Quality Control.
2. Prior to the 100% Construction Document/DSA Submittal Set, attend one meeting with District to review the 95% CD package and 95% Construction Cost Estimate. Receive comments and written authorization from the District to finalize set.
3. Coordinate the District's front end documents with the technical sections.
4. Prepare and submit 100% CD/DSA plan check package and applications to DSA.
5. Prepare revisions to drawings and specifications in response to DSA plan check comments. Coordinate and attend back check appointment(s) at DSA to secure project approval. Deliver approved DSA package to the District for construction procurement purposes.

Bidding Assistance

The Design Consultant shall assist the District with the following:

1. Contact potential bidders on behalf of the District.
2. Attend a pre-bid conference and site walk with prospective bidders.
3. Assist the District in responding to bidder questions with the preparation of Addendum(s).
4. Assist the District in evaluating the Bids.

Construction Administration

The following services shall be included during the Construction Document Phase:

1. Attend one pre-construction coordination meeting.
2. Review shop drawings and submittals for conformance to design intent.
3. Review substitution requests and provide recommendations to the District.
4. Attend at least ten (10) construction meetings typically held weekly. Produce meeting minutes for distribution.
5. Respond to requests for information (RFIs).
6. Assist the District in reviewing Proposed Change Orders and Change Orders.
7. Monitor Logs for status of RFIs, PCOs, Bulletins and Submittals in the District's electronic document management system, eaDocs, and taking appropriate action(s).
8. Review, Recommend and Approve Pay Requests.
9. Attend one Punch List site walk when Contractor is substantially complete and generate Punch List documentation for distribution.

Project Closeout

The following services shall be included during the Project Closeout Phase:

1. Review warranties and M&O documentation.
2. Review As-Built documents prepared by the Contractor.
3. Prepare DSA Closeout Documentation and submit to the District's Closeout Specialist.
4. Attend one site visit ten months into the twelve month project guarantee period to review project conditions. Identify potential warranty issues and submit written report to District.

D. FULL OPPORTUNITY

The District hereby affirmatively ensures that Disadvantaged Business Enterprises ("DBE"), Small Local Business Enterprise ("SLBE"), Small Emerging Local Business Enterprise ("SELBE") and Disabled Veterans Business Enterprise ("DVBE") firms shall be afforded full opportunity to submit qualifications in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, disability, gender, transgender status, political affiliation, or religion in any consideration leading to the award of contract. No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination in any consideration leading to the award.

E. LIMITATIONS

This RFQ/P is not an offer by the District to contract with any party responding to this RFQ/P. The District reserves the right to add additional prequalified Respondents for consideration after distribution of this RFQ/P if it is found to be in the best interest of the District. All decisions concerning the selection will be made in the best interests of the District. The awarding of the contract_pursuant to this RFQ/P, if at all, is at the sole discretion of the District.

The District makes no representation that participation in the RFQ/P process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing any RFQ/P Packet in response to this RFQ/P. RFQ/P Packets and any other supporting materials submitted to the District in response to this RFQ/P will not be returned and will become the property of the District unless portions of the materials are designated as proprietary at the time of submittal, and are specifically requested to be returned. Vague designations and/or blanket statements regarding entire pages or documents are insufficient and will not bind the District to protect the designated matter from disclosure. Pursuant to *Michaelis, Montanari, & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, RFQ/P Packets shall be held confidential by the District and shall not be subject to disclosure under the California Public Records Act until after either: (1) the District and the successful Respondent have completed negotiations and entered into an Agreement, or (2) the District has rejected all Proposals. Furthermore, the District will have no liability to the Respondent or other party as a result of any public disclosure of any RFQ/P Packet.

F. RESTRICTIONS ON LOBBYING AND CONTACTS

From the period beginning on the date of the issuance of this RFQ/P and ending on the date of the award of the contract, no person, or entity submitting in response to this RFQ/P, nor any officer, employee, representative, agent, or consultant representing such a person or

entity shall contact through any means or engage in any discussion regarding this RFQ/P, the evaluation or selection process/or the award of the contract with any member of the District, Governing Board, selection members, or any member of the Citizens' Oversight Committee. Any such contact shall be grounds for the disqualification of the Respondent submitting a RFQ/P Packet.

G. STATEMENT OF QUALIFICATIONS

1. General Information / Instructions - Statement of Qualifications

- 1.1.** The District is inviting Statements of Qualifications for the "Project" which shall require coordination, administration, consulting and advice, and related services.
- 1.2.** The District seeks to identify teams with a record of excellence in efficient planning and project delivery. The firms must have extensive experience in the preparation of Sports Fields and Athletic Facilities.
- 1.3.** The Statement of Qualifications must contain all requested information about the firm and must be on no larger than 8 1/2 x 11 paper and no more than fifteen (15) printed pages in length. Statement of Qualifications should be complete and prepared to provide an insightful, straightforward, and concise overview of the capabilities of firm.

2. Content - Statement of Qualifications

- 2.1. Letter of Interest** - A dated Letter of Interest must be submitted, including the legal name of the firm(s), address, telephone and fax numbers, and the name, title, and signature of the person(s) authorized to submit the Statement of Qualifications on behalf of the firm. The Letter of Interest should provide a brief statement of firm's experience indicating the unique background and qualities of the firm, its personnel, and its sub-consultants, and what will make the firm a good fit for work in the District. The letter shall also include the following statements:

"[RESPONDENT'S NAME] received a copy of the District's Agreement attached as **EXHIBIT A** to the RFQ/P. [RESPONDENT'S NAME] has reviewed the indemnity provisions in **EXHIBIT A** and insurance requirements contained in the Agreement. If given the opportunity to contract with the District, [RESPONDENT'S NAME] has no objections to the use of the Agreement."

Respondent shall certify that no official or employee of the District, nor any business entity in which an official of the District has an interest, has been employed or retained to solicit or assist in the procuring of the resulting contract(s), nor that any such person will be employed in the performance of any/all contract(s) without immediate divulgence of this fact to the District.

- 2.2. Table of Contents** - A table of contents of the material contained in the Statement of Qualifications should follow the Letter of Interest.
- 2.3. Executive Summary** - The Executive Summary should contain an outline of firm's approach, along with a brief summary of firm's qualifications. Firms

interested in being considered for the Castlemont High School Project shall clearly indicate that interest and provide a detailed fee proposal.

Narrative - Provide a comprehensive narrative of the services offered by firm. The narrative should include all of the following:

2.4. Firm Information

- 2.4.1.** Provide a brief history of firm, team firms, and, if a joint venture, of each participating firm. Identify legal form, ownership, and senior officials of company(ies). Describe number of years in business and types of business conducted.
- 2.4.2.** Describe firm's philosophy and how it will work with District administration officials, community partners and district facilities staff.
- 2.4.3.** Describe firm's experience developing projects within a political environment including facilitation of community involvement.
- 2.4.4.** Discuss the firm's/team's ability to meet schedules for comparable projects, firm's schedule management procedures, and how the firm has successfully handled potential agency approval delays.
- 2.4.5.** Identify K-12 projects performed by firm in the past three (3) years. Limit response to no more than the twenty (20) most recent projects. Please include the following information for each project:
 - 2.4.5.1.** Name of project and district,
 - 2.4.5.2.** Scope of projects, description of services provided,
 - 2.4.5.3.** Contact person and telephone number at district,
 - 2.4.5.4.** Firm person in charge of each project,
 - 2.4.5.5.** Construction dollar value of each project,
 - 2.4.5.6.** All litigation arising from the project, if any. State the issues in the litigation, the status of litigation, names of parties, and outcome.

2.5. Additional Data - Provide additional information about the firm as it may relate to the Statement of Qualifications. Include letters of reference or testimonials. Indicate ongoing commitment to professional education of staff, total number of permanent employees, and any other data that may assist the District in understanding firm's qualifications and expertise. This additional data shall be in an Appendix and will not be counted in the fifteen page SOQ limit.

2.6. Professional Fees

Firms interested in being considered for the Castlemont High School Project shall clearly indicate that interest and provide a detailed fee proposal.

For information only purposes, the District is requesting a fee range for comparable K-12 outdoor sports field projects the Consultant has completed.

Provide a detailed schedule of the Consultant's hourly billing rates and a breakdown of associated costs for all tasks proposed (including contingency costs)

per task).

3. Local, Small Local and Small Local Resident Business Enterprise Program

The basic Local Business Utilization Policy requires that there is a mandatory fifty percent (50%) LBU participation with a 25% or less Local Business (LBE) participation and a 25% or more Small Local or Small Local Resident Business (SLBE/SLRBE) participation. Submit a detailed description of the team's L/SL/SLRBE composition clearly indicating the name of the firms and percentages of participation on the following form ("Local Business Participation Worksheet").

LOCAL BUSINESS PARTICIPATION WORKSHEET

Prime Consultant:
 RFQ/P: Sports Field Designers
 Date:

| Team Member | Projected Percent of Total Fee Per Team Member | LBE % | SLBB % | SLBR % | City of Oakland Certification Number |
|--|--|-------|--------|--------|--------------------------------------|
| Prime Company: Address: Phone: Email: | | | | | |
| Company: Address: Phone: Email: | | | | | |
| Company: Address: Phone: Email: | | | | | |
| Company: Address: Phone: Email: | | | | | |
| Company: Address: Phone: Email: | | | | | |
| Company: Address: Phone: Email: | | | | | |
| TOTAL PARTICIPATION | | | | | |

Approval – LBU Compliance Officer

f

H. District's Evaluation / Selection Process – Statement of Qualifications

- 1.** Submittals will be reviewed for responsiveness and evaluated pursuant to established objective criteria, with particular attention to, without limitation, each respondent's qualifications, demonstrated competence in like construction, and the Firm's ability to integrate its personnel with the District's staff and consultants.
- 2.** After the submittals are evaluated and/or ranked, the District, at its sole discretion, may elect to interview the top Firm(s). The District may elect to interview one or more Firms. Interviews are tentatively scheduled as indicated above. Any firm(s) selected for interviews must make available for interview the key personnel it intends to assign to the District's Project(s). Any comments or objections to the form of Agreement attached hereto as **EXHIBIT A** to this RFQ/P shall be provided in writing before the interview and may be the subject of inquiry at the interview. Any comments or objections to the form of Agreement not provided in writing before the interview will not be entertained by the District. Adequate time will be allowed for presentation of qualifications followed by questions and answers. Firms will then be selected and placed in a pre-qualified "pool" for future projects.
- 3. District Investigations -** The District may check references, and may perform investigations of firm that extend beyond the information in the proposals. The District may conduct interviews of firms.

I. Final Determination And Award

The District reserves the right to contract with any entity responding to this RFQ/P, to reject any proposal as non-responsive, and not to contract with any firm for the services described herein. The District reserves the right to seek proposals from or to contract with any firm not participating in this process. The District reserves the right to reject any or all submissions, to request further information, to negotiate with any firm, to extend the submission deadline, or to amend or cancel in part or in its entirety this RFQ/P. This RFQ/P does not commit the District to award a contract or to reimburse any firm for costs incurred in submitting a proposal.

The awarding of contract(s) is at the sole discretion of the District. The District may, at its option, determine to award contracts only for portions of the scope of work. In such case, the successful proposing firm will be given the option not to agree to enter into the Agreement and the District will retain the right to negotiate with any other proposing firm selected as a finalist. If no finalist is willing to enter into a contract for the reduced scope of work, the District will retain the right to enter into negotiations with any other Respondent responding to this RFQ/P.

The RFQ/P packet, and any other supporting materials submitted to the District in response to this RFQ/P will not be returned and will become the property of the District unless portions of the materials are designated as proprietary at the time of submittal, and are specifically requested to be returned. This RFQ/P does not commit the District to negotiate an agreement with any proposing firm or individual.

