

Board Office Use: <b>Legislative File Info.</b>	
File ID Number	16-1478
Introduction Date	6-22-16
Enactment Number	16-1048 ✓
Enactment Date	6-22-16



**OAKLAND UNIFIED  
SCHOOL DISTRICT**

*Community Schools, Thriving Students*

# Memo

**To** Board of Education

**From** Antwan Wilson, Superintendent and Secretary, Board of Education  
By: Vernon Hal, Senior Business Officer. *VEH*  
Joe Dominguez, Deputy Chief, Facilities Planning and Management *JFD*

**Board Meeting Date** June 8, 2016

**Subject** Agreement for Architectural Service - Byrens Kim Design Works - McClymonds High School Intensive Support Site Project

**Action Requested** Approval by the Board of Education of Agreement for Architectural Services between the District and Byrens Kim Design Works, Oakland, CA., for the latter to provide design & Engineering of new electrical & data infrastructure to support 24 new computer equipment & workstations awarded to McClymonds by Best Buy, design services include space planning & configuring new computer workstations and furniture, design of brand super graphics on walls and design of student display walls, in conjunction with the McClymonds High School Intensive Support Site Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing on June 8, 2016 and concluding no later than December 31, 2017, in an amount not-to exceed \$20,000.00.

**Discussion** McClymonds, in partnership with Alternatives in Action, was awarded a Grant by Best Buy to create a new Teen Tech Center, grant includes new computers, workstation tables, lounge furniture and signage to be deployed over the course of 3 years, establishes a list of facilities improvement projects based on priorities identified by members of the school community.

**LBP** (Local business participation percentage) 100.00%

**Recommendation** Approval by the Board of Education of Agreement for Architectural Services between the District and Byrens Kim Design Works, Oakland, CA., for the latter to provide design & Engineering of new electrical & data infrastructure to support 24 new computer equipment & workstations awarded to McClymonds by Best Buy, design services include space planning & configuring new computer workstations and furniture, design of brand super graphics on walls and design of student display walls, in conjunction with the McClymonds High School Intensive Support Site Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing on June 8, 2016 and concluding no later than December 31, 2017, in an amount not-to exceed \$20,000.00.

**Fiscal Impact** Fund 21, Measure J



OAKLAND UNIFIED  
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## Attachments

- Independent Contractors Agreement including scope of work
- Certificate of Insurance
- Consultant Proposal



**CONTRACT JUSTIFICATION FORM**  
**This Form Shall Be Submitted to the Board Office**  
**With *Every* Consent Agenda Contract.**

**Legislative File ID No.** 16-1478

**Department:** Facilities Planning & Management

**Vendor Name:** Byrens Kim Design Works

**Project Name:** McClymonds Intensive Support Site **Project No.:** 15106

**Contract Term:** Intended Start: 6-8-2016 Intended End: 12-31-2017

**Annual (if annual contract) or Total (if multi-year agreement) Cost:** \$ 20,000.00

**Approved by:** Roland Broach and Tadashi Nakadegawa

**Is Vendor a local Oakland Business or have they met the requirements of the**

**Local Business Policy?** Yes  No

**How was this Vendor selected?**

Byrens Kim Design Works is on the Pre-Qualified List of Architectural Firms. Vendor is Oakland Based Company.

**Summarize the services this Vendor will be providing.**

Scope includes design & engineering of new electrical & data infrastructure to support 24 new computer equipment & workstations awarded to McClymonds by Best Buy. Design services include space planning & configuring new computer workstations and furniture, design of brand supergraphics on walls and design of student displays walls.

**Was this contract competitively bid?** Yes  No

If No, please answer the following:

1) How did you determine the price is competitive?

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 \$86,000 (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 alternate 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**

# Agreement for Architectural Services

BY AND BETWEEN  
OAKLAND UNIFIED SCHOOL DISTRICT  
AND  
Byrens Kim Design Works

**THIS AGREEMENT FOR ARCHITECTURAL SERVICES** is made and entered into and upon Board of Education approval as indicated below ("Contract"), by and between **Byrens Kim Design Works** and Oakland Unified School District. Contractor and District may be referred to herein individually as a "Party" or collectively as the "Parties, for the following project:

