

Board Office Use: Legislative File Info.	
File ID Number	13-0528
Committee	Facilities
Introduction Date	3-27-2013
Enactment Number	13-0586
Enactment Date	3/27/13



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Tony Smith, Ph.D., Superintendent
Timothy White, Associate Superintendent, Facilities Planning and Management

Board Meeting Date March 27, 2013

Subject Amendment No. 3, Independent Contractor Agreement - Byrens Kim Design Works - Grass Valley Elementary School Portable Installation Project

Action Requested Approval by the Board of Education of Amendment No. 3, Independent Contractor Agreement with Byrens Kim Design Works for Design Services on behalf of the District at Grass Valley Elementary School Portable Installation Project, in an amount not-to exceed \$4,300.00, increasing previous contract amount from \$86,547.50 to a not to exceed amount of \$90,847.50. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Background Additional design services not included in the original proposal due to owner request changes and unforeseen site conditions.

Local Business Participation Percentage 84.00%

Strategic Alignment Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources,



number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

Recommendation

Approval by the Board of Education of Amendment No. 3, Independent Contractor Agreement with Byrens Kim Design Works for Design Services on behalf of the District at Grass Valley Elementary School Portable Installation Project, in an amount not-to exceed \$4,300.00, increasing previous contract amount from \$86,547.50 to a not to exceed amount of \$90,847.50. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Fiscal Impact

County School Facilities Fund

Attachments

- Independent Contractors Agreement including scope of work

EXHIBIT A



February 7, 2013

Eric Sih
Oakland Unified School District
955 High Street
Oakland, CA 94601

RE: Amendment Proposal #3 for Change Order Scope of Work
For Grass Valley Elementary School Portable Installation Project
OUSD Project No. 07148

Dear Eric,

I am providing this amendment proposal to cover our expenses incurred during the construction addressing owner requested and field found change order scope of work. There were 20 AEDs, mostly due to the owner requested changes and the site found conditions. The following 5 required additional design work.

AED #	DESCRIPTION	CONSTRUCTION COST
5	Design and installation of new Bosch Intrusion Alarm Panel as requested by the district	\$2,700.00
7	Sewer line connection investigation and revision due to the existing location given by the district not being correct	\$40,000.00
9	Storm water rerouting that impacted electrical trench installation	\$1,209.00
12	Modification of the existing curb ramp not meeting the accessibility requirement	\$5,684.00
20	Replacement/repair of 3 existing electrical subpanels on existing portables that were vandalized	\$4,554.00
	Total	\$54,147.00

Based the construction cost of \$54,147, we request a 8% design fee amendment related to the design revision, the construction administration and the DSA justification. We request an amendment of \$4,300.00

Please amend our contract to add \$4,300.00 to the current contract as noted below.

Original Contract Amount	\$75,000.00
Amendment No. 1 – Landscape	\$4,300.00
Amendment No. 2 – DSA and Fire Marshal Plan Review	\$7,247.50
Amendment No. 3 – Construction Design Change	(\$4,300.00)
TOTAL	\$90,847.50

OK
2/7/13

We have already completed the work outlined in this proposal. The documents were approved by the Division of State Architect.

I thank you for your consideration.

Cordially,


Dong E Kim, AIA, LEED AP
President

Eric Sih

From: Dong Kim <dongk@byrenskim.com>
Sent: Thursday, February 07, 2013 10:29 AM
To: Eric Sih
Cc: 'Paula Byrens'
Subject: Grass Valley Amendment #3 Proposal
Attachments: proposal-GrassValley-Amend3.pdf

Eric,

Please find the attached Amendment #3 for your review and approval. Feel free to give me a call if you need any clarifications.

Thank you,

Dong

Dong E Kim, AIA, LEED AP
President

BYRENS KIM DESIGN WORKS
361 17TH STREET OAKLAND CA 94612
510-452-3224 TEL 510-452-2744 FAX
www.byrenskim.com



File ID Number: 13-0528
 Introduction Date: 3/27/13
 Enactment Number: 13-0586
 Enactment Date: 3/27/13
 By: OA

AMENDMENT NO. 3 TO INDEPENDENT CONSULTANT CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and **Bvrens Kim Design Works**. OUSD entered into an Agreement with CONTRACTOR for services on January 26, 2012, and the parties agree to amend that Agreement as follows:

1. Services:	<input type="checkbox"/> The scope of work is <u>unchanged</u> .	<input checked="" type="checkbox"/> The scope of work has <u>changed</u> .
<p>If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. <u>Attach revised scope of work.</u></p> <p>The CONTRACTOR agrees to provide the following amended services: <u>The scope of the project is provide additional design fees due to owner requested changes and unforeseen site conditions.</u></p>		
2. Terms (duration):	<input checked="" type="checkbox"/> The term of the contract is <u>unchanged</u> .	<input type="checkbox"/> The term of the contract has <u>changed</u> .
<p>If term is changed: The contract term is extended by an additional _____ (days/weeks/months), and the amended expiration date is _____, 20____.</p>		
3. Compensation:	<input type="checkbox"/> The contract price is <u>unchanged</u> .	<input checked="" type="checkbox"/> The contract price has <u>changed</u> .
<p>If the compensation is changed: The contract price is amended by</p> <p style="padding-left: 40px;"> <input checked="" type="checkbox"/> Increase of \$4,300.00 to original contract amount <input type="checkbox"/> Decrease of \$ _____ to original contract amount </p> <p>and the new contract total is <u>Ninety thousand, eight hundred dollars and forty-seven dollars and fifty cents (\$90,847.50)</u></p>		

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**

There are no previous amendments to this Agreement. This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
1	3-28-2012	Provide landscaping for the portable installation project	\$4,300.00
2	6-27-2012	Provide reimbursement for DSA and City of Oakland Fire Marshal review fees	\$7,247.50

6. **Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.

OAKLAND UNIFIED SCHOOL DISTRICT

CONTRACTOR

David Kakashiba, President,
Board of Education

3/28/13
Date

[Signature]
Contractor Signature

2/21/13
Date

Edgar Rakestraw, Jr., Secretary
Board of Education

3/28/13
Date

DONG KIM, PRESIDENT
Print Name, Title

Timothy White, Associate Superintendent
Facilities, Planning and Management

Date

EXHIBIT "A" Scope of Work

Contractor Name: BYRENS KIM DESIGN WORKS

Billing Rate: Four thousand, three hundred dollars and no cents (\$4,300.00)

Description of Services to be Provided

1. Description of Services to be Provided

Provide for additional design fees due to owner requested changes and unforeseen conditions.

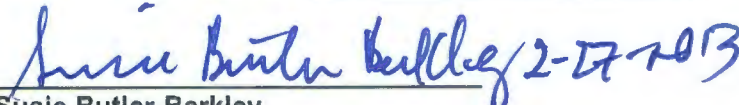
2. Specific Outcomes:

Create equitable opportunities for learning.

3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input type="checkbox"/> Develop social, emotional and physical health	<input type="checkbox"/> Safe, healthy and supportive schools
<input checked="" type="checkbox"/> Create equitable opportunities for learning	<input checked="" type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input type="checkbox"/> Full service community district

Oakland Unified School District or the District verifies that the Contractor does not appear on the Excluded Parties List at www.epls.gov/epls/search.do.



 Susie Butler-Berkley
 Contract Analyst

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
2/27/2013

PRODUCER Dealey, Renton & Associates P. O. Box 12675 Oakland, CA 94604-2675 510 465-3090	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
	INSURERS AFFORDING COVERAGE
INSURED Byrens Kim Design Works 361 - 17th Street Oakland, CA 94612	INSURER A: Travelers Property Casualty Co
	INSURER B: Everest National Ins Co
	INSURER C:
	INSURER D:
	INSURER E:


COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	6808718N839	09/01/12	09/01/13	EACH OCCURRENCE	\$2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	\$1,000,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$10,000
					PERSONAL & ADV INJURY	\$2,000,000
					GENERAL AGGREGATE	\$4,000,000
					PRODUCTS - COMP/OP AGG	\$4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
	EXCESS LIABILITY				EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	<input type="checkbox"/> RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS	OTHER
					E.L. EACH ACCIDENT	\$
					E.L. DISEASE - EA EMPLOYEE	\$
					E.L. DISEASE - POLICY LIMIT	\$
B	OTHER Professional Liability	79AE001509121	06/06/12	06/06/13	\$2,000,000 per claim \$2,000,000 annl aggr.	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

General Liability excludes claims arising out of the performance of professional services.
PROJECT NAME: Grass Valley Elementary School Portable Installation .
 Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives are named as Additional Insureds to General and Auto Liability per policy form wording.
 Insurance is Primary and Non-Contributory.

CERTIFICATE HOLDER Oakland Unified School District Attn: Susie Butler-Berkley Division of Facilities, Planning & Management 955 High Street Oakland, CA 94601-0000	ADDITIONAL INSURED; INSURER LETTER:	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL SEND BY MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BY MAIL PERSONAL DELIVERY TO THE INSURED OR AGENT AUTHORIZED REPRESENTATIVE .
		AUTHORIZED REPRESENTATIVE 

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

- BUSINESS AUTO COVERAGE FORM
- GARAGE COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM
- TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective	
Named Insured Byrens Kim Design Works	Countersigned by <i>Michelle King</i> (Authorized Representative)

SCHEDULE

Name of Person(s) or Organization(s):

NAME OF ADDITIONAL INSURED PERSON(S) OR ORGANIZATIONS CONT'D: Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives

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

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.