END OF RFQ/P

Oakland Unified School District
Facilities Planning and Management

RFQ/P PRE-PROPOSAL MEETING - SIGN IN SHEET

| | |
|---|---|
| Project: RFQ/P for Sports Field Designers (Castlemont HS and As-Needed Pool) | Meeting Date: April 19, 2018 (1pm) |
| Facilities Coordinator: David Colbert | Place/Room: B & G Conference Room |

| Name | Company | Address | AOR/Cons | Phone | Fax | E-Mail |
|--------------------------|-------------------------|--|----------|--------------|-----|-----------------------------|
| David Colbert | OUSD | 955 High Street, Oakland California 94601 | | | | david.colbert2@ousd.org |
| Colland Jang | OUSD | 955 High Street, Oakland California 94601 | | | | colland.jang@ousd.org |
| Al Anderson | OUSD | 955 High Street, Oakland California 94601 | | | | al.anderson@ousd.org |
| CARY, HERRERO | VERVE DESIGN | 2455 THE ALAMEDA SANITA CLARA, CA 95050 | | 408 923 3428 | | CARY@VERVEDESIGNINC.COM |
| NATHAN HERRERO | SVA ARCHITECTS | 2335 BROADWAY SUITE 301 OAKLAND, CA | AOR | 510.267.3180 | | nherrero@sva-architects.com |
| Louise McGinnis BARBER | CALICHI DESIGN GROUP | 3240 PERALTA ST. #3 OAKLAND, CA | SLBE | 510-768-7057 | | Louise@calichi.com |
| Karen Krolewski | PGAdesign | 444 17th street Oakland, CA | | 510-292-5540 | | krolewski@pgadesign.com |
| Denise Youmans | LCA Architects | 1901 Broadway #800 Oakland 94612 | | 925-808-9661 | | dyoumans@lca-architects.com |
| John Nelson | morakami/Nelson | 100 Filbert St. Oakland | | 510.444.7759 | | jnelson@morakami-nelson.com |
| Kendall Young | KYA | 720 York St S.F. | | 415-552-1118 | | Kendall@kyaarch.com |
| Craig Yancubis | " | " | | " | | craig@kya.arch.com |
| Daniel Pho | KYA | " | | " | | daniel@kyaarch.com |

Oakland Unified School District
Facilities Planning and Management

RFQ/P PRE-PROPOSAL MEETING - SIGN IN SHEET

Project: RFQ/P for Sports Field Designers (Castlemont HS and As-Needed Pool)

Meeting Date: April 19, 2018 (1pm)

Facilities Coordinator: David Colbert

Place/Room: B & G Conference Room

| Name | Company | Address | AOR/ Cons | Phone | Fax | E-Mail |
|--------------------------------------|---------------------------------|---|--------------|-----------------|------------------|--|
| FRAN FULLER | LANDSCAPE NUVIS ARCHITECTURE | 2430 CAMINO RAMON #305, SAN RAMON CA | | 925 242 0555 | | ffuller@nuvis.net |
| Arthnie Manlangit | LBCE Civil Engineer | 1939 Hamilton Street Oakland CA | | | | manlangit@coffman.com |
| Shonnell Frost-Gibbs | 360 Total Concept | | LBCE | 510.836.0360 | | shonnell@360tcpr.com |
| Steve Parker | Dougherty | 1924 Franklin St 900 TOR Oakland | | 510 496 8449 | | stevp@dougherty.com |
| PENN PHILLIPS & MARGUERITE GRAHAM | INSIDE OUT DESIGN | 6000 Harwood Ave. Oakland | | 510.655 7674 | *Oakland SLBE | penn@aboutinsidedit.com marguerite@aboutinsidedit.com |
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| | | | | | | |



Arthnie Manlangit

Business Development Specialist

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President

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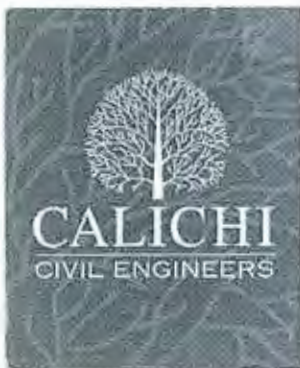
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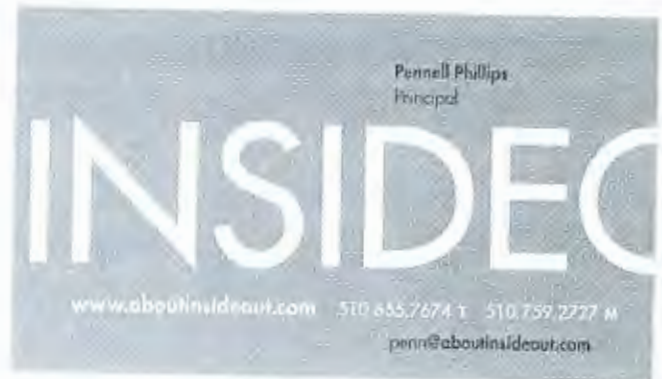


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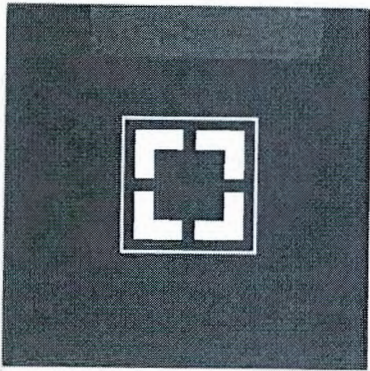
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AGREEMENT FOR PROFESSIONAL SERVICES

OAKLAND UNIFIED SCHOOL DISTRICT

WITH

FOR

**CASTLEMONT HIGH SCHOOL – PLAYING FIELD, ADA RESTROOM
IMPROVEMENTS, STADIUM AND GYMNASIUM BLEACHERS**

PROJECT #17115

_____, 2018

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AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services is made as of _____, 2017, between the Oakland Unified School District, a California public school district, ("District") and _____ ("Consultant") (collectively "Parties"), for the following project ("Project"):

Stadium improvements shall consist of replacing the existing synthetic turf field with a new synthetic turf field, re-surfacing the existing track, replacing the existing stadium bleachers and press box, and installing accessibility improvements to the stadium restrooms, etc. as required by DSA. Gymnasium improvements shall consist of replacing the existing bleachers with a motorized bleacher, and installing minor accessibility improvements to restroom toilet accessories as required by DSA.

For and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

Article 1. Definitions

- 1.1. In addition to the definitions above, the following definitions of words or phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1. **Agreement:** The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2. **As-Built Drawings ("As-Built"):** Any document prepared and submitted by District Contractor(s) that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by Construction Change Documents and change orders, and detailed by the District's construction contractor(s) on a Conforming Set.
 - 1.1.3. **Bid Set:** The plans, drawings, and specifications at the end of the Construction Documents Phase that the Division of the State Architect ("DSA") has approved and that the District can use to go out to bid for construction of the Project.
 - 1.1.4. **Conforming Set:** The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase. The Consultant shall ensure that DSA has approved all revisions to the Bid Set that are incorporated onto the Conforming Set and for which DSA approval is required.
 - 1.1.5. **Construction Budget:** The total amount of funds indicated by the District for the entire Project plus all other

costs, including design, construction, administration, and financing.

- 1.1.6. **Construction Change Documents ("CCD")**: The documentation of changes to the DSA-approved construction documents.
- 1.1.7. **Construction Cost Budget**: The total cost to District of all elements of the Project designed or specified by the Consultant, as adjusted at the end of each design phase in accordance with this Agreement. The Construction Cost Budget does not include the compensation of the Consultant and the Sub-consultants, the cost of land, rights-of-way, financing or other costs which are the responsibility of the District, including construction management.
- 1.1.8. **Construction Manager**: The District's representative on the Project if the District retains a construction manager, project manager, or owner's representative.
- 1.1.9. **Consultant**: The Consultant identified in the first paragraph of this Agreement, including all Sub-consultants to the Consultant. The term Consultant means the Design Professional in General Responsible Charge on this Project.
- 1.1.10. **Contractor**: One or more licensed contractors under contract with the District for construction of all or a portion of the Project.
- 1.1.11. **District**: The Oakland Unified School District.
- 1.1.12. **DSA**: The Division of the State Architect.
- 1.1.13. **Extra Services**: District-authorized services outside of the scope in **Exhibit "A"** or District-authorized reimbursables not included in Consultant's Fee.
- 1.1.14. **Laboratory of Record**: The District-designated laboratory(ies) for testing of concrete, soils, materials, and other required testing.
- 1.1.15. **Project**: Stadium improvements shall consist of replacing the existing synthetic turf field with a new synthetic turf field, re-surfacing the existing track, replacing the existing stadium bleachers and press box, and installing accessibility improvements to the stadium restrooms, etc. as required by DSA. Gymnasium improvements shall include a nobleacher, and installing minor accessibility improvements to restroom toilet accessories as required by DSA.

- 1.1.16. **Project Budget:** The total amount indicated by the District for the entire Project plus all other costs, including design, construction, administration, financing, and all other costs.
- 1.1.17. **Record Drawings:** A final set of drawings prepared by the Consultant that incorporates all changes from all As-Builts, sketches, details, and clarifications.
- 1.1.18. **Service(s):** All labor, materials, supervision, services, tasks, and work that the Consultant is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.
- 1.1.19. **Sub-consultant(s):** Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Consultant.
- 1.1.20. **Visually Verify:** To verify to the fullest extent possible by physical inspection and reasonable investigation and without any destructive action.

Article 2. Scope, Responsibilities, and Services of Consultant

- 2.1. Consultant shall render the Services described in **Exhibit "A,"** commencing with receipt of a written Notice to Proceed signed by the District representative. Consultant's Services will be completed in accordance with the schedule attached as **Exhibit "C."**
- 2.2. Consultant shall provide Services that shall comply with professional design standards, including the standard of care applicable to Consultants designing public school facilities and applicable requirements of federal, state, and local law, including, but not limited to, the requirements of the California Business and Professions Code, the California Education Code, and the California Code of Regulations. All persons providing professional services hereunder shall be properly licensed as required by California law.
- 2.3. The District intends to award the Project to Contractor(s) pursuant to a competitive bid process. District reserves its right to use alternative delivery methods and the Consultant's scope of work may be adjusted accordingly.
- 2.4. Consultant acknowledges that all California public school districts are obligated to develop and implement the following storm water requirements, and Consultant shall provide the design for the same, without limitation:
 - 2.4.1. A municipal Separate Storm Sewer System ("MS4"). An MS4 is a system of conveyances used to collect and/or convey storm water, including, without limitation, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

2.4.2. A Storm Water Pollution Prevention Plan ("SWPPP") that contains specific best management practices ("BMPs") and establishes numeric effluent limitations at:

2.4.2.1. Sites where the District engages in maintenance (e.g., fueling, cleaning, repairing) of transportation activities.

2.4.2.2. Construction sites where:

2.4.2.2.1. one (1) or more acres of soil will be disturbed, or

2.4.2.2.2. the project is part of a larger common plan of development that disturbs one (1) or more acres of soil.

2.4.3. Consultant shall conform its design work to the District's storm water requirements indicated above, that are approved by the District and applicable to the Project, at no additional cost to the District. In addition, as required, Consultant shall develop a grading and drainage plan and a site plan from design information showing a final development of the site. This drawing will also include a horizontal and vertical control plan and a utility infrastructure plan. The Services described in this subparagraph shall be provided by a professional civil engineer who contracts with or is an employee of the Consultant.

2.5. Consultant shall contract for or employ at Consultant's expense, Sub-consultant(s) to the extent deemed necessary for completion of the Project including, but not limited to: architects; mechanical, electrical, structural and civil engineers; landscapers; and interior designers, licensed as such by the State of California as part of the Basic Services under this Agreement. The names of Sub-consultant(s) shall be submitted to the District for approval prior to commencement of Services, as indicated below. The District reserves the right to reject Consultant's use of any particular Sub-consultant. Nothing in the foregoing procedure shall create any contractual relationship between the District and any Sub-consultant employed by the Consultant under terms of the Agreement. Consultant shall require each of the Sub-consultants retained by it to execute agreements with standard of care and indemnity provisions commensurate with this Agreement, but Consultant shall remain solely responsible and liable to District for all matters covered by this Agreement.

2.6. Consultant shall coordinate with District personnel or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work related to the Project. This shall include, without limitation, coordination with State labor compliance, if any. If the Consultant employs Sub-consultant(s), the Consultant shall ensure that its contract(s) with its Sub-consultant(s)

include language notifying the Sub-consultant(s) of State labor compliance, if any.

2.7. Consultant shall identify the regulatory agencies that have jurisdiction over essential building and design elements and coordinate with and implement the requirements of the regulatory agencies, including, without limitation, the California Department of Education, the Office of Public School Construction, the Department of General Services, DSA, including DSA Fire/Life Safety, DSA Access Compliance Section, DSA Structural Safety Section, the State Fire Marshal and any regulatory office or agency that has authority for review and supervision of school district construction projects.

2.7.1. If the Project is subject to DSA jurisdiction, then Consultant, and its Sub-consultants, if any, shall comply with all the DSA requirements, including without limitation, all the requirements included and/or referenced in the following forms:

2.7.2.1. Form DSA IR A-6, Construction Change Document Submittal and Approval Process.

2.7.2.2. Form DSA IR A-18: Use of Construction Documents Prepared by Other Professionals.

2.7.2.3. Form DSA IR A-24, Construction Phase Duties of the School District, Contractor and Design Professional.

2.7.2.4. Form DSA PR 07-01: Pre-Check Approval Process.

2.7.2.5. Form DSA PR 07-02: Over-The-Counter Review of Projects Using Pre-Check Approved Design.

2.7.2.6. Form DSA PR 13-01, Construction Oversight Process Procedure.

2.7.1.6.1. Each of Consultant's duties as provided in the Construction Oversight Process Procedure shall be performed timely so as not to result in any delay to the Project.

2.7.2.7. Form DSA PR 13-02, Project Certification Process.

2.8. Consultant shall provide Services as required to obtain any local, state and/or federal agencies' approval for on-site and off-site work related to the Project including review by regulatory agencies having jurisdiction over the Project.

2.9. Consultant shall direct and monitor the work of the District's DSA project inspector(s) ("Project Inspector(s)") and the Laboratory of Record. Consultant shall provide code required supervision of special inspectors not provided by the Laboratory of Record.

- 2.10. Consultant shall give efficient supervision to Services, using its best skill and attention. Consultant shall carefully study and compare all contract documents, drawings, specifications, and other instructions ("Contract Documents") and shall at once report to District, Construction Manager, and Contractor, any error, inconsistency, or omission that Consultant or its employees may discover, in writing, with a copy to District's Project Inspector(s). Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.
- 2.11. Consultant recognizes that the District may obtain the services of a Construction Manager and that Consultant may have to assume certain coordination and management responsibilities, including tracking Requests for Information ("RFI"), providing RFI responses, and leading all coordination meetings between the District, Project Inspectors, and Contractors on the Project. The District reserves the right to retain the services of a Construction Manager at any time. The Construction Manager, if any, shall be authorized to give Consultant Services authorizations and issue written approvals and notices to proceed on behalf of District. The District reserves the right to designate a different Construction Manager at any time. Any task, including, but not limited to, reviews or approvals that the District may perform pursuant to this Agreement may be performed by the Construction Manager, unless that task indicates it shall be performed by the Governing Board of the District. In addition, the District may have a constructability review of Consultant's design documents. Consultant shall conform any design documents to the constructability review as part of the Services under this Agreement and shall not be entitled to any compensation as Extra Services for this activity.
- 2.12. Consultant shall provide computer-generated pictures downloaded to computer files, updated as requested by the District, that the District may use on its website.
- 2.13. As part of the basic Services pursuant to this Agreement, Consultant is not responsible for:
 - 2.13.1. Ground contamination or hazardous material analysis.
 - 2.13.2. Any asbestos and/or lead testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
 - 2.13.3. Compliance with the California Environmental Quality Act ("CEQA"), except that Consultant agrees to coordinate its work with that of any CEQA consultants retained by the District, to provide current elevations and schematic drawings for use in CEQA compliance documents, and to incorporate any mitigation measures adopted by the District into the Project design at no additional cost to the District.
 - 2.13.4. Historical significance report.