**McClymonds High School Intensive Support Site, located at 2607 Myrtle Street, Oakland, CA.**

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

## Definitions

- 1.1. In addition to the definitions above, the following definitions for words and 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. **Architect**: The architect listed in the first paragraph of this Agreement, including all Consultants to the Architect.
  - 1.1.3. **As-Built Drawings ("As-Built")**: Any document prepared and submitted by District's contractor(s) that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by change orders.
  - 1.1.4. **Bid Set**: The plans, drawings, and specifications at the end of the Construction Documents Phase that DSA has approved and that the District can use to go out to bid for construction of the Project.
  - 1.1.5. **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 Architect 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.
  - 1.1.6. **Consultant(s)**: Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Architect.
  - 1.1.7. **District**: The **Oakland Unified School District**.
  - 1.1.8. **DSA**: The Division of the State Architect.
  - 1.1.9. **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.
  - 1.1.10. **Record Drawings**: A final set of drawings prepared by the Architect based upon marked-up prints, drawings, and other data furnished to Architect by Contractor that

incorporates all changes from all As-Builts, sketches, details, and clarifications.

- 1.1.11. **Service(s):** All labor, materials, supervision, services, tasks, and work that the Architect 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.
- 1.1.12. **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 Architect**

- 2.1. Architect shall provide the Services as described in **Exhibit "A,"** commencing with receipt of a written Notice to Proceed or authorization from District to perform Services requested hereunder.
- 2.2. Architect represents that the Architect 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 Architect.
- 2.3. Architect 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.

### **Completion of Services**

- 2.4. The Architect shall commence Services under this Agreement upon receipt of a 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 time as specified in the notice, if any. **Commencing June 8, 2016 and concluding no later than December 31, 2017.**

## **Article 3. Compensation and Value of Agreement**

- 3.1. District shall pay Architect for all Services contracted for under this Agreement on a time and materials basis. The total compensation paid Architect pursuant to this Agreement may not exceed **Twenty thousand dollars and no cents (\$20,000.00).**
- 3.2. Architect shall notify District if District requested services or reimbursables will exceed the NA Dollars (\$ 0.00 ) limit of this Agreement. If any work is performed by Architect without the prior written authorization of District, District shall not be obligated to pay for such work. The Parties may, by written agreement, increase the monetary limit of this Agreement.
- 3.3. Payment for the Work shall be made for all undisputed amounts in monthly installment payments within thirty (30) days after the Architect 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.
- 3.4. **Expenses.** District shall not be liable to Architect for any costs or expenses paid or incurred by Architect in performing Services for District.

## **Article 4. Ownership of Data**

AGREEMENT FOR ARCHITECTURAL SERVICES – OUSD & Byrens Kim Design Works –McClymonds High School Intensive Support Site Project.

- 4.1. Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for District to use, at its discretion, all plans, including, but not limited to, Record Drawings, specifications, and estimates that the Architect or its consultants, prepares or causes to be prepared pursuant to this Agreement.
- 4.2. The Architect retains all rights to all copyrights, designs, and other intellectual property embodied in the plans, Record Drawings, specifications, estimates, and other documents that the Architect or its consultants prepares or causes to be prepared pursuant to this Agreement.
- 4.3. The Architect shall perform the Services and prepare all documents under this Agreement with the assistance of Computer Aided Design Drafting (CADD) (e.g., AutoCAD) Technology. The Architect shall deliver to the District, on request, a "thumb" drive and/or compact disc with these documents that is compatible with AutoCAD. As to any drawings that Architect 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.
- 4.4. In order to document exactly what CADD information was given to the District, Architect and District shall each sign a "hard" copy of reproducible documents that depict the information at the time Architect produces the CADD information. District agrees to release Architect from all liability, damages, and/or claims that arise due to any changes made to this information by anyone other than the Architect or Consultant(s) subsequent to it being given to the District.
- 4.5. Following the termination of this Agreement, for any reason whatsoever, the Architect shall promptly deliver to the District upon written request and at no cost to the District the following items (hereinafter "Instruments of Service") in electronic format (Microsoft Word) which the District shall have the right to utilize in any way permitted by statute:
  - 4.5.1. One set of the Contract Documents, including the bidding requirements, specifications, and all existing cost estimates for the Project, in hard copy, reproducible format.
  - 4.5.2. One set of fixed image CADD files in DXF format of the drawings that are part of the Contract Documents.
  - 4.5.3. One set of non-fixed image CADD drawing files in DXF and/or DWG format of the site plan, floor plans (architectural, plumbing, structural mechanical, and electrical), roof plan, sections, and exterior elevations of the Project.
  - 4.5.4. All finished or unfinished documents, studies, reports, calculations, drawings, maps, models, photographs, technology data, and reports prepared by the Architect under this Agreement.
- 4.6. In the event the District changes or uses any fully or partially completed documents without the Architect's knowledge and participation, the District agrees to release Architect of responsibility for such changes, and shall indemnify, defend, and hold the Architect harmless from and against any and all claims, liabilities, suits, demands, losses, costs, and expenses including, but not limited to, reasonable attorneys' fees, on account of any damages or losses to property or persons, including injuries or death, or economic losses, arising out of that change or use except to the extent the Architect is found to be liable in a forum of competent jurisdiction. In the event District uses any fully or partially completed