POLICY NUMBER: 6808718N839

COMMERCIAL GENERAL LIABILITY
ISSUE DATE: 09/01/12

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S): Oakland Unified School District
Attn: Susie Butler-Berkley
Division of Facilities, Planning & Management
955 High Street

PROJECT/LOCATION OF COVERED OPERATIONS:

NAME OF ADDITIONAL INSURED PERSON(S) OR ORGANIZATIONS CONT'D: Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives

PROVISIONS

A. The following is added to WHO IS AN INSURED (Section II):

The person or organization shown in the Schedule above is an additional insured on this Coverage Part, but only with respect to liability for bodily injury, property damage or personal injury caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations;
- b. In connection with premises owned by or rented to you; or
- c. In connection with your work and included within the "products-completed operations hazard."

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- d. This insurance does not apply to the rendering of or failure to render any "professional services".
- e. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that contract or agreement requiring insurance to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the LIMITS OF INSURANCE (Section III) for this Coverage Part.

B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):
However, if you specifically agree in a contract or agreement requiring insurance that, for the additional insured shown in the Schedule, the insurance provided to that additional insured under this

COMMERCIAL GENERAL LIABILITY

Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance" for such additional insured. But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when the additional insured is also an additional insured under any other insurance.

- C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

We waive any rights of recovery we may have against the additional insured shown in the Schedule above because of payments we make for "bodily injury", "property damage" or "personal

injury" arising out of "your work" on or for the project, or at the location, shown in the Schedule above, performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that additional insured. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with that additional insured entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

- D. The following definition is added to DEFINITIONS (Section V):

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include the person or organization shown in the Schedule as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

AMENDMENT TO INDEPENDENT CONSULTANT AGREEMENT ROUTING FORM

Project Information

Project Name	Grass Valley ES Portable Installation	Site	Grass Valley ES
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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
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Contractor Information

Contractor Name	Byrens Kim Design Works	Agency's Contact	Dong Kim		
OUSD Vendor ID #	1009281	Title	Architect of Record		
Street Address	361-17 th Street	City	Oakland	State	CA
Telephone	510-452-3224	Policy Expires	9-1-2013		
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 #	07148				

Term

Date Work Will Begin	1-26-2012	Date Work Will End By <small>(not more than 5 years from start date)</small>	12-31-2013
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Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$90,847.50
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$ 4,300.00
Other Expenses		Requisition Number	


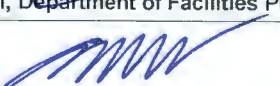

Budget Information

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
7710	County School Facilities Fund	1229003831	6215	\$4,300.00

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	Charles Love	Phone	510-535-7081	Fax	510-535-7082
1.	Capital Program Contract & Accounting Manager					
	Signature		Date Approved	2-27-12		
2.	General Counsel, Department of Facilities Planning and Management					
	Signature		Date Approved	3-4-13		
3.	Associate Superintendent, Facilities Planning and Management					
	Signature		Date Approved			
4.	President, Board of Education					
	Signature		Date Approved			

Board Office Use: Legislative File Info.	
File ID Number	12-1795
Committee	Facilities
Introduction Date	6-27-2012
Enactment Number	12-1838
Enactment Date	6/27/12



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Tony Smith, Ed.D., Superintendent
Timothy White, Associate Superintendent, Facilities Planning and Management

Board Meeting Date June 27, 2012

Subject Amendment No. 3, Independent Consultant Agreement - Byrens Kim Design Works - Grass Valley Portable Installation Project

Action Requested Approval by the Board of Education of Amendment No. 2, Independent Consultant Agreement with Byrens Kim Design Works for Design Services on behalf of the District at Grass Valley Portable Installation Project, in an amount not-to exceed \$7,247.50 increasing previous contract amount from \$79,300.00 to a not to exceed amount of \$86,547.50. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Background The purpose of this service is per the District's request.

Local Business Participation Percentage 84.00%

Strategic Alignment Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources,



number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

Recommendation

Approval by the Board of Education of Amendment No. 2, Independent Consultant Agreement with Byrens Kim Design Works for Design Services on behalf of the District at Grass Valley Portable Installation Project, in an amount not-to exceed \$7,247.50 increasing previous contract amount from \$79,300.00 to a not to exceed amount of \$86,547.50. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Fiscal Impact

Measure B

Attachments

- Independent Contractors Agreement including scope of work



AMENDMENT NO. 2 TO INDEPENDENT CONSULTANT CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and Byrens Kim Design Works. OUSD entered into an Agreement with CONTRACTOR for services on January 26, 2012, and the parties agree to amend that Agreement as follows:

1. **Services:** The scope of work is unchanged. The scope of work has changed.

If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. Attach revised scope of work.