2.13.5. Soils investigation.

2.13.6. Geotechnical hazard report, except as indicated in **Exhibit "A."**

Article 3. Consultant Staff

3.1. The Consultant has been selected to perform the Services herein because of the skills and expertise of key individuals.

3.2. The Consultant agrees that the following key people in Consultant's firm shall be associated with the Project in the following capacities:

Principal In Charge: _____

Project Director: _____

Project Manager(s): _____

Project Designer(s): _____

Other: _____

Major Sub-consultants:

Electrical: _____

Mechanical: _____

Structural: _____

Civil: _____

Other: _____

3.3. Consultant shall not change any of the key personnel listed above without prior written approval by the District, unless said personnel cease to be employed by Consultant. In either case, the District shall be allowed to interview and approve replacement personnel.

3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice Consultant shall have five (5) calendar days to remove that person from the Project and replace that person with one acceptable to the District. All lead or key personnel for any Sub-consultant must also be designated by the Sub-consultant and are subject to all conditions stated in this paragraph.

3.5. Consultant represents that Consultant has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of Services required under this Agreement and that no person having any such interest shall be employed by Consultant.

- 3.6. Consultant shall comply with Education Code section 17302(a) and agrees that any plans and/or specifications included in the Services shall be prepared under the supervision of licensed personnel, and that licensed personnel shall be in "responsible charge" of persons who observe the construction.

Article 4. Schedule of Services

Consultant shall commence Services under this Agreement upon receipt of a written Notice to Proceed and shall prosecute the Services diligently as described in **Exhibit "A,"** so as to proceed with and complete the Services in compliance with the schedule in **Exhibit "C."** Time is of the essence and failure of Consultant to perform Services on time as specified in this Agreement is a material breach of this Agreement. It shall not be a material breach if a delay is beyond the Consultant's or Sub-consultant(s)' reasonable control.

Article 5. Construction Cost Budget

- 5.1. Consultant hereby accepts the District's established Construction Cost Budget and Project scope. In accordance with **Exhibit "A,"** the Consultant shall have responsibility to further develop, review, and reconcile the Construction Cost Budget for the District at the beginning of the Project and at the completion of each design phase. The District and Construction Manager shall also have responsibility to develop, review, and reconcile the Construction Cost Budget with the Consultant.
- 5.2. Consultant shall complete all Services as described in **Exhibit "A,"** including all plans, designs, drawings, specifications and other Contract Documents, so that the cost to construct the work designed by the Consultant will not exceed the Construction Cost Budget, as adjusted subsequently with the District's written approval. Consultant shall maintain cost controls throughout the Project to deliver the Project within the Construction Cost Budget.
- 5.3. The District may, in its sole discretion, do one, or a combination, of the following if any of the events in Article 5.4 occur:
 - 5.3.1. Give Consultant written approval on an agreed adjustment to the Construction Cost Budget.
 - 5.3.2. Authorize Consultant to re-negotiate, when appropriate, and/or re-bid the Project within three (3) months' time of receipt of bids (exclusive of District and other agencies' review time) at no additional cost to the District.
 - 5.3.3. Terminate this Agreement if the Project is abandoned by the District, without further obligation by either party.
 - 5.3.4. Within three (3) months' time of receipt of bids, instruct Consultant to revise the drawings and specifications (in scope and quality as approved by the District) to bring the Project

within the Construction Cost Budget for re-bidding at no additional cost to the District.

- 5.4. If any of the following events occur, the District may exercise any one, or any combination, of the actions set forth in Article 5.3 above:
- 5.4.1. The lowest responsive base bid received is in excess of ten percent (10%) of the Construction Cost Budget; or
 - 5.4.2. If the combined total of base bid and all additive alternates come in ten percent (10%) or more under the Construction Cost Budget; or
 - 5.4.3. If the Construction Cost Budget increases in phases subsequent to the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the county in which the District is located, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy.

Article 6. Fee and Method of Payment

- 6.1. The District shall pay Consultant for all Services contracted for under this Agreement an amount equal to the following ("Fee"):
- An amount not to exceed _____ Dollars
(\$ _____) based on the rates set forth in **Exhibit "D."**
- 6.2. The District shall pay Consultant the Fee pursuant to the provisions of **Exhibit "D."**
- 6.3. Consultant shall bill its work under this Agreement in accordance with **Exhibit "D."**
- 6.4. No increase in Fee will be due from CCDs and/or change orders generated during the construction period to the extent caused by Consultant's error or omission.
- 6.5. The Consultant's Fee set forth in this Agreement shall be full compensation for all of Consultant's Services incurred in the performance hereof as indicated in **Exhibit "D."**
- 6.6. Regardless of the structure of Consultant's Fee, the Consultant's Fee may be adjusted downward if the Scope of Services of this Agreement is reduced by the District in accordance with this Agreement.

Article 7. Payment for Extra Services or Changes

Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** only upon certification that the claimed Extra Service was authorized as indicated herein and that the Extra Services have been satisfactorily completed. If any service is done by Consultant without prior

written authorization by the Construction Manager or the District's authorized representative, the District will not be obligated to pay for such service. The foregoing provision notwithstanding, Consultant will be paid by the District as described in **Exhibit "B"** for Extra Services that the Construction Manager or the District's authorized representative verbally requests, provided that Consultant confirms such request in writing pursuant to the notice requirements of this Agreement, and proceeds with such Extra Services not earlier than two (2) business days after the District receives confirmation of the request from the Consultant.

Article 8. Ownership of Data

- 8.1. Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for the District to use, at its discretion, all plans including, but not limited to, record drawings, specifications, estimates and other documents that Consultant or its Sub-consultants prepare or cause to be prepared pursuant to this Agreement.
- 8.2. Consultant retains all rights to all copyrights over designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that Consultant or its Sub-consultants prepare or cause to be prepared pursuant to this Agreement.
- 8.3. Consultant shall perform the Services and prepare all documents under this Agreement with the assistance of Computer Aided Design Drafting Technology ("CADD") (e.g., AutoCAD). Consultant shall deliver to District, on request, the tape and/or compact disc format and the name of the supplier of the software/hardware necessary to use the design file. As to any drawings that Consultant provides in a CADD file format, the District acknowledges that anomalies and errors may be introduced into data when it is transferred or used in a computer environment, and that the District should rely on hard copies of all documents.
- 8.4. In order to document exactly what CADD information was given to the District, Consultant and District shall each date and sign a "hard" copy of reproducible documents that depict the information at the time Consultant produces the CADD information. The District agrees to release Consultant from all liability, damages, and/or claims that arise due to any changes made to this information by anyone other than Consultant or its Sub-consultant(s) subsequent to it being given to the District.
- 8.5. Following the termination of this Agreement, for any reason whatsoever, Consultant shall promptly deliver to the District upon written request and at no cost to the District the following items (hereinafter "Instruments of Service"), which the District shall have the right to utilize in any way permitted by statute:

f

- 8.5.1. One (1) set of the Contract Documents, including the bidding requirements, specifications, and all existing cost estimates for the Project, in hard copy, reproducible format.
 - 8.5.2. One (1) set of fixed image CADD files in DXF format of the drawings that are part of the Contract Documents.
 - 8.5.3. One (1) set of non-fixed image CADD drawing files in DXF or DWG or both formats of the site plan, floor plans (architectural, plumbing, structural, mechanical and electrical), roof plan, sections and exterior elevations of the Project.
 - 8.5.4. All finished or unfinished documents, studies, reports, calculations, drawings, maps, models, photographs, technology data and reports prepared by the Consultant under this Agreement.
 - 8.5.5. The obligation of Section 8.5 of this Agreement shall survive the termination of this Agreement for any reason whatsoever.
- 8.6. In the event the District changes or uses any fully or partially completed documents without Consultant's knowledge or participation or both, the District agrees to release Consultant of responsibility for such changes, and shall hold Consultant harmless from and against any and all claims on account of any damages or losses to property or persons, or economic losses, arising out of that change or use, unless Consultant is found to be liable in a forum of competent jurisdiction. In the event that the District uses any fully or partially completed documents without the Consultant's full involvement, the District shall remove all title blocks and other information that might identify Consultant and its Sub-consultants.

Article 9. Termination of Contract

- 9.1. If Consultant fails to perform Consultant's duties to the satisfaction of the District, or if Consultant fails to fulfill in a timely and professional manner Consultant's material obligations under this Agreement, or if Consultant shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement, in whole or in part, effective immediately upon the District giving written notice thereof to the Consultant. In the event of a termination pursuant to this subdivision, Consultant may invoice the District for all Services performed until the notice of termination, but the District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of Consultant's actions, errors, or omissions that caused the District to terminate the Agreement.
- 9.2. District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, Consultant may invoice District and District shall pay all undisputed invoice(s) for Services performed, until the District's notice of termination.

- 9.3. Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 9.4. Consultant has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement. Such termination shall be effective thirty (30) days after receipt of written notice from Consultant to the District. Consultant may invoice the District and the District shall pay all undisputed invoice(s) for Services performed until Consultant's notice of termination.
- 9.5. If, at any time in the progress of the Design of the Project, the Governing Board of the District determines that the Project should be terminated, Consultant, upon written notice from the District of such termination, shall immediately cease Services on the Project. The District shall pay Consultant only the fee associated with the Services provided since the last invoice that has been paid and up to the notice of termination.
- 9.6. If the District suspends the Project for more than one hundred twenty (120) consecutive days, Consultant shall be compensated for Services performed prior to notice of that suspension. When the Project is resumed, the schedule shall be adjusted and Consultant's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Consultant's Services. If the District suspends the Project for more than two (2) years, Consultant may terminate this Agreement by giving written notice.

Article 10. Indemnity/ Consultant Liability

- 10.1. To the fullest extent permitted by California law, Consultant shall indemnify and hold free and harmless the District, its Governing Board, agents, representatives, officers, Consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim") that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, employees, subcontractors, Sub-consultants, or agents, including without limitation the payment of all consequential damages. Consultant shall also, to the fullest extent permitted by California law, defend the Indemnified Parties at Consultant's own expense, including attorneys' fees and costs, from any and all Claim(s) and allegations relating thereto.
- 10.2. Consultant shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim. Consultant's obligation pursuant to Article 10.1 includes reimbursing the District for the cost of any settlement paid by the Indemnified Parties and for any and all fees and costs, including but not limited to legal fees and costs, expert witness fees, and sub-consultant fees, incurred by the Indemnified Parties in the defense of any Claim(s), or to enforce the indemnity herein. Consultant's obligation to defend or to indemnify shall not be restricted to insurance proceeds. District

shall also have the right to accept or reject any legal representation that Consultant proposes to defend the Indemnified Parties.

- 10.3. District may withhold any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant from amounts owing to its Sub-consultant(s).

Article 11. Fingerprinting

Pursuant to Education Code section 45125.2, the District has determined on the basis of scope of Services in this Agreement, that Consultant, its Sub-consultants and their employees will have only limited contact with pupils. Consultant shall promptly notify the District in writing of any facts or circumstances which might reasonably lead the District to determine that contact will be more than limited as defined by Education Code section 45125.1(d).

Article 12. Responsibilities of the District

- 12.1. The District shall examine the documents submitted by the Consultant and shall render decisions so as to avoid unreasonable delay in the process of the Consultant's Services.
- 12.2. The District shall verbally or in writing advise Consultant if the District becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Consultant's documents. Failure to provide such notice shall not relieve Consultant of its responsibility therefore, if any.
- 12.3. Unless the District and Consultant agree that a hazardous materials Consultant shall be a Sub-consultant of the Consultant, the District shall furnish the services of a hazardous material consultant or other Consultants when such services are requested in writing by Consultant and deemed necessary by the District or are requested by the District. These services shall include: asbestos and lead paint survey; abatement documentation; and specifications related to said matters, which are to be incorporated into bid documents prepared by Consultant. If the hazardous materials consultant is furnished by the District and is not a Sub-consultant of the Consultant, the specifications shall include a note to the effect that the hazardous materials consultant's specifications are included in the Consultant's bid documents for the District's convenience and have not been prepared or reviewed by the Consultant. The note shall also direct questions about the hazardous materials consultant's specifications related to asbestos and lead paint survey and/or abatement documentation to the preparer of the hazardous materials consultant's specifications.
- 12.4. District personnel and/or its designated representatives shall coordinate with Consultant as may be requested and beneficial for the coordination or management of work related to the Project.

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- 12.5. The District shall timely provide to the Consultant all relevant information in its possession regarding the Project that is necessary for performance of Consultant's Services.
- 12.6. The District shall pay all fees required by agencies having jurisdiction over the Project.

Article 13. Liability of District

- 13.1. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.
- 13.2. District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Consultant, or by its employees, even though such equipment be furnished or loaned to Consultant by District.