documents without the Architect's full involvement, the District shall remove all title blocks and other information that might identify the Architect and the Architect's consultants.

#### **Article 5. Termination of Contract**

- 5.1. If Architect fails to perform Architect's duties to the satisfaction of the District and as required by this Agreement, or if Architect fails to fulfill in a timely and professional manner Architect's material obligations under this Agreement, or if Architect 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 Architect. In the event of a termination pursuant to this subdivision, Architect may invoice District for all Services performed until the notice of termination, but District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of Architect's actions, errors, or omissions that caused the District to terminate this Agreement. The District may, at its discretion, provide the Architect time to cure its default or breach.
- 5.2. District shall have the right in its sole discretion to terminate this Agreement for its own convenience. In the event of a termination for convenience, Architect may invoice District and District shall pay all undisputed invoice(s) for Services performed until the District's notice of termination.
- 5.3. 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.
- 5.4. The Architect has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement. Such termination shall be effective after receipt of written notice from Architect to the District. Architect may invoice District and District shall pay all undisputed invoice(s) for Services performed until the Architect's notice of termination.
- 5.5. 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, the Architect, upon written notice from the District of such termination, shall immediately cease Services on the Project. The District shall pay the Architect only the costs associated with the Services provided since the last invoice that has been paid and up to the notice of termination.
- 5.6. If the District suspends the Project for more than one hundred twenty (120) consecutive days, the Architect shall be compensated for Services performed prior to notice of that suspension. When the Project is resumed, the schedule shall be adjusted and the Architect's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Architect's Services. If the District suspends the Project for more than two (2) years, the Architect may terminate this Agreement by giving written notice.

#### **Article 6. Indemnity/Architect Liability**

- 6.1. To the furthest extent permitted by California law, Architect shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("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, to property or persons, including personal injury and/or death ("Claim(s)"), to the extent that the Claim(s) arise out of, pertain to, or relate to the negligence, recklessness, errors or omissions, or willful misconduct of Architect, its directors, officials,



officers, employees, contractors, subcontractors, consultants, subconsultants 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. This indemnity excludes Architect's liability as to the active or sole negligence or willful misconduct of the District.

#### **Article 7. Mandatory Mediation for Claims**

- 7.1. The Parties hereto agree prior to commencing any legal action relating to any Claim, as defined herein, to submit the Claim to a mandatory good-faith mediation process ("Mediation"). The Parties' expectations are that if the Claim is made by a third party (e.g., a contractor), that the third party will be a participant in that Mediation. The Parties agree that any statute of limitations applicable to any Claim shall be tolled for the period from the date a Party requests Mediation through the tenth (10<sup>th</sup>) day after termination of the Mediation, unless otherwise agreed to by the Parties.
- 7.2. Except as set forth below, the Parties agree to refrain from filing, maintaining, or prosecuting any action related to the Claim during the pendency of the Mediation provided that the Mediation must commence within thirty (30) days after a Party makes written demand to the other for Mediation.
- 7.3. The Parties shall participate in a minimum of one full-day mediation session before the Mediation may be declared unsuccessful and terminated by either Party. The Mediation shall be conducted in accordance with such rules as the Parties agree upon, or in the absence of agreement, in accordance with the Commercial Mediation Rules of JAMS/Endispute. Evidence of anything said, any admissions made, or any documents prepared in the course of the Mediation shall not be admissible in evidence or subject to discovery in any court action pursuant to Evidence Code Section 1152.5.
- 7.4. The Parties shall mutually agree to the selection of a mediator who is an attorney that is experienced in public works construction claims. If the Parties are unable to agree upon a mediator, then the mediator shall be appointed by JAMS/Endispute.
- 7.5. The Mediation shall take place at a location within twenty (20) miles of the District's administrative office. The mediator's fees and administrative fees, if any, shall be split equally between the Parties, but, unless otherwise agreed to in writing, each Party shall bear its own attorney's fees.
- 7.6. If any Party commences a legal action without first attempting to resolve the Claim as required by this Article, that Party shall be in breach of this Agreement and shall not be entitled to recover attorney's fees that might have otherwise been recoverable.
- 7.7. This mandatory mediation process shall only apply to Claims pursuant to the Architect Indemnity provision herein and shall not apply to any disputes to be resolved pursuant to the Alternative Dispute Resolution provisions herein.