The CONTRACTOR agrees to provide the following amended services: The scope of the project is to provide reimbursement for Division of State Architect and City of Oakland Fire Marshal review fees.

2. **Terms (duration):** The term of the contract is unchanged. The term of the contract has changed.

If term is changed: The contract term is extended by an additional _____ (days/weeks/months), and the amended expiration date is _____, 20____.

3. **Compensation:** The contract price is unchanged. The contract price has changed.

If the compensation is changed: The contract price is amended by

Increase of \$7,247.50 to original contract amount

Decrease of \$ _____ to original contract amount

and the new contract total is **Eighty-six thousand, five hundred forty-seven dollars and fifty cents (\$86,547.50)**

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**

There are no previous amendments to this Agreement. This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
1	3-28-2012	Provide landscaping for the portable installation project	\$4,300.00

6. **Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.

OAKLAND UNIFIED SCHOOL DISTRICT

CONTRACTOR

Jody London
Jody London, President, Board of Education

6/28/12
Date

[Signature]
Contractor Signature 6/6/12
Date

Edgar Rakestraw, Jr.
Edgar Rakestraw, Jr., Secretary
Board of Education

6/28/12
Date

DONG KIM, VICE PRESIDENT
Print Name, Title

Timothy White
Timothy White, Associate Superintendent
Facilities, Planning and Management

Date

File ID Number: 12-1795
Introduction Date: 6/27/12
Enactment Number: 12-1838
Enactment Date: 6/27/12
By: _____

EXHIBIT "A" Scope of Work

Contractor Name:

Billing Rate: Seven thousand, two hundred forty-seven dollars and fifty cents (\$7,247.50)

Description of Services to be Provided

1. Description of Services to be Provided

The amendment is to provide reimburse of fees of DSA and City of Oakland.

2. Specific Outcomes:

A well-designed landscape design to provide for installation of the portable.

3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input checked="" type="checkbox"/> Develop social, emotional and physical health	<input checked="" type="checkbox"/> Safe, healthy and supportive schools
<input type="checkbox"/> Create equitable opportunities for learning	<input type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input checked="" type="checkbox"/> Full service community district

April 13, 2012

Eric Sih
 Oakland Unified School District
 955 High Street
 Oakland, CA 94601

RE: Amendment Proposal #2 for Division of State Architect and
 City of Oakland Fire Marshal Plan Review Fee
 For Grass Valley Elementary School Portable Installation Project
 OUSD Project No. 07148

Dear Eric,

I am providing this amendment proposal to cover our direct expenses for the Division of State Architect Plan Review Fee and the City of Oakland Fire Marshal Plan Review Fee.

<u>DSA Plan Review Application Fee:</u>	<u>\$7,120.00</u>
<u>City of Oakland Fire Marshal Plan Review:</u>	<u>\$127.50</u>

As requested by you and Mr. Cesar Monterrosa, we covered this plan review fee to expedite the project progress.

Please amend our contract to add \$7,247.50.

Original Contract Amount	\$75,000.00
Amendment No. 1 – Landscape	\$4,300.00
Amendment No. 2 – DSA and Fire Marshal Plan Review	\$7,247.50
TOTAL	\$86,547.50

We have already completed the work outlined in this proposal. The documents were approved by both the City of Oakland, and the Division of State Architect.

Cordially,


 Dong E Kim, AIA, LEED AP
 Vice President

Enclosed: DSA Application/Receipt of Material
 City of Oakland Receipt

AMENDMENT TO INDEPENDENT CONSULTANT AGREEMENT ROUTING FORM


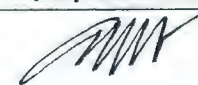
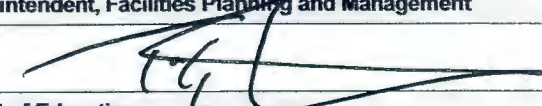
Project Information			
Project Name	Grass Valley Portable Installation	Site	Grass Valley ES
Basic Directions			
Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.			
Attachment Checklist	<input type="checkbox"/> Proof of general liability insurance, 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	Byrens Kim Design Works	Agency's Contact	Done E. Kim		
OUSD Vendor ID #	I009281	Title	Vice President		
Street Address	361-17 th Street	City	Oakland	State	CA Zip 94612
Telephone	510-452-3224	Policy Expires	9-1-2012		
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 #	07148				

Term			
Date Work Will Begin	1-26-2012	Date Work Will End By (not more than 5 years from start date)	12-31-2013

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$86,547.50
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$ 7,247.50
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
9299, 9399, 9499, 9599, 9699	Measure B	1229901830	6215	\$7,247.50