Article 14. Nondiscrimination

- 14.1. Consultant agrees that no discrimination shall be made in the employment of persons under this Agreement because of the race, national origin, ancestry, religion, age, physical or mental disability, sex, or sexual orientation of such person.
- 14.2. Consultant shall comply with any and all applicable regulations and laws governing nondiscrimination in employment.

Article 15. Insurance

- 15.1. Consultant shall comply with the insurance requirements for this Agreement, set forth in **Exhibit "E."**
- 15.2. Consultant shall provide certificates of insurance and endorsements to District prior to commencement of the work of this Agreement as required in **Exhibit "E."**

Article 16. Covenant against Contingent Fees

Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion, to

deduct from the contract price or consideration or to recover the full amount of such fee, commission, percentage fee, gift, or contingency.

Article 17. Entire Agreement/Modification

This Agreement, including the Exhibits attached hereto, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. Consultant shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. Consultant specifically acknowledges that in entering this Agreement, Consultant relies solely upon the provisions contained in this Agreement and no others.

Article 18. Non-Assignment of Agreement

In as much as this Agreement is intended to secure the specialized Services of the Consultant, Consultant may not assign, transfer, delegate or sublet any interest therein without the prior written consent of District and any such assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void. Likewise, District may not assign, transfer, delegate or sublet any interest therein without the prior written consent of Consultant and any such assignment, transfer, delegation or sublease without Consultant's prior written consent shall be considered null and void.

Article 19. Law, Venue

19.1. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.

19.2. To the fullest extent permitted by California law, the county in which the District administration office is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

Article 20. Alternative Dispute Resolution

20.1. Consultant's Invoices.

20.1.1. If the District disapproves of any portion or amount(s) of the Consultant's invoices, the District shall within thirty (30) days of receipt by the District of any of the Consultant's invoices, communicate to the Consultant in writing, with reasonable detail, the portion or amount of the Consultant's invoices that are disapproved for payment, the portion or amount of the Consultant's invoices that are approved for payment, and the basis for the District's disapproval of the disputed portion(s) or amount(s) of the Consultant's invoices ("Disputed Consultant Invoice Detail").

20.1.2. If the Consultant disagrees with the Disputed Consultant Invoice Detail, the Consultant shall communicate to the District in writing, and request to meet and confer in good faith with respect to the Disputed Consultant Invoice Detail, to determine if the disagreement can be resolved. The meet and confer shall be scheduled to occur within

thirty (30) days of Consultant's request. The meet and confer shall include, but are not limited to, face-to-face meeting(s) with the appropriate District and Consultant personnel as appropriate and necessary.

20.1.3. If the Parties cannot resolve the matter during this meet and confer process, the Parties shall handle the matter as a "dispute" as provided herein.

20.2. Disputes between the parties arising out of this Agreement shall be resolved by the following processes:

20.2.1. **Negotiation.** Within fifteen (15) days following the receipt of a request to meet, the parties shall meet and attempt in good faith to resolve any dispute arising out of or relating to this Agreement by negotiation. The Parties' meet and confer process for Disputed Consultant Invoice Detail as detailed above, shall satisfy this negotiation requirement.

20.2.2. **Mediation.** Within thirty (30) days, but no earlier than fifteen (15) days, following the earlier of receipt of notice by one Party from the other Party of a demand for mediation, the Parties shall submit the dispute to non-binding mediation administered by the AAA (or other agreed upon rules) under its construction industry mediation rules, unless waived by mutual stipulation of both Parties.

20.2.3. **Litigation.** Disputes arising from this Agreement that cannot be settled through negotiation or mediation (after those processes have been exhausted) shall be litigated in the California Superior Court in the county in which the Project that is the subject of this Agreement is located.

20.3. Consultant shall neither rescind nor stop the performance of its Services pending the outcome of any dispute that occurs during the Construction Administration Phase.

Article 21. Tolling of Claims

Consultant agrees to toll all statutes of limitations for District's assertion of claims against Consultant that arise out of, pertain to, or relate to Contractors' or subcontractors' claims against District involving Consultant's work, until the Contractors' or subcontractors' claims are finally resolved.

Article 22. Attorneys' Fees

In the event either party shall bring any action or legal proceeding for damages for any alleged breach of any provision of or performance under this Agreement, to terminate this Agreement, or to enforce, protect or establish any term or covenant of this Agreement or right or remedy of either party, the prevailing party shall be entitled to recover, as a part of the action or proceeding, reasonable attorneys' fees and court costs, including Consultant's fees, attorneys' fees and costs for appeal, as may be fixed by the court. The term "prevailing party" shall mean the party who received substantially the relief requested, whether by settlement, dismissal, summary judgment, judgment, or otherwise.

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Article 23. Severability

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Article 24. Employment Status

- 24.1. Consultant shall, during the entire term of Agreement, be an independent contractor and nothing in this Agreement is intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the District to exercise discretion or control over the professional manner in which Consultant performs the Services that are the subject matter of this Agreement; provided always, however, that the Services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 24.2. Consultant understands and agrees that Consultant's personnel are not and will not be eligible for membership in or any benefits from any District group plan for hospital, surgical or medical insurance or for membership in any District retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee.
- 24.3. Should the District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Consultant, or any employee or Sub-consultant of Consultant, is an employee of the District for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Consultant which can be applied against this liability). The District shall then forward those amounts to the relevant taxing authority.
- 24.4. Should a relevant taxing authority determine a liability for past services performed by Consultant for the District, upon notification of such fact by the District, Consultant shall promptly remit such amount due or arrange with the District to have the amount due withheld from future payments to Consultant under this Agreement (again, offsetting any amounts already paid by Consultant which can be applied as a credit against such liability).
- 24.5. A determination of employment status pursuant to the preceding two (2) paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Consultant shall not be considered an employee of the District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Consultant is an employee for any other purpose, then Consultant agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the

foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Consultant or its employees of Sub-consultants was not an employee.

24.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

Article 25. Certificate of Consultant

25.1. Consultant certifies that the Consultant is properly certified or licensed under the laws and regulations of the State of California to provide the professional services that it has herein agreed to perform.

25.2. Consultant certifies that it is aware of the provisions of the California Labor Code that require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with those provisions before commencing the performance of the Services of this Agreement.

25.3. Consultant certifies that it is aware of the provisions of California Labor Code and California Code of Regulations that require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). Since the Consultant is performing Services as part of a "public works" or "maintenance" project, and since the total compensation is one thousand dollars (\$1,000) or more, the Consultant agrees to fully comply with and to require its Sub-consultant(s) to fully comply with all requirements of the Prevailing Wage Laws.

Article 26. Cost Disclosure - Documents and Written Reports

Consultant shall be responsible for compliance with California Government Code section 7550, if the total cost of the Contract is over five thousand dollars (\$5,000).

Article 27. Notice & Communications

Notices and communications between the Parties to this Agreement may be sent to the following addresses:

District:

Oakland Unified School District
1000 Broadway, Suite 680
Oakland, CA 94607
ATTN: _____
FAX: _____

Consultant:

ATTN: _____
FAX: _____

Any notice personally given shall be effective upon receipt. Any notice sent by facsimile shall be effective the day after transmission. Any notice sent by overnight delivery service shall be effective the day after delivery. Any notice given by mail shall be effective five (5) days after deposit in the United States mail.

Article 28. [RESERVED]

Article 29. District's Right to Audit

- 29.1. District retains the right to review and audit, and the reasonable right of access to Consultant's and any Sub-consultant's premises to review and audit the Consultant's compliance with the provisions of this Agreement ("District's Right"). The District's Right includes the right to inspect, photocopy, and to retain copies, outside of Consultant's premises, of any and all Project-related records and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District shall keep this information confidential, as allowed by applicable law.
- 29.2. The District's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines is necessary to discover and verify whether Consultant is in compliance with all requirements of this Agreement.
- 29.3. If there is a claim for additional compensation or for Extra Services, the District's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the District determines is necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.
- 29.4. Consultant shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. Consultant shall make available to the District for review and audit all Project-related accounting records and documents and any other financial data. Upon District's request, Consultant shall submit exact duplicates of originals of all requested records to the District.
- 29.5. Consultant shall include audit provisions in any and all of its subcontracts, and shall ensure that these sections are binding upon all Sub-consultants.
- 29.6. Consultant shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Consultant's Project-related records and information.

Article 30. Other Provisions

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- 30.1. Consultant shall be responsible for the cost of reviewing CCDs and/or change orders caused by the Consultant's willful misconduct, recklessness, or negligent acts, errors or omissions. Without limiting Consultant's liability for indirect cost impacts, the direct costs for change orders for which Consultant shall be liable shall equal the difference between the cost of the change order and the reasonable cost of the work had that work been a part of the originally prepared Contract Documents. These amounts shall be paid by Consultant to District or the District may withhold those costs from amounts owing to Consultant.
- 30.2. Neither the District's review, approval of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Consultant shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Consultant's failure to perform any of the Services furnished under this Agreement to the standard of care of the Consultant for its Services, which shall be, at a minimum, the standard of care of Consultants performing similar work for California school districts in or around the same geographic area as the District.
- 30.3. Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.

Article 31. **Exhibits "A" through "F"** attached hereto are hereby incorporated by this reference and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

| | |
|--|-------------------|
| OAKLAND UNIFIED SCHOOL DISTRICT | _____ |
| Date: _____, 2017 | Date: _____, 2017 |
| By: _____ | By: _____ |
| Title: _____ | Title: _____ |

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EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF CONSULTANT

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EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF CONSULTANT

Consultant shall provide all professional services necessary for completing the following:

A. SCOPE OF PROJECT

1. Project Name: Castlemont High School – Playing Field, ADA Restroom Improvements, Stadium and Gymnasium Bleachers

Construction Cost Budget: \$4,000,000.00

B. BASIC SERVICES

Consultant agrees to provide the Services described below:

1. Consultant shall be responsible for the professional quality and technical accuracy of all studies, reports, projections, master plans, designs, drawings, specifications and other services furnished by Consultant under the Agreement as well as coordination with all master plans, studies, reports and other information provided by District. Consultant shall, without additional compensation, correct or revise any errors or omissions in its studies, reports, projections, master plans, design, drawings, specifications and other Services.
2. Consultant will use all due care and diligence to confirm that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and publishes any potentially relevant information that could, in any way, have an impact on a Contractor's cost of performance. Consultant shall advise the District of the most effective methods of identifying and securing such information as part of each stage of design. Consultant shall track for District's benefit all such suggested and disclosed information.
3. The District shall provide all information available to it to the extent the information relates to Consultant's scope of work. This information shall include, if available,
 - a. Physical characteristics;
 - b. Legal limitations and utility locations for the Project site(s);
 - c. Written legal description(s) of the Project site(s);
 - d. Grades and lines of streets, alleys, pavements, and adjoining property and structures;
 - e. Adjacent drainage;
 - f. Rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries and contours of the Project site(s);
 - g. Locations, dimensions and necessary data with respect to existing buildings, other improvements and trees;

- h. Information concerning available utility services and lines, mechanical and other services, both public and private, above and below grade, including inverts and depths;
- i. Surveys, reports, as-built drawings, record drawings; and
- j. Subsoil data, chemical data, and other data logs of borings.

Consultant shall Visually Verify this information and all existing Project utilities, including capacity, and document the location of existing utility lines, telephone, water, sewage, storm drains and other lines on or around the Project to the extent determinable by the documents provided by the District.

If Consultant determines that the information or documentation the District provides is insufficient for purposes of design, or if Consultant requires: a topographical survey; a geotechnical report; structural, mechanical, and/or chemical tests; tests for air and/or water pollution; test borings; test pits; determinations of soil bearing values; percolation tests; ground corrosion tests; resistivity tests; tests for hazardous materials; tests for anticipating subsoil conditions; and/or other information that the District has not provided, then, at the soonest possible time after Consultant has become aware that this additional information is needed, the Consultant shall request that the District acquire that information. If the Parties mutually agree in writing, this additional information and service shall be procured through the Consultant, who may invoice the District for those services as Extra Services.

- 4. **Technology Backbone.** Consultant shall be responsible for the coordination of the design and the layout of the technology backbone system with the District's technology consultant, and lay out any included technology backbone system. The coordination effort shall include location and routing of raceways, conduits and outlets and the required spaces to accommodate electrical, data and communication wiring. Consultant and Sub-consultant(s) shall prepare and be responsible for documents prepared by the Consultant based on the information provided by the District's technology consultant as appropriate to the level of design completion.
- 5. **District Standards.** Consultant shall incorporate into its work and the work of all Consultants the adopted District standards for facilities and construction including, but not limited to, Material Standards, Design Guidelines, Door Hardware Standards, Fire Alarm Standards, Intrusion Alarm Standards, sole source items and wheelchair lift design.
- 6. **High Performance Schools.** If the District adheres to the Collaborative for High Performance School ("CHPS") Best Practice Standards, the Services provided by the Consultant shall incorporate the CHPS Best Practice Standards and criteria to the extent feasible.
- 7. **Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the District's request, the Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations,

depositions, trials or any event related to the dispute resolution and/or litigation ("Mandatory Assistance").

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C. PRE-DESIGN AND START-UP SERVICES

1. Project Initiation

Upon final execution of the Agreement with the District, Consultant shall:

- a. Within the first week following execution of the Agreement, review the proposed Schedule of Services set forth in **Exhibit "C"** to the Agreement and prepare a detailed scope of work list and work plan for documentation in a computer-generated Project schedule to the District's satisfaction. This scope of work list and work plan will identify specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, planning, architectural programming, concepts and schematic design preparation and estimating that are part of the work of the Project. Consultant shall also identify milestone activities or dates, specific task responsibilities, required completion times necessary for review and approval by the District and by all regulatory agencies and additional definition of deliverables.
- b. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.