#### **Article 8. Fingerprinting**

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

## **Article 9. Responsibilities of the District**

- 9.1. The District shall examine the documents submitted by the Architect and shall render decisions so as to avoid unreasonable delay in the process of the Architect's Services.
- 9.2. The District shall verbally or in writing advise the Architect if the District becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's documents. Failure to provide such notice shall not relieve Architect of its responsibility therefore, if any.
- 9.3. Unless the District and the Architect agree that a hazardous materials consultant shall be a Consultant of the Architect, the District shall furnish the services of a hazardous material consultant or other consultants when such services are requested in writing by Architect 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 Architect. If the hazardous materials consultant is furnished by the District and not a consultant of the Architect, the specifications shall include a note to the effect that they are included in the Architect's bid documents for the District's convenience and have not been prepared or reviewed by the Architect. The note shall also direct questions about the specifications to its preparer.
- 9.4. District personnel and/or its designated representatives shall coordinate with Architect as may be requested and desirable for the coordination or management of work related to the Project.
- 9.5. The District shall provide to the Architect all relevant information it knows it possesses regarding the Project that the Architect needs to perform its Services. The District shall provide this information and its decisions required under this Agreement in a timely manner and to avoid unreasonable delay in the Project.

## **Article 10. Liability of District**

- 10.1. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided for 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.
- 10.2. 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 Architect, or by its employees, even though such equipment may be furnished or loaned to Architect by District.

## **Article 11. Nondiscrimination**

- 11.1. Architect agrees that no discrimination shall be made in the employment of persons under this Agreement because of the 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 of such person.

- 11.2. Architect shall comply with any and all applicable regulations and laws governing nondiscrimination in employment.

**Article 12. Insurance**

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

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

12.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of Architect's employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Architect 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.

12.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Architect's profession.

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

- 12.2. **Proof of Carriage of Insurance.** The Architect 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:

12.2.1. 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.”

12.2.2. 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.

12.2.3. An endorsement stating that the District and the State and their agents, representatives, employees, trustees, officers, 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 Architect’s insurance policies shall be primary to any insurance or self-insurance maintained by District.

12.2.4. All policies except the Professional Liability Policy shall be written on an occurrence form.

12.3. **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.

**Article 13. Covenant Against Contingent Fees**

Architect warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Architect, 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 Architect, 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 compensation, fee, commission, percentage fee, gift, or contingency.

**Article 14. Entire Agreement/Modification**

This Agreement, including the Exhibits incorporated by reference into this Agreement, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. Architect 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. Architect specifically acknowledges that in entering this Agreement, Architect relies solely upon the provisions contained in this Agreement and no others.

**Article 15. Non-Assignment of Agreement**

In as much as this Agreement is intended to secure the specialized Services of the Architect, Architect 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 Architect and any such assignment, transfer, delegation, or sublease without Architect’s prior written consent shall be considered null and void.

**Article 16. Law/Venue**

16.1. This Agreement has been executed and delivered in the State of California and the validity, AGREEMENT FOR ARCHITECTURAL SERVICES – OUSD & Byrens Kim Design Works –McClymonds High School Intensive Support Site Project.

enforceability, and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.

- 16.2. 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 17. Alternative Dispute Resolution**

### **17.1. Architect's Invoices**

17.1.1. If the District disapproves of any portion or amount(s) of the Architect's invoices, the District shall within thirty (30) days of receipt by the District of any of the Architect's invoices, communicate to the Architect in writing, with reasonable detail, what portion or amount of the Architect's invoices that are disapproved for payment, what portion or amount of the Architect'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 Architect's invoices ("Disputed Architect Invoice Detail").

17.1.2. If the Architect disagrees with the Disputed Architect Invoice Detail, the Architect shall communicate to the District in writing, and request to meet and confer in good faith with respect to any such disapproved portion or amount of the Architect invoices and the Disputed Architect Invoice Detail to determine if the dispute can be resolved. Such meet and confer communications shall include, but are not limited to, face-to-face meetings within thirty (30) days of the Architect's notice to the District with the appropriate District and Architect personnel as appropriate and necessary.