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	Charles Love	Phone	510-879-8389	Fax 510-879-3673
1.	Capital Program Contract & Accounting Manager				
	Signature			Date Approved	6-6-12
2.	General Counsel, Department of Facilities Planning and Management				
	Signature			Date Approved	6-14-12
3.	Associate Superintendent, Facilities Planning and Management				
	Signature			Date Approved	
4.	President, Board of Education				
	Signature			Date Approved	

Board Office Use: Legislative File Info.	
File ID Number	12-0773
Committee	Facilities
Introduction Date	3-28-2012
Enactment Number	12-1001
Enactment Date	3-29-12 <i>JS</i>



OAKLAND UNIFIED
SCHOOL DISTRICT

Memo

To Board of Education

From Tony Smith, Ed.D., Superintendent
Timothy White, Associate Superintendent, Facilities Planning and Management

Board Meeting Date March 28, 2012

Subject Amendment No. 1, Independent Consultant Agreement - Byrens Kim Design Works - Grass Valley Portable Installation Project

Action Requested Approval by the Board of Education of Amendment No. 1, Independent Consultant Agreement with Byrens Kim Design Works for Design Services on behalf of the District at Grass Valley Portable Installation Project, in an amount not-to exceed \$4,300.00 increasing previous contract amount from \$75,000.00 to a not to exceed amount of \$79,300.00. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Background The purpose of this service is per the District's request.

Local Business Participation Percentage 84.00%

Strategic Alignment Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources,



number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

Recommendation

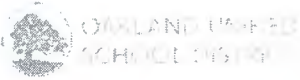
Approval by the Board of Education of Amendment No. 1, Independent Consultant Agreement with Byrens Kim Design Works for Design Services on behalf of the District at Grass Valley Portable Installation Project, in an amount not-to exceed \$4,300.00 increasing previous contract amount from \$75,000.00 to a not to exceed amount of \$79,300.00.00. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Fiscal Impact

Measure B

Attachments

- Independent Contractors Agreement including scope of work



AMENDMENT NO. 1 TO INDEPENDENT CONSULTANT CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and **Byrens Kim Design Works**. OUSD entered into an Agreement with CONTRACTOR for services on **January 26, 2012**, and the parties agree to amend that Agreement as follows:

1. **Services:** The scope of work is unchanged. The scope of work has changed.
If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. Attach revised scope of work.
 The CONTRACTOR agrees to provide the following amended services: The scope of the project is to provide required landscaping design services (PGA Design) to the Grass Valley Portable Installation project.

2. **Terms (duration):** The term of the contract is unchanged. The term of the contract has changed.
If term is changed: The contract term is extended by an additional _____ (days/weeks/months), and the amended expiration date is _____, 20_____.

3. **Compensation:** The contract price is unchanged. The contract price has changed.
If the compensation is changed: The contract price is amended by
 Increase of \$4,300.00 to original contract amount
 Decrease of \$ _____ to original contract amount
 and the new contract total is **Seventy-nine thousand, three hundred dollars and no cents dollars (\$79,300.00)**

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**

There are no previous amendments to this Agreement. This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
			\$

6. **Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.

OAKLAND UNIFIED SCHOOL DISTRICT

CONTRACTOR

Jody London
Jody London, President, Board of Education Date: 3/29/12

[Signature]
Contractor Signature Date: 3/8/12

Edgar Rakestraw, Jr.
Edgar Rakestraw, Jr., Secretary Board of Education Date: 3/29/12

Dong E. Kim, Vice President
Print Name, Title

[Signature]
Timothy White, Associate Superintendent Facilities, Planning and Management Date: _____

File ID Number: 12-0773
Introduction Date: 3-28-12
Enactment Number: 12-1001
Enactment Date: 3-29-12
By: [Signature]

109
1
17-12-12

EXHIBIT "A" Scope of Work

Contractor Name:

Billing Rate: Four thousand, three hundred dollars and no cents (\$4,300.00)

Description of Services to be Provided

1. Description of Services to be Provided

Provide landscaping for the portable installation.

2. Specific Outcomes:

A well-designed landscape design to provide for installation of the portable.

3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input checked="" type="checkbox"/> Develop social, emotional and physical health	<input checked="" type="checkbox"/> Safe, healthy and supportive schools
<input type="checkbox"/> Create equitable opportunities for learning	<input type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input checked="" type="checkbox"/> Full service community district



February 2, 2012

Eric Sih
Oakland Unified School District
955 High Street
Oakland, CA 94601

RE: Amendment Proposal #1 for Added Landscape Architecture Services
For Grass Valley Elementary School Portable Installation Project
OUSD Project No. 07148

Dear Eric,

I am providing this amendment proposal in response to the request by Mr. Eduardo Rivera-Garcia. Per the request, we are asked to provide a landscape design fee proposal to provide new landscape site features around the planned portable installations. Our scope will consider the following;

Grass Valley ES Portable Installation Landscape Design

- Provide landscape design
- Provide irrigation design
- Design to incorporate ideas to maximize yard space.
- Estimated landscape construction cost to be \$30,000.00


To provide the required design services, we are proposing to work with **PGA Design**. **PGA Design** is an **Oakland Local Business Enterprise** who has experiences in working with the District in various projects.