2. Development of Architectural Program

Consultant shall prepare for the District's review of an architectural program as follows:

- a. Perform pre-design investigations to establish appropriate guidelines around which and within which the Project is to be designed. Identify design issues relating to functional needs, directives and constraints imposed by regulatory codes. Review all data pertinent to the Project including survey, site maps, geotechnical reports and recommendations, soil testing results reports, and pertinent historical data, and other relevant information provided by District.
- b. Review DSA codes pertaining to the proposed Project design.
- c. Identify design issues relating to functional needs, directives and constraints imposed by applicable regulatory codes.
- d. Based on survey and topography data provided by the District, input into computer and develop existing conditions base for the Schematic Design Phase.
- e. Administer Project as required to coordinate work with the District and among Consultants.
- f. Develop District standards for facilities and construction, including but not limited to designation of any material, product, thing or service by specific brand or trade name pursuant to Public Contract Code section 3400, subdivision (c).

3. Construction Cost Budget

- a. Consultant shall have responsibility to further develop, review, and reconcile the Construction Cost Budget within the parameters of the Construction Budget established by the District for the Project. The estimates forming the basis of the Construction Cost Budget are to be based on the developed functional architectural program as approved by the District. The following conditions apply to the Construction Cost Budget prepared by the Consultant:
- (i) All costs are to be based on current bid prices, with escalation rate and duration clearly identified as a separate line item; rate of cost escalation and projected bid and construction dates are to be approved by the District and its representatives.
 - (ii) Format shall be in a building systems format (e.g., foundations, substructure, structural system, exterior wall enclosure, window systems, etc.) for new buildings, and summarized by the Construction Specification Institute ("CSI") categories for buildings being modernized.
 - (iii) Contingencies for design, bidding, and construction are to be included as individual line items, with the percentage and base of calculation clearly identified.
 - (iv) Consultant shall include all information and estimates from the District and/or the Construction Manager that are intended to be part of the Construction Cost Budget.
 - (v) One week prior to submittal of documents, Consultant shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, Consultant shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.
 - (vi) Mechanical, electrical, civil, landscape and estimating consultant(s) shall participate in the progress meeting as appropriate and shall provide input and feedback into the development of the Construction Cost Budget.
- b. The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget for the Project. The accuracy of the Construction Cost Budget shall be the responsibility of the Consultant.

4. Presentation

Consultant, along with any involved Sub-consultant(s), shall present and review with the District and, if directed, with the District's Governing Board, the summary and detail of work involved in this Phase, including two-dimensional renderings of any proposed facility suitable for public presentation.

5. Deliverables and Numbers of Copies

Within thirty (30) days of the end of this Phase, Consultant shall provide to the District a hard copy of the following items produced in this Phase, together with one (1) copy of each item in electronic format:

- a. Two (2) copies of the Architectural Program (include comparison between developed program and "model" program, include narrative explaining any substantial deviations);
- b. Two(2) copies of the Site Plan;
- c. Two (2) copies of the revised Construction Cost Budget;
- d. Two (2) copies of the final Schedule of Services;
- e. Two (2) copies of the meeting Reports/Minutes from the Kick-off and other meetings; and
- f. Two (2) copies of the renderings provided to District for public presentation.

6. Meetings

During this Phase, Consultant shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below in Section J.

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D. SCHEMATIC DESIGN PHASE

Upon District's acceptance of Consultant's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Consultant shall prepare for the District's review a Schematic Design Study, containing the following items as applicable to the Project scope, as follows:

1. Prepare and review with District staff a scope of work list and work plan identifying specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, planning, architectural programming, concepts and schematic design preparation and estimating that are part of the work of the Project. Also identified will be milestone activities or dates, specific task responsibilities of the Consultant, required completion times necessary for the review and approval by the District and by pertinent regulatory agencies and additional definition of deliverables.
2. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.

3. Architectural

Develop and coordinate landscape design concepts entailing analysis of existing conditions, proposed components and how the occupants will use the facility. Include location and description of planting, ground improvements and visual barriers, and to include the following:

- a. Preliminary site plan with elevations, layout of hard surface and softscape concepts, including initial grading, drainage and utility concepts, all in sufficient detail to demonstrate design concept.
- b. Identify proposed drainage technique.
- c. Identify code requirements, include occupancy classification(s) and type of construction.

4. Structural

- a. Identify structural systems (including bleachers, goal posts, scoreboards, etc.) with preliminary sizing identified.
- b. Identify foundation systems (including fill requirements, piles, caissons, spread footings) with preliminary sizing identified.

5. Electrical

- a. Calculate overall approximate electrical loads.
- b. Identify proposed electrical system for service, power, lighting, low voltage and communication loads, including proposed or planned additional buildings (including "snack shacks," etc.) or other facilities on the Project site.
- c. Show system(s) selected on drawings as follows:

- (i) Single line drawing(s) showing major distribution system.
- (ii) Location and preliminary sizing of all major electrical systems and components including:
 - (A) Load centers.
 - (B) Main panels.
 - (C) Switch gear.

- d. Provide design criteria to include the intent base of design for the Project.
- e. Evaluate and confirm the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

6. Civil

- a. Develop on and off site utility systems such as sewer, water, storm drain, firewater lines and fire hydrants.
- b. Identify surface improvements including roadways, walkways, parking (with assumed wheel weights), preliminary finish grades and drainage.

7. Specifications / Athletic Templates & Standards

- a. Prepare outline specifications of proposed architectural, structural, mechanical and electrical materials, systems and equipment and their criteria and quality standards. Consultant is to use District's standardized equipment/material list for new construction and modernization in development of the Project design and specifications. Consultant shall review and comment on District's construction bid contracts and contract documents (the "Division 0" and "Division 1" documents) as part of its Services under the Agreement.
- b. Select specific materials and components, and their criteria and quality standards, to be included in a "standard stadium template."
- c. Develop computer generated up-to-date athletic program templates for all sports with specific attention to a "stadium" component.
- d. Modify all existing athletic site plans on each site to conform with the current program site program templates.
- e. Prepare draft of Athletic Standards document to supplement existing landscape standards, if available. This draft booklet shall include:
 - (i) Sport field templates;
 - (ii) Standard details; and
 - (iii) Specifications.

- f. Finalize the Athletic Standards in compatible format, or integrate Athletic Standards into the existing landscape standards, if available. These standards will become the basis of design for all school sites.
- g. Once the detailed field survey information is received, prepare a site athletic plan for each site denoting the actual layout and materials. Also complete enlargement of "stadium" portions.
- h. Finalize designs and complete base prepared for the "stadium" portion.
- i. Administer Project as required to coordinate work with the District and between sub-consultants.

8. **Construction Cost Budget**

Revise the Construction Cost Budget for the Project. Along with the conditions identified in the preceding Phase, the following conditions apply to the revised Construction Cost Budget:

- a. Schematic Estimates: This estimate consists of unit cost applied to the major items and quantities of work. The unit cost shall reflect the complete direct current cost of work. Complete cost includes labor, material, waste allowance, sales tax and subcontractor's mark-up.
 - (i) General conditions shall be applied separately. This estimate shall be prepared by specification section and summarized by the CSI categories.
- b. The estimate shall separate the Project's building cost from site and utilities cost. Consultant shall submit to the District the cost estimating format for prior review and approval.
- c. Escalation: all estimates shall be priced out at current market conditions. The estimates shall incorporate all adjustments as appropriate, relating to mid-point construction, contingency, and cost index (i.e. Lee Saylor Index).
- d. The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Consultant.
- e. Consultant shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, Consultant shall coordinate with the District and Construction Manager to further develop, review, and reconcile the Construction Cost Budget.
- f. At the end of this Phase, the Construction Cost Budget may include design contingencies of no more than ten percent (10%) in the cost estimates.

9. **Deliverables and Numbers of Copies**

Within thirty (30) days of the end of this Phase, Consultant shall provide to the District a hard copy of the following items produced in this phase, together with one (1) copy of each item in electronic format:

- a. Two (2) copies of the breakdown of Construction Cost Budget as prepared for this Phase;
- b. Two (2) copies of meeting reports/minutes;
- c. Two (2) copies of the Schematic Design Package with alternatives;
- d. Two (2) copies of a statement indicating changes made to the Architectural Program and Schedule; and
- e. Two (2) copies of the DSA file, including all correspondence and meeting notes to date, or notification in writing that Consultant has not met or corresponded with DSA.

10. Presentation

- a. Consultant shall present and review with the District the detailed Schematic Design.
- b. The Schematic Design shall be revised within the accepted program parameters until a final concept within the accepted Construction Cost Budget has been accepted and approved by the District at no additional cost to the District.

11. Meetings

During this Phase, Consultant shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below in Section J.

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E. DESIGN DEVELOPMENT PHASE

Upon District's acceptance of Consultant's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Consultant shall prepare from the accepted deliverables from the Schematic Design Phase, the Design Development Phase documents consisting of the following for each proposed system within Consultant's scope of services:

1. Architectural

Further refinement of Schematic Design concepts. Includes coordination of hardscape, landscape planting, ground cover and irrigation main distribution lines, and to include the following:

- a. Site plan in 1/8" scale with draft notes and dimensions of hard surface and softscape concepts, including surface types, color, planting, grading, drainage and utility concepts, critical design details and manufacturer cut sheets, where applicable.
- b. Identification of all fixed equipment to be installed in contract, if any.
- c. Preliminary development of details and large scale blow-ups.
- d. Legend showing all symbols used on drawings.
- e. Further refinement of Outline Specification for architectural, structural, electrical, civil and landscape manuals, systems and equipment.
- f. The documents and information provided by the Consultant at this Phase shall include all components required below in addition to the subsequent more general sections (Structural, /Electrical, etc.)
 - (i) Cover sheet
 - (ii) Demolition Plan
 - (iii) Grading Plan
 - (iv) Drainage / Utility Plan
 - (v) Layout Plans, including right of ways
 - (vi) Material and Detail Reference Plans
 - (vii) Irrigation Plans – Plan will show head layout and mainline routing.
 - (viii) Planting Plans
 - (ix) Construction Details and Enlargements
 - (x) Irrigation and Planting Details

2. Structural

- a. Structural drawings with all major members located and sized.
- b. Establish final elevations.
- c. Preliminary specifications.

- d. Identify foundation requirement (including fill requirement, piles) with associated soil pressure, water table and seismic center.

3. **Electrical**

- a. All lighting fixtures should be located and scheduled showing all types and quantities of fixtures to be used, including proposed lighting levels for each area.
- b. All major electrical equipment should be scheduled indicating size and capacity.
- c. Complete electrical distribution including a one-line diagram indicating final location of switchboards, communications, controls (high and low voltage), motor control centers, panels, transformers and emergency generators, if required. Low-voltage system includes fire alarm system, security system, clock and public address system, bell system, voice-data system, and telecom/technology system.
- d. Legend showing all symbols used on drawings.
- e. More developed and detailed Outline Specifications indicating quality level and manufacture.
- f. Further evaluation and confirmation of the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

4. **Civil**

- a. Further refinement of Schematic Design Phase development of on and off site utility systems for sewer, electrical, water, storm drain and fire water. Includes, without limitation, pipe sizes, materials, invert elevation location and installation details.
- b. Further refinement of Schematic Design Phase roadways, walkways, parking and storm drainage improvements. Includes details and large scale drawings of curb and gutter, manhole, thrust blocks, paved parking and roadway sections.

5. **Specifications / Athletic Templates & Standards**

Consultant shall update all requirements documents of previous section in coordination with and as appropriate for the more detailed design achieved in this phase.

6. **Construction Cost Budget**

- a. Revise the Construction Cost Budget for the Project. Along with the conditions identified in the Agreement and the preceding Phases, the following conditions apply to the revised Construction Cost Budget:
 - (i) Design Development Estimate: This further revised estimate shall be prepared by specification section, summarized by CSI category and divided by trade and work item. The estimate shall include individual item

unit costs of materials, labor and equipment. Sales tax, Contractor's mark-ups, and general conditions shall be listed separately.

- (ii) The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Consultant.
- (iii) At this stage of the design, the Construction Cost Budget may include design contingencies of no more than ten percent (10%) in the cost estimates.

- b. Consultant shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, the Consultant shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.

7. Deliverables and Numbers of Copies

Architect shall provide to the District a hard copy of the following items produced in this phase, together with one (1) copy of each item in electronic format:

- a. Two (2) copies of the Design Development drawing set from all professional disciplines necessary to deliver the Project;
- b. Two (2) copies of the Specifications;
- c. Two (2) copies of the revised Construction Cost Budget; and
- d. Two (2) copies of the DSA file, including all correspondence and meeting notes to date, or notification in writing that Architect has not met or corresponded with DSA.

The Design Development deliverables shall be revised within the accepted program parameters until a final concept within the accepted Construction Cost Budget has been accepted and approved by the District at no additional cost to the District.

8. Meetings

During this Phase, Consultant shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below in Section J.