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

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

17.2.1. **Negotiation.** The parties shall first attempt in good faith to resolve any controversy or dispute arising out of or relating to this Agreement by negotiation. The Parties' meet and confer process for any Disputed Architect Invoice Detail shall satisfy this negotiation requirement.

17.2.2. **Mediation.** Within thirty (30) days, but no earlier than fifteen (15) days, following the earlier of receipt of notice by one party by 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.

17.2.3. **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.

- 17.3. Architect shall neither rescind nor stop the progress of its work pending the outcome of any dispute under this Agreement.

## **Article 18. 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 19. Employment Status**

- 19.1. Architect shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which the Architect performs the Services which are the subject matter of this Agreement; provided always, however, that the Services to be provided by Architect shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 19.2. Architect understands and agrees that the Architect'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.
- 19.3. Should 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 Architect is an employee 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 Architect which can be applied against this liability). District shall then forward those amounts to the relevant taxing authority.
- 19.4. Should a relevant taxing authority determine a liability for past services performed by Architect for District, upon notification of such fact by District, Architect shall promptly remit such amount due or arrange with District to have the amount due withheld from future payments to Architect under this Agreement (again, offsetting any amounts already paid by Architect which can be applied as a credit against such liability).
- 19.5. A determination of employment status pursuant to the preceding paragraphs of this Article shall be solely for the purposes of the particular tax in question and, for all other purposes of this Agreement, Architect shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Architect is an employee for any other purpose, then Architect 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 Architect was not an employee.
- 19.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

#### **Article 20. Warranty and Certification of Architect**

- 20.1. Architect warrants and certifies that the Architect is properly certified and licensed under the laws and regulations of the State of California to provide the professional Services that it has herein agreed to perform.

- 20.2. Architect warrants and 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.
- 20.3. Architect warrants and certifies that it is aware of the provisions of the California Labor Code 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 Architect is performing Services as part of an applicable "public works" or "maintenance" project, and since the total compensation may be One Thousand Dollars (\$1,000) or more, the Architect agrees to fully comply with and to require its Consultant(s) to fully comply with all applicable Prevailing Wage Laws.

**Article 21. Cost Disclosure - Documents And Written Reports**

Architect 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 22. Notices & Communications**

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

<p><b>District:</b> Oakland Unified School District 955 High Street Oakland, CA 94601 <b>Attn:</b> Tadashi Nakadegawa</p>	<p><b>Architect:</b> Byrens Kim Design Works 681 4<sup>th</sup> Street Oakland, CA. 94607 <b>Attn: Mr. Dong Kim</b></p>
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Any notice personally given shall be effective upon receipt. Any notice sent by facsimile shall be effective the day after receipt. Any notice sent by overnight delivery service shall be effective the day after delivery. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

**Article 23. Disabled Veteran Business Enterprise Participation**

Pursuant to section 17076.11 of the Education Code, the District has a participation goal for disabled veteran business enterprises ("DVBES") of at least three percent (3%), per year, of funds expended each year by the District on projects that use funds allocated by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act (the "Act"). This Project may use funds allocated under the Act. Therefore, to the extent feasible and pertaining to future hirings, the Architect, before it executes this Agreement, shall provide to the District certification of compliance with the procedures for implementation of DVBE contracting goals, appropriate documentation identifying the amount paid to DVBEs in conjunction with the contract, and documentation demonstrating the Architect's good faith efforts to meet these goals.

**Article 24. District's Right to Audit**

- 24.1. District retains the right to review and audit, and the reasonable right of access to Architect's and any Consultant's premises to review and audit the Architect'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 the Architect'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.

- 24.2. 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 are necessary to discover and verify that the Architect is in compliance with all requirements of this Agreement.
- 24.3. 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 are 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.
- 24.4. The Architect shall maintain complete and accurate records for a minimum of seven (7) years and in accordance with generally accepted accounting practices in the industry. The Architect 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, the Architect shall submit exact duplicates of originals of all requested records to the District.
- 24.5. The Architect shall include audit provisions in any and all of its subcontracts, and shall ensure that these sections are binding upon all Consultants.
- 24.6. Architect shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Architect's Project-related records and information.

**Article 25. Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE).** Architect shall comply with the requirements of the 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 L/SL/SLRBE Program can be obtained on the District website, at [www.ousd.k12.ca.us](http://www.ousd.k12.ca.us), under the Facilities Planning & Management Department drop down menu, Bids and Requests for Proposals.