We propose an amendment design fee of **\$4,300.00** to complete the task. The following illustrates the fee breakdown.

Original Contract Amount	\$75,000.00
Amendment No. 1 – Landscape	\$4,300.00
TOTAL	\$79,300.00

We are ready to initiate the contract upon your review and approval. Thank you for your consideration.

Cordially,



Dong E Kim, AIA, LEED AP
Vice President



February 2, 2012

Eric Sih
Oakland Unified School District
955 High Street
Oakland, CA 94601

RE: Amendment Proposal #1 for Added Landscape Architecture Services
For Grass Valley Elementary School Portable Installation Project
OUSD Project No. 07148

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Grass Valley ES Portable Installation Landscape Design

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- Design to incorporate ideas to maximize yard space.
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Amendment No. 1 -- Landscape	\$4,300.00
TOTAL	\$79,300.00

We are ready to initiate the contract upon your review and approval. Thank you for your consideration.

Cordially,



Dong E Kim, AIA, LEED AP
Vice President

DESCRIPTIONS (Continued from Page 1)

Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives are named as Additional Insureds to General and Auto Liability per policy form wording.

Insurance is Primary and Non-Contributory.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S): Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives

PROJECT/LOCATION OF COVERED OPERATIONS: All Operations of the Named Insured

PROVISIONS

A. The following is added to WHO IS AN INSURED (Section II):

The person or organization shown in the Schedule above is an additional insured in the Coverage Part, but only with respect to bodily injury, property damage, and contractual liability caused by or arising out of the operations, actions, or the acts or omissions of those insured on your behalf.

- a. In the performance of your ongoing operations.
- b. In connection with premises owned by or rented to you, or
- c. In connection with your work and included within the products-excluded operations hazard.

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

d. This insurance does not apply to the rendering of a failure to render an "architectural services".

The limits of insurance afforded to the additional insured shall be the limits which you agreed in that contract or agreement requiring insurance to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part whichever are less. This endorsement does not increase the limits of insurance stated in the LIMITS OF INSURANCE (Section III) for this Coverage Part.

B. The following is added to Paragraph a of 4 Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):
However, if you specifically agree in a contract or agreement requiring insurance that for the additional insured shown in the Schedule, the insurance provided to that additional insured under this

Board Office Use: Legislative File Info.

File ID Number 12-0345
Committee Facilities
Introduction Date 1-25-2012
Enactment Number
Enactment Date



OAKLAND UNIFIED
SCHOOL DISTRICT

Memo

To Board of Education
From Tony Smith, Ed.D., Superintendent
Timothy White, Assistant Superintendent, Facilities Planning and Management
Board Meeting Date January 25, 2012
Subject Independent Consultant Agreement for Professional Services - Byrens Kim Design Works - Grass Valley Elementary School Portable Installation Project

Action Requested Approval by the Board of Education of an Independent Consultant Agreement for Professional Services with Byrens Kim Design Works for Design Services on behalf of the District at Grass Valley Elementary School Portable Installation Project, in an amount not to exceed \$75,000.00. The term of this Agreement shall commence on January 26, 2012 and shall conclude no later than December 31, 2013.

Background To accommodate increased enrollment at school site.

Local Business Participation Percentage 84.00%

Strategic Alignment Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources, number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.



The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

Recommendation

Approved by the Board of Education of an Independent Consultant Agreement for Professional Services with Byron's Kim Design Works for Design Services on behalf of the District at Grass Valley Elementary School Portable Installation Project, in an amount not-to exceed \$75,000.00. The term of this Agreement shall commence on January 26, 2012 and shall conclude no later than December 31, 2013.

Fiscal Impact

GO Bond Measure B

Attachments

- Independent Consultant Agreement including scope of work

**INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES
(CONSTRUCTION RELATED)**

Architectural Design Services

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the 13th day of January, 2012 by and between the Oakland Unified School District, Oakland, California ("District") and Byrens Kim Design Works ("Consultant"), (together, "Parties") for the Grass Valley Elementary School Portable Installation Project.