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F. CONSTRUCTION DOCUMENTS PHASE

Upon District's acceptance of Consultant's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Consultant shall prepare from the accepted deliverables from the Design Development Phase the Construction Documents consisting of the following for each proposed system within Consultant's scope of work:

1. Construction Documents ("CD") 50% Stage:

a. General

Verify lead times and availability of all Project equipment, materials, and supplies and ensure that all of these will be available to the District in a timely fashion so as not to delay the Project.

b. Architectural

- (i) Site plan drawn. All landscape, hardscape, and irrigation plans updated to reflect updated revisions from Design Development Phase.
- (ii) Architectural details and large blow-ups started.
- (iii) Fixed equipment details and identification started, if any.
- (iv) Further refinement of Outline Specification for architectural, structural, electrical, civil and landscape manuals, systems and equipment.
- (v) The documents and information provided by the Consultant at this Phase shall include fully updated versions of the following components required below in addition to the subsequent more general sections (Structural, /Electrical, etc.)
 - (A) Cover sheet
 - (B) Demolition Plan
 - (C) Grading Plan
 - (D) Drainage / Utility Plan
 - (E) Layout Plans, including right of ways.
 - (F) Material and Detail Reference Plans
 - (G) Irrigation Plans – Plan will show head layout and mainline routing.
 - (H) Planting Plans
 - (I) Construction Details and Enlargements
 - (J) Irrigation and Planting Details

c. Structural

- (i) Structural plans and sections with detailing well advanced.
- (ii) Structural footing and foundation plans, floor and roof framing plans with detailing well advanced.
- (iii) Completed cover sheet with general notes, symbols and legends.

d. Electrical

- (i) Lighting, power, signal and communication plans showing all switching and controls. Fixture schedule and lighting details development started.
- (ii) Distribution information on all power consuming equipment; lighting and device branch wiring development well started.
- (iii) All electrical equipment schedules started.
- (iv) Special system components approximately located on plans.
- (v) Complete design of low-voltage system. Low-voltage system includes fire alarm system, security system, clock and public address system, voice-data system, and telecom/technology system.

e. Civil

All site plans, site utilities, parking, walkway, and roadway systems updated to reflect update revisions from Design Development Phase Documents.

f. Construction Cost Budget

- (i) Revise the Construction Cost Budget for the Project. Along with the conditions identified in the preceding phases, Consultant shall update and refine the Design Development Phase revisions to the Construction Cost Budget. Consultant shall provide a Construction Cost Budget sorted by Project Bid Packages, if more than one.
- (ii) The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Consultant.
- (iii) Consultant shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, Consultant shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.
- (iv) At this stage of the design, the Construction Cost Budget may include design contingencies of no more than five percent (5%) in the cost estimates.

g. Specifications / Athletic Templates & Standards

Consultant shall update all requirements documents of previous section in coordination with and as appropriate for the more detailed design achieved in this phase.

More than fifty percent (50%) complete development and preparation of technical specifications describing materials, systems and equipment,

workmanship, quality and performance criteria required for the construction of the Project.

- (i) No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless:
 - (A) The specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service, as required by Public Contract Code, section 3400, or
 - (B) The designation is allowable by a specific allowable exemption or exception pursuant to Public Contract Code, section 3400.
- (ii) Specifications shall not contain restrictions that will limit competitive bids other than those required for maintenance convenience by the District and only with District's prior approval.
- (iii) Specifications shall be in CSI format.

h. Deliverables and Numbers of Copies

Within thirty (30) days of the end of this Phase, Consultant shall provide to the District a hard copy of the following items produced in this Phase, together with one (1) copy of each item in electronic format:

- (i) Two (2) reproducible copies of working drawings;
- (ii) Two (2) copies of the Specifications;
- (iii) Two (2) copies of the statement of requirements for testing and inspection of service for compliance with Contract Documents and applicable codes; and
- (iv) Two (2) copies of a statement indicating any authorized changes made to the design from the last Phase and the cost impact of each change on the previously approved Construction Cost Budget. If no design changes occur but shifts of costs occur between disciplines, identify for District review.

2. Construction Documents – 100% / Completion Stage:

a. Architectural

- (i) Completed site plan.
- (ii) Architectural details and large blow-ups completed.
- (iii) Finish, door, and hardware schedules completed, including all details.
- (iv) Site utility plans completed.
- (v) Fixed equipment details and identification completed.

- (vi) All previous comments from District and Construction Manager, have been incorporated or, if specific comments have not been incorporated, the District has approved of that in writing.

b. Structural

- (i) Structural floor plans and sections with detailing completed.
- (ii) Structural calculations completed.

c. Electrical

- (i) Lighting and power plan showing all switching and controls. Fixture schedule and lighting details completed.
- (ii) Distribution information on all power consuming equipment, including lighting, power, signal and communication device(s) branch wiring completed.
- (iii) All electrical equipment schedules completed.
- (iv) Special system components plans completed.
- (v) Electrical load calculations completed.

d. Civil

All site plans, site utilities, parking and roadway systems completed.

e. Construction Cost Budget

- (i) Revise the Construction Cost Budget for the Project. Along with the conditions identified in the preceding phases, Consultant shall update and refine the fifty percent (50%) Construction Documents Phase revisions to the Construction Cost Budget.
- (ii) The Construction Cost Budget for the Project must at no point exceed the District's Construction Budget. The accuracy of the Construction Cost Budget shall be the responsibility of the Consultant.
- (iii) Consultant shall submit its proposed Construction Cost Budget to the District and the Construction Manager for review and approval. At that time, Consultant shall coordinate with the District and the Construction Manager to further develop, review, and reconcile the Construction Cost Budget.
- (iv) At this stage of the design, the Construction Cost Budget shall not include any design contingencies in excess of the cost estimates.

f. Specifications / Athletic Templates & Standards

- (i) Complete development and preparation of technical specifications describing materials, systems and equipment, workmanship, quality and performance criteria required for the construction of the Project.
- (ii) No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless:
 - (A) The specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service, as required by Public Contract Code section 3400, or
 - (B) The designation is allowable by specific allowable exemptions or exceptions pursuant to Public Contract Code section 3400.
- (iii) Specifications shall not contain restrictions that will limit competitive bids other than those required for maintenance convenience by the District and only with District's prior approval.
- (iv) At one hundred percent (100%) review, District shall review the Specifications and shall direct Consultant to make corrections at no cost to the District.
- (v) Coordination of the Specifications with specifications developed by other disciplines.
- (vi) Specifications shall be in CSI format.

g. Constructability Review

The District and/or its designee, at its sole discretion, shall have the right to conduct a constructability review of the Construction Documents. A report shall be given to the Consultant who shall make necessary changes along with providing written comments for each item listed in the report. Conducting a constructability review does not excuse the Consultant's obligation to provide Services that shall comply with professional architectural standards, including the standard of care applicable to Consultants designing public school facilities and applicable requirements of federal, state, and local law.

h. Deliverables and Numbers of Copies

Within thirty (30) days of the end of this Phase, Consultant shall provide to the District a hard copy of the following items produced in this Phase, together with one (1) copy of each item in electronic format:

- (i) Two (2) reproducible copies of working drawings;
- (ii) Two (2) copies of the Specifications;
- (iii) Two (2) copies of the engineering calculations;

- (iv) Two (2) copies of the revised Construction Cost Budgets;
- (v) Two (2) copies of a statement of requirements for testing and inspection of service for compliance with Construction Documents and applicable codes;
- (vi) Two (2) copies of the DSA file including all correspondence, meeting, minutes or reports, back-check comments, checklists to date; and
- (vii) Two (2) copies of a statement indicating any authorized changes made to the design from the last Phase and the cost impact of each change on the previously approved Construction Cost Budget. If no design changes occur but shifts of costs occur between disciplines, identify for District review.

3. Construction Documents Final Back-Check Stage:

- a. The Construction Documents final back-check stage shall be for the purpose of the Consultant incorporating all regulatory agencies' comments into the drawings, specifications, and estimate. All changes made by the Consultant during this stage shall be at no additional cost to the District.
- b. The final contract documents delivered to the District upon completion of the Consultant's work shall be the Bid Set and shall consist of the following:
 - (i) Drawings: Original tracings of all drawings on Consultant's tracing paper with each Consultant/Sub-consultant's State license stamp.
 - (ii) Specifications: Original word-processed technical specifications on reproducible masters in CSI format.
- c. Consultant shall update and refine the Sub-consultants' completed Contract Documents.
- d. Conclusion of Construction Document Phase requires final stamp-out by DSA.

4. Meetings

During this Phase, Consultant shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below in Section J.

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G. BIDDING PHASE

Upon District's acceptance of Consultant's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Consultant shall perform Bidding Phase services for District as follows:

1. Contact potential bidders and encourage their participation in the Project.
2. Coordinate the development of the bidding procedures and the construction Contract Documents with the District.
3. The development of the bidding procedures and the construction Contract Documents shall be the joint responsibility of the District and Consultant. Nevertheless, Consultant will use all due care and diligence to confirm that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and publishes any potentially relevant information that could, in any way, have an impact on a Contractor's cost of performance.
4. While the Project is being advertised for bids, all questions concerning intent shall be referred to the District for screening and subsequent processing through Consultant.
5. In the event that items requiring interpretation of the drawings or specifications are discovered during the bidding period, those items shall be analyzed by the Consultant for decision by the District as to the proper procedure required. Corrective action will be in the form of an addendum prepared by the Consultant and issued by the District.
6. Attend bid opening.
7. Coordinate with Sub-consultants.
8. Respond to District and potential bidder questions and clarifications.
9. Deliverables and Number of Copies

Within thirty (30) days of the end of this Phase, Consultant shall provide to the District a hard copy of the following items produced in this Phase, together with one (1) copy of each item in electronic format:

- a. Two (2) copies of the meeting report/minutes from the kick-off meeting;
- b. Two (2) copies of the meeting report/minutes from the pre-bid site walk; and
- c. Upon completion of the Bidding Phase, Consultant shall produce a Conforming Set of plans and specifications incorporating all addenda issued thus far. Consultant shall supply District with two (2) complete, reproducible sets of plans and specifications marked as a Conforming Set.

H. CONSTRUCTION ADMINISTRATION PHASE

Upon District's acceptance of Consultant's work in the previous Phase and assuming District has not delayed or terminated the Agreement, Consultant shall perform Construction Administration Phase services for the District as follows:

1. Consultant's responsibility to provide basic services for the Construction Phase under the Agreement commences with the award of the contract for construction and terminates upon satisfactory performance and completion of all tasks in this phase and commencement of the Closeout Phase or upon the District's terminating the Agreement, whichever is earlier.
2. **Construction Oversight and Project Certification Process** (if Project is subject to DSA jurisdiction)
 - a. Consultant shall ensure that the Project Inspector is approved by the DSA for the Project by submitting the applicable Inspector's Qualification Record (form DSA 5 or more current version, if applicable) to and by obtaining approval from the DSA prior to commencement of construction and prior to requesting issuance of project inspections cards (form DSA 152 or more current version, if applicable).
 - b. Consultant shall request issuance of the proper number of project inspection cards (forms DSA 152 or more current version, if applicable) by electronically submitting form DSA 102-IC (or more current version, if applicable) to the DSA after the construction contract has been awarded. Consultant shall provide project inspection cards to the Project Inspector prior to commencement of construction.
 - c. Prior to commencement of construction, Consultant shall provide (1) a copy of the DSA approved construction documents and (2) the DSA approved Statement of Structural Tests and Special Inspections (form DSA 103 or more current version, if applicable) prepared by Consultant to the Project Inspector and Laboratory of Record.
 - d. Consultant shall prepare and submit a Contract Information form (form DSA 102 or more current version, if applicable) for all construction contracts.
 - e. Consultant shall maintain such personal contact with the Project as is necessary to assure themselves of compliance, in every material respect, with the DSA-approved construction documents. Personal contact shall include visits to the Project site by the Consultant or engineer or their qualified representative to observe construction.
 - f. Consultant shall notify DSA as to the disposition of materials noted on laboratory testing, and/or special inspection, reports as not conforming to the DSA-approved construction documents.
 - g. Consultant shall respond to DSA field trip notes as necessary.
 - h. Consultant shall submit an interim Verified Report (form DSA 6-AE or more current version, if applicable) to the DSA electronically and a copy to the Project

Inspector for each of the applicable nine (9) sections of form DSA 152 prior to the Project Inspector signing off that section of the project inspection card.

- i. Consultant shall submit a Statement of Final Actual Project Cost (form DSA 168 or more current version, if applicable) to the DSA.
- j. Consultant shall submit Verified Reports (form DSA 6-AE or more current form, if applicable) to the DSA and to the Project Inspector if any of the following events occur: (1) when construction is sufficiently complete in accordance with the DSA-approved construction documents so that the District can occupy or utilize the Project; (2) work on the Project is suspended for a period of more than one month; (3) the services of the Consultant are terminated for any reason prior to completion of the Project; or (4) DSA requests a Verified Report.

3. Change Orders

- a. Consultant shall review all of Contractor's change order requests to determine if those requests are valid and appropriate. Consultant shall provide a recommendation to District as to whether the change should be approved, partially approved, returned to the Contractor for clarification, or rejected.
- b. Consultant shall furnish all necessary Construction Change Documents and additional drawings for supplementing, clarifying, and/or correcting purposes and for change orders. The District shall request these Construction Change Documents and drawings from the Consultant, which shall be at no additional cost unless designated as Extra Services by the District. The original tracing(s) and/or drawings and contract wording for change orders shall be submitted to the District for duplication and distribution.

4. Submittals

- a. Consultant shall review and approve or take other appropriate action upon Contractor's submittals such as: shop drawings, Project data, samples and Construction Change Documents, but only for the purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.
- b. Consultant shall review Contractor's schedule of submittals and advise the District on whether that schedule is complete. Consultant shall provide the District with proposed revisions to this schedule and advise the District on whether the District should approve this schedule.
- c. Consultant's action upon Contractor's submittals shall be taken as expeditiously as possible so as to cause no unreasonable delay in the construction of the Project or in the work of Contractor(s), while allowing sufficient time in the Consultant's professional judgment to permit adequate review. In no case shall the review period associated with a single, particular submittal exceed twenty-one (21) calendar days from its receipt by the Consultant. Consultant's response to each submittal shall be a substantive and acceptable response. This twenty-one (21)-day time period shall not include time when a submittal is within the District's control or if the submittal is being reviewed by DSA. In no way does

this provision reduce Consultant's liability if it fails to prepare acceptable documents.