#### **Article 26. Other Provisions**

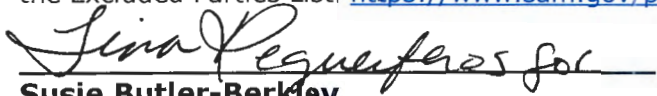
- 26.1. Neither the District's review of, approval of, nor payment for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Architect shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Architect's failure to perform any of the Services furnished under this Agreement to the standard of care of the Architect for its Services, which shall be, at a minimum, the standard of care of architects performing similar work for California school districts in or around the same geographic area of the District.
- 26.2. 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.
- 26.3. The Architect acknowledges that the District is a public agency that is subject to heightened curiosity by the news media and the public and that the Architect may not be apprised of all



facts surrounding the Project that Architect is working on. Accordingly, Architect shall promptly refer all inquiries from the news media or public concerning this Agreement or its performance under the Agreement to the District, and Architect shall not make any statements or disclose any documents to the media or the public relating to the performance under this Agreement or the effects caused thereby. If Architect receives a complaint from a citizen or member of the public concerning the performance or effects of this Agreement, it shall promptly inform the District of that complaint. In its sole discretion, the District shall determine the appropriate response to the complaint.

26.4. **Exhibit "A"** and all Certificates attached hereto are hereby incorporated by this reference and made a part of this Agreement.

**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>

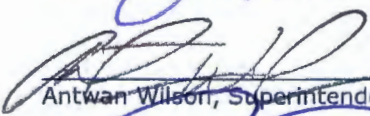
  
**Susie Butler-Berkley**  
**Contract Analyst**

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

**ACCEPTED AND AGREED** on the date indicated below:

**OAKLAND UNIFIED SCHOOL DISTRICT**

  
James Harris, President, Board of Education 6/22/16  
Date

  
Antwan Wilson, Superintendent & Secretary, Board of Education 6/22/16  
Date

  
Roland Beach, Executive Director of Buildings, Custodial & Grounds  
Facilities Planning and Management Date

**ARCHITECT**

  
By: Dong E Kim 5/8/16  
Date  
Its: President

**APPROVED AS TO FORM:**

  
OUSD Facilities Legal Counsel 5-16-16  
Date

File ID Number: 16-1478  
Introduction Date: 6-22-16  
Enactment Number: 16-1048  
Enactment Date: 6-22-16  
By:

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

I am aware of and hereby certify that neither \_\_\_\_\_ [Type name of Architect] 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 Architect 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 Architect on the \_\_\_\_\_ day of \_\_\_\_\_ 2016 for the purposes of submission of this Agreement.

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

\_\_\_\_\_

Typed or Printed Name

\_\_\_\_\_

Title

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**See Attached Proposal**



EXHIBIT A

April 24, 2016

Ms. Mary Ledezma  
Project Manager, Facilities, Planning & Management  
Oakland Unified School District  
955 High Street  
Oakland, CA 94601

RE: Proposal for Architectural and Engineering Services  
Best Buy Teen Tech Center at McClymonds High School

Dear Mary,

I thank you for the opportunity to submit this proposal to assist you in development of a Best Buy Teen Tech Center at McClymonds High School site. We understand the project scope is to convert existing teen center space ( $\pm 3,400$  SF including storage spaces) into a new Teen Technology Center through a grant from Best Buy. We understand the project will be delivered through a collaboration with the Best Buy Development Team, and our scope is to provide back ground information as well as electrical provisions to allow the project development. The following is our understanding of the project scope:

- Generate existing as-built floor plan and interior elevation information.
- Generate a preliminary furnishing layout out schemes. Furniture information is to be furnished by Best Buy Development Team.
- Provide electrical power and data connections for new equipment.
- Coordinate interior finish schedule with the Best Buy Development Team.

We understand that the project requires expedited project delivery. Based on the District's direction, we note that the project will be delivered through an existing site lighting project that is currently under bidding. We will work with Zeiger Engineering, who is the electrical engineer of record on the existing project to deliver the project. We assume the following general project delivery schedule.

- Generate narrative for electrical power and data infrastructure to be included in the current construction project document as an addendum – 1 week from notice to proceed
- Generate existing conditions document – 2 weeks
- Coordinate interior finishes and graphics – Depending on the Best Buy Development team's review. Anticipate approximately 3 weeks.
- Generate complete bid document to the site work contractor – 2 weeks

As discussed during our site meetings, the intended schedule for completion of work is 2 months.