NOW, THEREFORE, the Parties agree as follows

Services. The Consultant shall provide the services as described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"). The scope of services will generally consist of the following:

The scope of services is more specifically indicated on **Exhibit "A."**

1.1. The Services shall be performed on the following project(s) / site(s) ("Project"):

2. **Term.** The term of this Agreement shall be no longer than the period of construction of the Project, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
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:

<input checked="" type="checkbox"/>	Signed Agreement
<input checked="" type="checkbox"/>	Workers' Compensation Certification
<input checked="" type="checkbox"/>	Fingerprinting/Criminal Background Investigation Certification
<input checked="" type="checkbox"/>	Insurance Certificates and Endorsements
<input checked="" type="checkbox"/>	W-9 Form

4. **Compensation.** Consultant's fee for the performance of Consultant's Services shall be on an hourly basis and/or a per unit basis, as indicated in **Exhibit "B"** (Prices for Services). District agrees to pay the Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed Seventy-five thousand dollars and no cents (\$75,000.00). District shall pay Consultant according to the following terms and conditions:

4.1. Payment for the Work shall be made for all undisputed amounts in monthly 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 services for District, except as follows: Not applicable.

6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and

act as an independent contractor. Consultant understands and agrees that it and all of its 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. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.

7. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows. Not applicable.
8. **Performance of Services.**
 - 8.1. **Standard of Care.** 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.
 - 8.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
 - 8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.
9. **Originality of Services.** Except as to standard generic details, 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.
10. **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. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
11. **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 five (5) 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.

12. Termination.

- 12.1. **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.
- 12.2. **Without Cause By Consultant.** Consultant may, upon thirty (30) 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 thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.
- 12.3. **With Cause By District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
- 12.3.1. material violation of this Agreement by the Consultant; or
 - 12.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
 - 12.3.3. 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 service 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. **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 ("Claim"), to property or persons, including personal injury and/or death, to the extent that any of the above arise out of, pertain to, or relate to 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, the Project, or this

Agreement, including without limitation the payment of all consequential damages.

14. Insurance.

14.1. 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.

14.1.1. Commercial General Liability and Automobile Liability Insurance.

Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

14.1.2. 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.

14.1.3. 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	\$ 1,000,000
Automobile Liability Insurance - Any Auto	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 1,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

14.2. **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 have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

14.2.1. 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."

- 14.2.1. 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.
- 14.2.2. An endorsement stating that the District and the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured 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.
- 14.2.4. All policies except the Professional Liability Policy shall be written on an occurrence form.
- 14.3. **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.
15. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.
16. **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.
17. **Certificates/Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.
18. **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.
19. **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, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age 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 and District policy. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).
20. **Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services.
21. **Disabled Veteran Business Enterprises.** Section 17076.11 of the Education Code requires

school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building to have a participation goal of at least 3 percent, per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises (DVBE). In accordance therewith, the Consultant must submit, upon request by District, appropriate documentation to the District identifying the steps the Consultant has taken to solicit DVBE participation in conjunction with this Agreement, if applicable.

22. **Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE):** There is a twenty percent (20%) minimum participation requirement for all District contracts. Consultant shall comply with the twenty percent (20%) local business participation requirement at a rate of ten percent (10%) local and 10% small local and/or small local resident business participation. The requirement may be wholly satisfied by a City of Oakland certified business. Business entities must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent participation requirement. Please refer to the District's S/SL/SLRBE Policy; a copy can be obtained for the OUSD website: www.ousd.k12.ca.us
23. **No Rights In Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable 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. **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. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
27. **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:

District:
Oakland Unified School District
955 High Street
Oakland, CA 94601
ATTN: Tadashi Nakadegawa,
Director of Facilities

Consultant:
Dong E. Kim
Byrens Kim Design Works
361-17th Street
Oakland, CA 94612

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.

- 28. 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.
- 29. 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 county in which the District's administrative offices are located.
- 30. 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.
- 31. 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.
- 32. Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
- 33. Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
- 34. Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
- 35. Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
- 36. Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
- 37. Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

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


IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

OAKLAND UNIFIED SCHOOL DISTRICT



Jody London, President, Board of Education

Date: 1/24/12



Edgar Rakestraw, Jr., Secretary, Board of Education

Date: 1/25/12



Timothy White, Assistant Superintendent Facilities Planning and Management

Date: 1/19/12

Byrens Kim Design Works



Dong E. Kim, Byrens Kim Design Works

1/10/12
Date:


APPROVED AS TO FORM:



Catherine Boskoff, Facilities Counsel

Date: 1-25-12

Legislative File

File # Number: 12-0345
Introduction: 1-25-12
Enactment Number: 12-0200
Enactment Date: 1-25-12 

Information regarding Consultant:

Consultant: BYRENS KIM DESIGN WORKS

27-1659543 :

License No.: C30987

Employer Identification and/or Social Security Number

Address: 361 17th Street
Oakland, CA 94612

Telephone: 510-452-1200

Facsimile: 510-452-1744

E-Mail: A.kim@byrenskim.com

NOTE: Title 26, Code of Federal Regulations, sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.

Type of Business Entity:

- Individual
- Sole Proprietorship
- Partnership
- Limited Partnership
- Corporation, State: California
- Limited Liability Company
- Other: _____


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: January 18, 2012
Proper Name of Consultant: BYPENS KIM DESIGN WORKS
Signature: 
Print Name: Dong K. Kim
Title: Vice President

(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.)