5. **RFIs.** During the course of construction as part of the basic services, Consultant must respond to all Requests for Information ("RFI") as expeditiously as possible so as not to impact and delay the construction progress. In no case shall the review period associated with an RFI exceed seven (7) calendar days from receipt by the Consultant. Consultant's response to each RFI shall be a substantive and acceptable response. This seven-day time period shall not include time when a submittal is within the District's control or if the submittal is being reviewed by DSA. In no way does this provision reduce the Consultant's liability if it fails to prepare acceptable documents. Consultant must verify that RFIs are passed through the Project Inspector, if any.
6. **Notices of Deficient Work.** On the basis of on-site observations, Consultant shall keep the District informed of the progress and the quality of the work, and shall endeavor to guard the District against defects and deficiencies in the work. Consultant shall notify the District in writing of any defects or deficiencies in the work by any of the District's Contractors that Consultant may observe, and shall provide this written notice within twenty-four (24) hours of Consultant's observation of defective or deficient work. However, Consultant shall not be a guarantor of the Contractor's performance.
7. **As-Built Drawings.** Consultant shall review and evaluate for District the Contractor(s)' documentation of the actual construction performed during the Project that the Contractor(s) should prepare and submit as As-Builts. As-Builts are documents that show the actual construction performed during the Project, including changes necessitated by Construction Change Documents and change orders, and detailed by the District's construction Contractor(s) on a Conforming Set.
8. **Record Drawings.** Consultant shall incorporate all information on all As-Builts, sketches, details, and clarifications, and prepare one (1) set of final Record Drawings for the District. The Record Drawings shall incorporate onto one (1) set of drawings, all changes from all As-Builts, sketches, details, and clarifications, including, without limitation, all requests for information, Construction Change Documents and change orders based upon the construction Contractor's representations of actual construction. Consultant shall deliver the Record Drawings to the District at completion of the construction in a format acceptable to the District, and it shall be a condition precedent to the District's approval of Consultant's final payment. Consultant may insert the following notice on the Record Drawings:

These drawings [or corrected specifications] have been prepared based on information submitted, in part, by others. Consultant has provided a review consistent with its legal standard of care.
9. **O&M Manuals / Warranties.** Consultant shall review equipment, operation and maintenance manuals, and a complete set of warranty documents for all equipment and installed systems, to ensure that they meet the requirements of the plans and specifications.
10. **Start-up.** Consultant shall also provide, at the District's request, architectural/engineering advice to the District on start-up, break-in, and debugging

of facility systems and equipment, and on apparent deficiencies or defects in construction following the acceptance of the Contractor's work.

11. Payment Statements. Recommendations of Payment by Consultant constitute Consultant's representation to the District that work has progressed to the point indicated to the best of Consultant's knowledge, information, and belief, and that the quality of the work is in general conformance with the Contract Documents.

12. Deliverables and Number of Copies

Within thirty (30) days of the end of this Phase, Consultant shall provide to the District a hard copy of the following items produced in this Phase, together with one (1) copy of each item in electronic format:

- a. Two (2) copies of the meeting report/minutes from the kick-off meeting;
- b. Two (2) copies of the observation reports; and
- c. Two (2) copies of the weekly meeting reports.

13. Meetings

During this Phase, Consultant shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below in Section J.

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I. CLOSE OUT PHASE

1. As the Construction Administration Phase progresses, Consultant shall perform the following Close Out Phase services for the District as required in a timely manner:
 - a. Consultant shall review the Project and observe the construction as required to determine when the Contractor has completed the construction of the Project and shall prepare punch lists of items that remain in need of correction or completion.
 - b. Consultant shall collect from the Contractor, review, and forward to the District all written warranties, operation manuals, and spare parts with Consultant's recommendation as to the adequacy of these items.
 - c. Consultant shall prepare or collect, as applicable, and provide to DSA, all reports required by DSA related to the design and construction of the Project.
 - d. Consultant shall respond to the DSA "90-day" letter.
 - e. Consultant shall obtain all required DSA approval of all Construction Change Documents and addenda to the Contractor's contract.
 - f. Consultant shall prepare a set of As-Built Drawings for the Project, as required by the District.
 - g. Consultant shall review and prepare a package of all warranty and O&M documentation.
 - h. Consultant shall organize electronic files, plans and prepare a Project binder.
 - i. Consultant shall have primary responsibility to coordinate all Services required to close-out the design and construction of the Project with the District and among Sub-consultants.
2. When the design and construction of the Project is complete, the District shall prepare and record with the County Recorder a Notice of Completion for the Project.
3. **Deliverables and Number of Copies**
 - a. Two (2) copies of punch lists for each site; and
 - b. Upon completion of the Project, all related Project documents, including As-Builts and Record Drawings. These are the sole property of the District.
4. **Meetings**

During this phase, Consultant shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below in Section J.

J. MEETINGS / SITE VISITS / WORKSHOPS

1. Consultant shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below. Consultant shall chair, conduct and take minutes of all coordination meetings with its Sub-consultant(s) during the entire design phase. Consultant shall invite the District and/or its representative to participate in these meetings. Consultant shall keep a separate log to document design/coordination comments generated in these meetings.
2. **General Meeting, Site Visit, and Workshop Requirements**
 - a. Consultant shall always be prepared to answer questions and issues from District staff, site staff, potential bidders, and/or Contractors, as applicable.
 - b. Consultant shall maintain a log of all meetings, site visits or site observations held in conjunction with the design and construction of the Project, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Project documentation.
 - c. As required, Consultant shall provide at no additional cost to the District copies of all documents or other information needed for each meeting, site visit, and workshop.
 - d. Each meeting may last up to a full day (eight (8) hours) and shall be held at the District office or at the Project site, unless otherwise indicated.
3. **Meetings During Project Initiation Phase (Two (2) meeting(s))**
 - a. Within the first week following execution of the Agreement, Consultant shall participate in one (1) Project kick-off meeting to determine the Project intent, scope, budget and timetable, which shall encompass the following:
 - (i) Consultant, its appropriate Sub-consultant(s), and District staff, shall attend the meeting.
 - (ii) The Project kick-off meeting will introduce key team members from the District and the Consultant to each other, defining roles and responsibilities relative to the Project.
 - (iii) During this meeting, Consultant shall:
 - (A) Identify and review pertinent information and/or documentation necessary from the District for the completion of the Project.
 - (B) Review and explain the overall Project goals, general approach, tasks, work plan and procedures and deliverable products of the Project.
 - (C) Review and explain the scope of work and Project work plan for all parties present; determine any adjustments or fine tuning that needs to be made to the work plan.

(D) Review documentation of the Project kick-off meeting prepared by the District's representative and comment prior to distribution.

b. Consultant shall participate in One (1) meeting(s) as requested by District.

4. Initial Site Visits (Two (2) meeting(s))

a. Consultant shall visit the Project site to complete a visual inventory and documentation of the existing conditions.

5. Meetings During Architectural Program (Three (3) meeting(s))

a. Consultant shall participate in one (1) public community information site meeting to receive input from the community regarding its wishes and expectations regarding the design of Consultant's work on the Project and the schedule of use of the site during construction.

b. Consultant shall conduct one (1) site visit/meeting with the District's facilities team to gather information from District facilities team and site personnel and to make a visual presentation regarding the Project.

c. Consultant shall conduct a minimum of One (1) additional meetings as requested by District.

d. Electrical, civil, mechanical, structural, landscaping, and estimating consultant(s) shall participate in these meetings as appropriate and shall provide input and feedback into the development of the Construction Cost Budget.

6. Meetings During Schematic Design Phase (Two (2) meeting(s))

a. Within the first two weeks following the start of the Schematic Design Phase, Consultant shall conduct Two (2) design workshop[s] with the District's facilities team and site personnel to complete a basic design framework with computer-aided design equipment ("CADD"). The District may, at its discretion, allow Consultant to proceed with this meeting without using CADD. This workshop shall be ongoing and may include several meetings and shall not be concluded until each attendee has indicated his or her acceptance with the Consultant's preliminary design. This workshop shall include the following:

(i) Consultant shall designate its team member duties and responsibilities.

(ii) Consultant and District shall review District goals and expectations.

(iii) District shall provide input and requirements.

(iv) Consultant and District shall review Project scope and budget, including the Construction Cost Budget and the Construction Budget.

(v) Prepare and/or revise the scope of work list and general workplan from the Pre-Design Phase, for documentation in a computer-generated Project schedule.

(vi) Establish methods to facilitate the communication and coordination efforts for the Project.

b. Consultant shall participate in One (1) meeting(s) as requested by District.

7. Meetings During Design Development Phase (Two (2) meeting(s))

a. At the time designated for completion of the Design Development package, Consultant shall conduct One (1) meeting[s], per package or submittal, with the District to review the following:

(i) Present the Design Development package for review and comment to proceed with preparation of final plans and specification.

(ii) Consultant and District shall review Project scope and budget, including the Construction Cost Budget and the Construction Budget.

b. Value Engineering Workshop (One (1) meeting(s))

(i) Consultant shall conduct value engineering workshop(s), as requested by the District, which shall include all of Consultant's Sub-consultant(s), the District, and the Construction Manager during the Design Development Phase. This workshop shall be ongoing and may include several meetings.

8. Meetings During Construction Documents Phase (Three (3) meeting(s))

a. Prior to beginning work on the fifty percent (50%) design package, Consultant shall conduct One (1) meeting[s], per package or submittal, with the District to revise the Design Development package and receive comments.

b. At the time designated for completion of the fifty percent (50%) submittal package, Consultant shall conduct One (1) meeting[s], per package or submittal, with the District to review the following:

(i) Present the fifty percent (50%) submittal package for review and comment to proceed with preparation of final plans and specifications.

(ii) Consultant and District shall provide further review of Project scope and budget, including the Construction Cost Budget and the Construction Budget.

c. At the time designated for completion of the one hundred percent (100%) Construction Document package, Consultant shall conduct One (1) meeting[s], per package or submittal, with the District to review the following:

(i) Present the hundred percent (100%) Construction Document package for review and comment to proceed with preparation of final plans and specifications.

(ii) Consultant and District shall provide further review of Project scope and budget, including the Construction Cost Budget and the Construction Budget.

9. Meetings During Bidding Phase (Three (3) meeting(s))

- a. Attend and take part in One (1) meeting[s], per package or submittal, with all potential bidders, District staff, and Construction Manager.
- b. Conduct one (1) kick-off meeting with the successful bidder, District staff, and Construction Manager to finalize the roles and responsibilities of each party and provide protocols and processes to follow during construction.

10. Meetings During Construction Administration Phase (Twelve (12) meeting(s), plus weekly Project meetings until entire Project is complete)

- a. Consultant shall visit the Project site as necessary or when requested, and in no case less than once per week, sufficient to determine that the Project is being constructed in accordance with the plans and specifications, and to resolve discrepancies in the Contract Documents and to monitor the progress of the construction of the Project.
- b. Conduct weekly Project meetings with District staff to review with District staff the progress of the work. This is expected to be Five (5) meetings, per site, but Consultant acknowledges that the Project may not be completed in this timeframe and agrees to attend weekly Project meetings, at no additional cost to the District, until the work of the Project is complete.
- c. Consultant shall ensure that Sub-consultant(s) visit the site in conformance with their agreement(s) and that Sub-consultant agreements shall reference District requirements for Construction Phase services.

11. Citizens' Bond Oversight Committee Meetings (One (1) meeting(s)) (if applicable)

Consultant acknowledges that the design and construction of the Project is subject to oversight by the District's citizen bond oversight committee. Consultant shall, at the District's direction, attend District citizen bond oversight committee meeting(s) and present the Consultant's design to the District's citizen bond oversight committee for review.

12. Governing Board Meetings (One (1) meeting(s))

Consultant acknowledges that the District's Governing Board must approve all designs. Consultant shall, at the District's direction, attend District Governing Board meeting(s) and present the Consultant's design to the District's Governing Board for review and approval.

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to the Agreement shall be performed by Consultant if needed and if authorized or requested by the District:

- A. Making revisions in drawings, specifications, or other documents when such revisions are required by the enactment or revisions of codes, laws, or regulations subsequent to the preparation of the Conforming Set.
- B. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of that work.
- C. Providing services made necessary by the default of Contractor(s).
- D. In the absence of a final Certificate of Payment or Notice of Completion, providing services more than ninety (90) days after the date of completion of work by Contractor(s) and after Consultant has completed all of its obligations and tasks under the Agreement.
- E. Providing deliverables or other items in excess of the number indicated in **Exhibit "A."** Before preparing, providing, sending, or invoicing for extra deliverables, Consultant shall inform the District that expected deliverables may be in excess of the number indicated in **Exhibit "A,"** so that the District can procure the additional deliverables itself or direct Consultant to procure the deliverables at the District's expense or on the District's account at a specific vendor.
- F. Providing services as directed by the District that are not part of the Basic Services of this Agreement.
- G. Providing services as an expert and/or witness for the District in any mediation, arbitration, and/or trial in which the Consultant is (1) not a party, and (2) did not in any way cause the dispute that is being adjudicated.
- H. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement.

| Job Title | Hourly Rate |
|----------------------|--------------------|
| Principal In Charge: | |
| Project Director: | |
| Project Manager(s): | |
| Project Designer(s): | |
| Other | |
| Other | |
| Other | |
| Other | |

- I. The mark-up on any approved reimbursable item of Extra Services shall not exceed five percent (5%).