We note that the work outlined in this project scope will require a Division of State Architect (DSA) review and approval. Based on the direction provided by the District, we understand that the submittal, approval, and the closeout of the project with DSA will be performed by the District and our service related to these scope considerations are not included herein. We can provide a proposal to complete these tasks if required.

Please note that the District will need to engage qualified environmental hygienist for assessment of potential hazardous material conditions.

To complete this task, we propose the following team:

Architect:	Byrens Kim Design Works
Electrical Engineer:	Zeiger Engineering

Byrens Kim Design Works is a certified Small Local Resident Business. Zeiger Engineering is a certified Small Local Business.

The following illustrates the anticipated services to be included in this proposal.

The **Site Analysis** includes the following tasks:

- Review existing program elements and site conditions.
- Generate existing area plan and elevations.
- Locate existing electrical power and data point of connects.

The **Design** includes the following tasks:

- Generate preliminary room layout per the District provided furniture information.
- Coordinate interior elevations with the Best Buy Development Team.
- Generate finish schedule including plans and elevations.

The **Agency Review** includes the following tasks:

- As requested, we note that this task will be performed by the District.

The **Construction Administration** includes the following tasks:

- Generate bid document as a change to the existing site lighting contract.
- Review submittals related to the project scope.
- Perform construction administration related to the project scope.

To complete the project as outlined, we propose the following fee.

PROJECT PHASES	PROPOSED FEE
Architectural – Byrens Kim Design Works	\$10,000.00
Electrical – WHM Inc.	\$5,000.00
<b>TOTAL</b>	<b>\$15,000.00</b>

*OWNER ALLOWANCE 5,000.00 M.L.  
\$20,000 M.L.*

The fee is fully burdened and no additional reimbursable expenses will be required.

We thank you for the opportunity to submit this proposal and look forward to continue providing value-added service to the District.

Cordially,



Dong E Kim, AIA, LEED AP  
Principal  
Byrens Kim Design Works



# ZEIGER ENGINEERS, INC.

478 3RD STREET, OAKLAND, CALIFORNIA 94607

TEL: (510) 452-9391

FAX: (510) 452-0661

www.zeigerengineers.com

April 22, 2016

Dong E. Kim  
Byrens Kim – Design Works  
681 4<sup>th</sup> Street Oakland  
Oakland, CA 94607

Re: Best Buy Computer Project Teen Tech Center at McClymonds HS, Oakland, CA

Dear Dong:

Zeiger Engineers, Inc. proposes to furnish the necessary electrical engineering services in connection with the referenced project for not to exceed fee of \$5,000 (five thousand dollars and no cents) including reimbursable.

The electrical scope of work shall include the following:

1. Provide the new data, wifi access points, and power requirements for the new Best Buy donated computers for the Teen Tech Center.
2. Provide the new fiber connection from existing MDF to new IDF to be located in the storage room of the Teen Tech Center.
3. Site investigation of existing conditions.

Our services will consist of preparing the required Final Design documents, and assistance during Bidding or Negotiating, and Construction Administration.

Additional Services will be charged on an hourly basis per our current rate schedule and to proceed only upon written approvals.

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ADDITIONAL SERVICES: Engineering work that is not included in our Basic Work, shall include, but is not limited to the following:

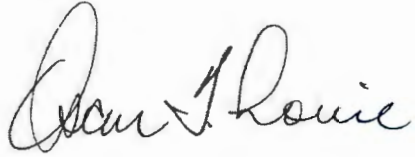
1. Significant revisions to the building plans and/or systems, when requested by OUSD, after we have substantially completed our Construction Documents following receipt of review comments.
2. Revisions to building plans and systems after Project has been bid, to reduce cost and/or for "value engineering".



3. Cost estimating, other than for review of cost estimates prepared by others.

Please call me should you have any questions or require additional information.

Sincerely,  
ZEIGER ENGINEERS, INC.

A handwritten signature in cursive script that reads "Oscar Louie".

Oscar Louie, P.E.  
Vice President

Accepted: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Client#: 51

BYRENASSO

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/09/2016

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 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: Dealey, Renton & Associates, P. O. Box 12675, Oakland, CA 94604-2675, 510 465-3090. CONTACT NAME: Nancy Ferrick, PHONE: 510 465-3090, FAX: 510 452-2193, E-MAIL ADDRESS: nferrick@dealeyrenton.com. INSURER(S) AFFORDING COVERAGE: INSURER A: Sentinel Insurance Co. LTD (NAIC # 11000), INSURER B: Hartford Ins. Co of Midwest (37478), INSURER C: Wesco Insurance Co. (25011).