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

Consultant's entire Proposal is not made part of this Agreement.

The scope of the project includes providing design and construction documents for installation of district owned seven (7) classroom portable buildings and one (1) restroom building, design of electrical, data, intercom, fire alarm, and intrusion alarm system per the District standard, plumbing and utility design to serve the portable buildings, design of 20 feet x 20 feet covered lunch structure, and agency approval, bidding support, construction administration, and project closeout.



November 30, 2011

Kevin Newlon
 Oakland Unified School District
 955 High Street
 Oakland, CA 94601

RE: Proposal for Architectural and Engineering Services
 For Grass Valley Elementary School Portable Installation Project
 OUSD Project No. 07148

Dear Kevin,

Thank you for the opportunity to provide this Architectural and Engineering service proposal for the above mentioned project. Based on the email request of 11/17/11, as well as subsequent correspondences, I understand the scope of services to be included as follows:

Grass Valley ES Portable Installation

- Provide design and construction documents for installation of district owned 7 classroom portable buildings and 1 restroom building.
- Provide design of electrical, data, intercom, fire alarm, and intrusion alarm system per the district standard.
- Provide plumbing and utility design to serve the portable buildings.
- Provide a design of 10ft x 60ft covered lunch structure.
- The services will include design, agency approval, bidding support, construction administration, and project closeout.

I understand that the preliminary construction budget for this project is \$680,000.00

Based on the information provided by the district, we propose the following design fees to complete the task.

DISCIPLINE		PROPOSED FEE
Architect	SLRBF	\$45,000.00
Structural	SLBE	\$12,500.00
Mechanical	SLBE	\$5,500.00
Electrical		\$9,000.00
Fire Alarm by Our electrical Engineer		\$3,000.00
TOTAL		\$75,000.00
Sewage Pump Design*		\$5,500.00
Fire Alarm by Aon Fire Protection*		\$20,000.00

INDEPENDENT CONSULTANT AGREEMENT ROUTING FORM

Project Information			
Project Name	Grass Valley ES Portable Installation	Site	Grass Valley ES




Basic Directions	
Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.	
Attachment	<input type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000
Checklist	<input type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider

Contractor Information			
Contractor Name	Byrens Kim Design Works	Agency's Contact	Dong Kim
OUSD Vendor ID #	1009281	Title	Architect of Record
Street Address	361-17 th Street	City	Oakland State CA Zip 94612
Telephone	510-452-3224	Policy Expires	9-1-2012
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 #	07148		

Term			
Date Work Will Begin	1-26-2012	Date Work Will End By	12-31-2013
		(not more than 5 years from start date)	

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$75,000.00
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
9299, 9399, 9499	Measure B	1229901830	6215	\$75,000.00

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	Charles Love	Phone	510-535-7081 Fax 510-535-7082
1.	Capital Program Contract & Accounting Manager		Signature	Date Approved
				1-19-12
2.	General Counsel, Department of Facilities Planning and Management		Signature	Date Approved
				1-25-12
3.	Assistant Superintendent, Facilities Planning and Management		Signature	Date Approved
				1/19/12
4.	President, Board of Education		Signature	Date Approved

AMENDMENT TO INDEPENDENT CONSULTANT AGREEMENT ROUTING FORM


Project Information			
Project Name	Grass Valley Portable Installation	Site	Grass Valley ES
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	Byrens Kim Design Works	Agency's Contact	Done E. Kim
OUSD Vendor ID #	1009281	Title	Vice President
Street Address	361-17 th Street	City	Oakland State CA Zip 94612
Telephone	510-452-3224	Policy Expires	9-1-2012
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 #	07148		

Term			
Date Work Will Begin	1-26-2012	Date Work Will End By <small>(not more than 5 years from start date)</small>	12-31-2013

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$79,300.00
Pay Rate Per Hour (if hourly)	\$	If Amendment, Changed Amount	\$ 4,300.00
Other Expenses		Requisition Number	

Budget Information				
<small>If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.</small>				
Resource #	Funding Source	Org Key	Object Code	Amount
9299, 9399, 9499	Measure B	1229901830	6215	\$4,300.00

Approval and Routing (in order of approval steps)					
<small>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.</small>					
	Division Head	Charles Love	Phone	510-879-8389	Fax 510-879-3673
1.	Capital Program Contract & Accounting Manager				
	Signature		Date Approved	3-13-12	
2.	General Counsel, Department of Facilities Planning and Management				
	Signature		Date Approved	3-14-12	
3.	Associate Superintendent, Facilities Planning and Management				
	Signature		Date Approved		
4.	President, Board of Education				
	Signature		Date Approved		