EXHIBIT "C"

SCHEDULE OF SERVICES

- A. Promptly after the execution of this Agreement, Consultant shall prepare and submit for approval to the District a Schedule of Services showing the order in which Consultant proposes to carry out Consultant's Services ("Schedule of Services"). The Schedule of Services shall apply to the completion of all Services listed hereunder within the times established by this Agreement. The Schedule of Services shall be in the form of a progress chart clearly delineating all important increments and review dates. Consultant shall update the Schedule of Services on a monthly basis and deliver two (2) hard copies and one (1) electronic copy to the District along with the monthly billing.
- B. Consultant shall complete Services required under the Development of Architectural Program section within **TBD** **calendar days** after written authorization from the District to proceed.
- C. Consultant shall complete Services required under the Schematic Design Phase within **TBD** **calendar days** after written authorization from District to proceed.
- D. Consultant shall complete Services required under the Design Development Phase within **TBD** **calendar days** after receipt of a written authorization from District to proceed.
- E. Consultant shall complete Services required under Construction Documents Phase within **TBD** **calendar days** after written authorization from District to proceed, and as more specifically indicated below. Excluded from this duration is the time associated with the Construction Documents back-check stage.
 - 1. 50% Submittal Package **calendar days**
 - 2. 100% Submittal Package **calendar days**
 - 3. Final Contract Documents after Final Back-Check Stage **calendar days**
- F. The durations stated above include the review periods required by the District and all other regulatory agencies.
- G. All times to complete tasks set forth in this Exhibit are of the essence, as indicated in the Agreement. If delays in the Schedule of Services are incurred as a result of the District's inability to comply with requested meeting schedules, Consultant shall maintain the right to request an adjustment in the Schedule of Services if deemed necessary to meet the deadlines set forth in this Exhibit. If approved, those extensions shall be authorized in writing by the District.

EXHIBIT "D"

PAYMENT SCHEDULE

A. Compensation

1. The payment of consideration to Consultant as provided herein shall be full compensation for all of Consultant's Services incurred in the performance hereof, including, without limitation, all costs for personnel, travel within two hundred (200) miles of a Project location, offices, per diem expenses, printing and shipping of deliverables in the quantities set forth in **Exhibit "A,"** or any other direct or indirect expenses incident to providing the Services. Except as expressly set forth in the Agreement and **Exhibit "B,"** there shall be no payment for extra costs or expenses.
2. The total compensation to Consultant shall be as stated in Article 6 of the Agreement.
3. District shall pay Consultant as follows for all Services contracted for under this Agreement:

| PERCENTAGE OF TOTAL FEE PER PHASE | |
|---|---------------------|
| Phase | Phase Amount |
| Pre-Design/Architectural Program Development Phase | 2.5% |
| Schematic Design Phase | 10% |
| Design Development Phase | 17.5% |
| Construction Documents Phase-Submittal to DSA | 30% |
| Approval by DSA | 5% |
| Bidding Phase | 2% |
| Construction Administration Phase | 23% |
| Close Out Phase | 10% |
| Generate Punch List | 2% |
| Sign Off On Punch List | 2% |
| Receive and Review All M & O Documents | 2% |
| Filing All DSA Required Close Out Documents | 2% |
| Receiving DSA Close Out, including DSA approval of the final set of Record Drawings | 2% |
| TOTAL BASE COMPENSATION | 100% |

B. Method of Payment

1. Invoices shall be on a form approved by the District and are to be submitted to the District via the District's authorized representative.
2. Consultant shall submit to District on a monthly basis documentation showing proof that payments were made to its Sub-consultant(s).
3. Consultant shall submit to the District for approval a copy of the Consultant's monthly pay request format.

f

4. Upon receipt and approval of Consultant's invoices, except as provided in subdivision 4.g. herein, the District agrees to make payments of undisputed amounts within thirty (30) days of receipt of the invoice as follows:

a. **Pre- Design/Architectural Program Development Phase:**

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Pre-Design/Architectural Program.

b. **For Schematic Design Phase:**

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Schematic Design Phase by the District.

c. **For Design Development Phase:**

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Design Development Phase by the District.

d. **For Construction Documents Phase:**

Monthly payments for percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon acceptance and approval of the Construction Documents Phase by the District.

e. **For Bidding Phase:**

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon the District's award of the bid.

f. **For Construction Administration Phase:**

Monthly payments for the percentage of all Services complete up to ninety-five percent (95%) of the fee for the Phase; one hundred percent (100%) payment upon the District's notice of completion.

g. **For Close Out:**

Lump sum payment no sooner than thirty-five (35) days and no later than forty-five (45) days after completion of all items in this Phase.

h. **Format and Content of Invoices:**

Consultant acknowledges that the District requires Consultant's invoices to include detailed explanations of the Services performed. f

For example, a six hour charge for "RFIs and CORs" is unacceptable and will not be payable. A more detailed explanation, with specificity, is required. This includes a separate entry for each RFI, PCO, CCD and change order. For example, the following descriptions, in addition to complying with all other terms of this Agreement, would be payable. The times indicated below are just placeholders:

| | |
|--|-----------|
| Review RFI 23; review plans and specifications for response to same; prepare responses to same and forward to contractor, district, construction manager, and project inspector. | .8 hours |
| Review COR 8; review scope of same and plans and specifications for appropriateness of same; prepare draft change order and language for same. | .7 hours |
| Review COR 11; review scope of same and plans and specifications for appropriateness of same; prepare rejection of COR 11 for review by district, CM, IOR. | 1.2 hours |

f

EXHIBIT "E"

INSURANCE REQUIREMENTS

- A. Consultant shall procure, prior to commencement of the Services of this Agreement and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services hereunder by the Consultant, his agents, representatives, employees and Sub-consultant(s). Consultant's liabilities, including but not limited to Consultant's indemnity or defense obligations, under this Agreement shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Consultant's failure to maintain or renew coverage or to provide evidence coverage or of renewal during the term of this Agreement, as required or when requested, may be treated by the District as a material breach of contract.
- B. **Minimum Scope and Limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:
1. **Commercial General Liability.** Two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to each project/location or the general aggregate limit shall be twice the required occurrence limit.
 2. **Commercial Automobile Liability, Any Auto.** One million dollars (\$1,000,000) per accident for bodily injury and property damage.
 3. **Workers' Compensation Liability.** For all of the Consultant's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, Consultant shall keep in full force and effect, a Workers' Compensation policy. Consultant shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 4. **Employers' Liability.** For all of the Consultant's employees who are subject to this Agreement, Consultant shall keep in full force and effect, an Employers' Liability policy. That policy shall provide employers' liability coverage with minimum liability coverage of one million dollars (\$1,000,000) per occurrence. Consultant shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 5. **Professional Liability.** This insurance shall cover the prime design professional and his/her sub-consultant(s) on a Claims Made basis for two million dollars (\$2,000,000) aggregate limit subject to no more than twenty-five thousand dollars (\$25,000) per claim deductible, coverage to continue through completion of construction plus two (2) years thereafter.
- C. The District reserves the right to modify the limits and coverages described herein.

- D. **Deductibles and Self-Insured Retention:** Consultant shall inform the District in writing if any deductibles or self-insured retention exceeds twenty-five thousand dollars (\$25,000). At the option of the District, either:
1. The District can accept the higher deductible;
 2. Consultant's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or
 3. Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- E. **Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
1. The District, its representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Consultant; Instruments of Service and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
 2. For any claims related to the projects, Consultant's insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of Consultant's insurance and shall not contribute with it.
 3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
 4. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.
- F. **Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. Architect shall inform the District in writing if any of its insurer(s) have an A.M. Best's rating less than A:VII. At the option of the District, the District may either:
1. Accept the lower rating; or
 2. Require Consultant to procure insurance from another insurer.

f

EXHIBIT "F"

LOCAL, SMALL LOCAL AND SMALL LOCAL RESIDENT BUSINESS ENTERPRISE PROGRAM

Attached is the District's Board Policy and Administrative Regulations on its Local, Small Local and Small Local Resident Business Enterprise Program applicable to this Project, which Consultant agrees to be bound.

[Link to be inserted at time of execution:

<http://www.ousd.org/cms/lib07/CA01001176/Centricity/Domain/95/2014%20amendment%20to%202008%20LSISrbe%20and%20Facilities%20-%20Board%20Policy%20.pdf>]

END OF DOCUMENT



Policy Number: Various

Date Entered: 6/16/2017

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/7/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | | |
|----------|---|---|--------|
| PRODUCER | Mary Barnard Insurance 2190 Stokes Street Suite 201 San Jose CA 95128 | CONTACT NAME: Jennie Maltese | |
| | | PHONE (A/C, No, Ext): (408) 286-1334 FAX (A/C, No): (408) 286-6425 E-MAIL ADDRESS: jennie@barnardinsurance.com | |
| INSURED | Verde Design, Inc. 2455 THE ALAMEDA, SUITE 200 SANTA CLARA, CA 95050-6037 | INSURER(S) AFFORDING COVERAGE | NAIC # |
| | | INSURER A: TRUCK INSURANCE EXCHANGE | 21709 |
| | | INSURER B: Technology Insurance Company | 42376 |
| | | INSURER C: | |
| | | INSURER D: | |
| | | INSURER E: | |

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|-----------|----------|---------------|-------------------------|-------------------------|---|
| A | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR | | | 605016326 | 6/13/2017 | 6/13/2018 | EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 OTHER \$ |
| A | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY | | | 605016326 | 6/13/2017 | 6/13/2018 | COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ OTHER \$ |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED \$ RETENTION \$ | | | 605016330 | 6/13/2017 | 6/13/2018 | EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 OTHER \$ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | Y/N | N/A | TWC3634747 | 6/13/2017 | 6/13/2018 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000 |
| A | Physical Damage | | | 605016326 | 06/13/2017 | 06/13/2018 | Comp Ded. \$500 Coll Ded. \$500 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

30 days notice of cancellation; 10 days notice for nonpayment of premium

UMBRELLA LIABILITY IS FOLLOW FORM OVER GENERAL LIABILITY/AUTO LIABILITY and EMPLOYERS LIABILITY.

RE: Emerson Field; Oakland Unified School District & The State and its directors, officers, employees, agents representatives, trustees, and volunteers are named as additional insureds; such insurance is primary

CERTIFICATE HOLDER

CANCELLATION

| | |
|---|---|
| Oakland Unified School District Facilities Planning & Management 955 High Street Oakland, Ca 94601 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE |
|---|---|

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US**

E3306
1st Edition

6/13/17

Effective Date

60501-63-26

Policy Number

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COMMON POLICY CONDITIONS - BP 00 09

SCHEDULE

Name of Person or Organization:

(If no entry appears above, information required to complete this Endorsement must be shown in the Declarations as applicable to this endorsement.)

The provisions of the Businessowners Common Policy Conditions are modified by this endorsement as follows:

Condition K. Transfer Of Rights Of Recovery Against Others To Us in the Businessowners Common Policy Conditions is amended by the addition of the following:

3. We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard." This waiver applies only to the person or organization shown in the Schedule above.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all the terms of the policy.



DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

Project Information

| | | | |
|---------------------|--------------------------------------|-------------|-----|
| Project Name | Emerson Elementary School Ball Field | Site | 115 |
|---------------------|--------------------------------------|-------------|-----|

Basic Directions

Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.

| | |
|-----------------------------|---|
| Attachment Checklist | <input type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider |
|-----------------------------|---|

Contractor Information

| | | | | | | | |
|---------------------------|---|-------------------------|---|--------------|----|------------|-------|
| Contractor Name | Verde Design, Inc. | Agency's Contact | Devin Conway | | | | |
| OUSD Vendor ID # | V053604 | Title | Project Manager | | | | |
| Street Address | 2455 The Alameda, Suite 200 | City | Santa Clara | State | CA | Zip | 95050 |
| Telephone | 408-985-7200 | Policy Expires | | | | | |
| Contractor History | Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | | | |
| OUSD Project # | 17111 | | | | | | |

Term

| | | | |
|-----------------------------|----------|--|-----------|
| Date Work Will Begin | 6-7-2018 | Date Work Will End By <small>(not more than 5 years from start date)</small> | 8-21-2020 |
|-----------------------------|----------|--|-----------|

Compensation

| | | | |
|--------------------------------------|----|-------------------------------------|----|
| Total Contract Amount | \$ | Total Contract Not To Exceed | \$ |
| Pay Rate Per Hour (if Hourly) | \$ | If Amendment, Changed Amount | \$ |
| Other Expenses | | Requisition Number | |

Budget Information

If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.

| Resource # | Funding Source | Org Key | Object Code | Amount |
|------------|--------------------|------------|-------------|--------------|
| 9350 | Fund 21, Measure J | 1159905811 | 6215 | \$198,600.00 |

Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

| | | | | | |
|----|--|---------------|--------------|------------|--------------|
| | Division Head | Phone | 510-535-7038 | Fax | 510-535-7082 |
| 1. | Director, Facilities Planning and Management | | | | |
| | Signature | Date Approved | 5/14/18 | | |
| 2. | General Counsel, Department of Facilities Planning and Management | | | | |
| | Signature | Date Approved | 5/18/18 | | |
| 3. | Deputy Chief, Facilities Planning and Management | | | | |
| | Signature | Date Approved | 5-16-18 | | |
| 4. | Senior Business Officer, Board of Education | | | | |
| | Signature | Date Approved | | | |
| 5. | President, Board of Education | | | | |
| | Signature | Date Approved | | | |

RELEASED MAY 18 2018