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.

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

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required) Ref: Amendment No. 3 to Small Architectural Design Contract for Madison Middle School Expansion New Construction Project.

Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives are named as Additional Insureds to General and Auto Liability. Insurance is Primary and Non-Contributory per policy form. A Waiver of Subrogation applies to Workers Compensation.

CERTIFICATE HOLDER: Oakland Unified School District, 955 High Street, Oakland, CA 94601. CANCELLATION: 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: Elise Fisher.

Insured: Byrens Kim Design Works  
Insurer: Sentinel Insurance Co. LTD  
Policy Number: 57SBWBG9346  
Policy Effective Date: 09/01/2015

Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives

Additional Insured:

EXCERPTS FROM: Hartford Form SS 00 08 04 05

## BUSINESS LIABILITY COVERAGE FORM

### C. WHO IS AN INSURED

#### 6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit. A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

#### f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury, "property damage" or "personal and advertising 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 your premises owned by or rented to you; or
- (c) In connection with "your work" and included within the "products- completed operations hazard, but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to: "Bodily injury, "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including: inspection, or engineering

#### E.5. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

#### E.7.b.(7).(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

#### E.8.b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

#### EXCERPT FROM Hartford Form SS 04 38 06 01

#### HIRED AUTO AND NON-OWNED AUTO

B. With respect to the operation of a "non-owned auto", WHO IS AN INSURED is replaced by the following: The following are "insureds":

- d. Anyone liable for the conduct of an "insured", but only to the extent of that liability.

Insured: Byrens Kim Design Works

Policy Number: 57WEGGG7714

Effective Date: 09/01/2015

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF OUR RIGHT TO RECOVER FROM  
OTHERS ENDORSEMENT - CALIFORNIA**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be \_\_\_\_\_ % of the California workers' compensation premium otherwise due on such remuneration.

**SCHEDULE**

**Person or Organization**

**Job Description**

Oakland Unified School District  
955 High Street  
Oakland, CA 94601

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

Countersigned by



Authorized Representative

Form WC 04 03 06  
Process Date:

(1) Printed in U.S.A.

Policy Expiration Date:



Line 17  
8

## AGREEMENT FOR ARCHITECTURAL SERVICES ROUTING FORM

### Project Information

<b>Project Name</b>	McClymonds High School Intensive Support Site Project	<b>Site</b>	303 ✓
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### Basic Directions

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

<b>Attachment Checklist</b>	<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

<b>Contractor Name</b>	Byrens Kim Design Works	<b>Agency's Contact</b>	Dong Kim		
<b>OUSD Vendor ID #</b>	I009281	<b>Title</b>	Architect of Record		
<b>Street Address</b>	681 4 <sup>th</sup> Street	<b>City</b>	Oakland	<b>State</b>	CA Zip 94607
<b>Telephone</b>	510-452-3224	<b>Policy Expires</b>	7.01.2016		
<b>Contractor History</b>	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		
<b>OUSD Project #</b>					

### Term

<b>Date Work Will Begin</b>	6-8-2016	<b>Date Work Will End By</b> <small>(not more than 5 years from start date)</small>	12-31-2017
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### Compensation

<b>Total Contract Amount</b>	\$	<b>Total Contract Not To Exceed</b>	\$20,000.00
<b>Pay Rate Per HOUR (If Hourly)</b>	\$	<b>If Amendment, Changed Amount</b>	\$
<b>Other Expenses</b>		<b>Requisition Number</b>	

### 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
9450	Fund 21, Measure ↓	3039905890 ✓	6215	\$20,000.00

### 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.

	<b>Division Head</b>	<b>Phone</b>	510-535-7038	<b>Fax</b>	510-535-7082
1.	<b>Director, Facilities Planning and Management</b>				
	Signature	Date Approved	5/12/16		
2.	<b>General Counsel, Department of Facilities Planning and Management</b>				
	Signature	Date Approved	5-16-16		
3.	<b>Interim Deputy Chief, Facilities Planning and Management</b>				
	Signature	Date Approved			
4.	<b>Senior Business Officer, Board of Education</b>				
	Signature	Date Approved			
5.	<b>President, Board of Education</b>				
	Signature	Date Approved			