

Board Office Use: Legislative File Info.	
File ID Number	19-0119
Introduction Date	-2-27-2019 3/4/19
Enactment Number	19-0272
Enactment Date	3/4/19 os



Memo

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

Board Meeting Date 2-27-2019
Subject Amendment No. 1 to SMALL ARCHITECTURAL DESIGN CONTRACT
 Contractor: DSK Architects
 Services For: Frick Middle School Intensive Support Site Project

Action Requested and Recommendation Approval by the Board of Education of Amendment No. 1 to SMALL ARCHITECTURAL DESIGN CONTRACT between Oakland Unified School District and DSK Architects, San Francisco, CA, for the latter to

Provide the following additional services: Revised Structural Support Design for Bleachers and additional Construction Administration. i.e. re-review of revised Bleacher Submittal from Manufacturer; prepare construction documents and CCD submittal package for New Structural Support Required.

for the period of 6-22-2016 through 12-31-2019 in an amount not to exceed 248,765.

Prior Contract The Agreement was previously approved by the Board on 6-22-2016 (Enactment No. 16-1075).

Modification This amendment modifies the scope of work and compensation. All other provisions remain the same.

Competitively Bid Was this contract competitively bid? Yes

If no, exception:

Fiscal Impact Funding resource(s): Fund 21, Measure J

Attachments

- Contract Amendment
- Copy of original contract and all prior amendments (if any)

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OAKLAND UNIFIED SCHOOL DISTRICT
Community Schools, Thriving Students

AMENDMENT NO. 1 TO

SMALL ARCHITECTURAL DESIGN CONTRACT

This Amendment amends SMALL ARCHITECTURAL DESIGN CONTRACT between Oakland Unified School District (OUSD) and DSK Architects (Contractor) entered into on 6-22-2016 (OUSD Enactment No. 16-1075). The parties agree to amend that Agreement as follows:

<p>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> <p>If the scope of work has changed: Provide brief description of revised scope of work including measurable description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary.</p> <p><input checked="" type="checkbox"/> <u>Revised scope of work attached.</u> OR <input type="checkbox"/> CONTRACTOR agrees to provide the following amended services:</p> <p>Provide the following additional services: Revised Structural Support Design for Bleachers and additional Construction Administration. i.e. re-review of revised Bleacher Submittal from Manufacturer; prepare construction documents and CCD submittal package for New Structural Support Required.</p>
<p>2. Term (duration): <input type="checkbox"/> The term of the contract is <u>unchanged</u>. <input checked="" type="checkbox"/> The term of the contract has <u>changed</u>.</p> <p>If the term has changed: The contract term began on <u>6-22-2016</u> and expires on <u>4-1-2019</u>. The parties agree to extend the contract through <u>12-31-2019</u>.</p>
<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> <p>If the compensation has changed: The contract price is amended by</p> <p><input checked="" type="checkbox"/> Increase of \$ <u>11,800</u> to original contract amount.</p> <p><input type="checkbox"/> Decrease of \$ _____ to original contract amount.</p> <p>The new contract total is <u>Two hundred forty-eight thousand, seven hundred sixty-five</u> Dollars (<u>248,765</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. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** CONTRACTOR certifies to the best of his/her/its knowledge and belief, that it and its principals 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/>).

6. **Approval:** Approval requires signature by the Board of Education and/or the Superintendent as its designee. This Amendment shall be deemed approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.

OAKLAND UNIFIED SCHOOL DISTRICT

Amir Kay 3/5/19
 President, Board of Education Date
 Superintendent
 Chief or Deputy Chief
[Signature] 3/5/19
 Secretary, Board of Education Date

CONTRACTOR

[Signature] 1/24/19
 Contractor Signature Date
Amir Kakavand, Partner
 Print Name, Title

Form approved by OUSD General Counsel for 2018-19 FY

FOR OUSD PURPOSES ONLY – The following information is not part of the Contract.

OUSD Internal Routing			
Services above original contract cannot be provided before the amendment is fully approved and the PO amount is increased by Procurement.			
	Signature - Approved	Denied - Reason	Date
1. Administrator/Manager			
2. Resource Manager (If restricted funds)	<u>[Signature]</u>		1/24/19
3. Network Superintendent/Executive Director			
4. Chief/Deputy Chief	<u>[Signature]</u>		
5. Legal (If increase takes contract above \$90,200)			
6. Superintendent, Board of Education	Signature on the legal contract		

Alignment with Single Plan for Student Achievement – SPSA (required if using State or Federal Funds)

Please select:

- Action Item included in Board Approved SPSA (no additional documentation required)–Item Number: _____
- Action Item added as modification to Board Approved SPSA – Submit the following documents to the Resource Manager either electronically via email or scanned documents, fax or drop off.
- Relevant page of SPSA with action item highlighted. Page must include header with the word “Modified”, modification date, school site name, both principal and school site council chair initials and date.
 - Meeting announcement for meeting in which the SPSA modification was approved.
 - Minutes for meeting in which the SPSA modification was approved indicating approval of the modification.
 - Sign-in sheet for meeting in which the SPSA modification was approved.

EXHIBIT "A" SCOPE OF WORK

[IF A CONTRACTOR PROVIDES AN ACCEPTABLE DESCRIPTION OF SERVICES AS PART OF A PROPOSAL, THAT DESCRIPTION OF SERVICES MAY BE ATTACHED WITHOUT ANY TERMS, CONDITIONS, LIMITATIONS, ETC., FROM THAT PROPOSAL.]

- 1. Description of Services to be Provided:** Provide a description of the service(s) the contractor will provide. Be specific about what service(s) OUSD is purchasing and what *this* Contractor will do.

Provide the following additional services: Revised Structural Support Design for Bleachers and additional Construction Administration. i.e. re-review of revised Bleacher Submittal from Manufacturer; prepare construction documents and CCD submittal package for New Structural Support Required.



OUSD
Add service – Frick Impact Academy

December 17, 2018

Client: Oakland Unified School District (OUSD)
Project: Frick Impact Academy – New Site Fence and Signage and Interior Finishes Project

DSA Application: 01-116420
Client Number: 15105
dsk Number: 15044

Regards: Add Service 02
Revised Structural Support Design for Bleachers
Additional Construction Administration

Attention John Esposito, Project Manager

1. Scope of Work:

- a) Structural Engineering Services for Design of New Bleacher Structural Support
 - i. Re-Review of revised Bleacher Submittal from Manufacturer
 - ii. Prepare Construction documents and CCD submittal package for New Structural Support Required
 - iii. Submittal to DSA and obtain DSA approval
- b) Provide Additional Construction Administration Services beyond original contract, due to extended duration of project

2. Deliverables

- a) Construction Documents for New Bleacher Anchorage (Blocking Only)
- b) CCD Submittal Package for New Bleacher Anchorage (Blocking Only)

3. District responsibilities

- a) Hazmat Surveys of site.
- b) Any As-Built drawings for existing area of work

4. Exclusion:

- a) Additional Site Visits beyond 10 weekly meetings from date of this proposal.
- b) Construction Cost Estimating





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/25/2019

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

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

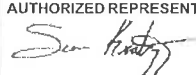
PRODUCER Dealey, Renton & Associates P. O. Box 12675 Oakland CA 94604-2675	CONTACT NAME: Sean E. Kratz PHONE (A/C, No, Ext): 510-465-3090 E-MAIL ADDRESS: skratz@dealeyrenton.com	FAX (A/C, No): 510-452-2193
	INSURER(S) AFFORDING COVERAGE	
INSURED dsk, LLP 926 Natoma Street, Suite 200 San Francisco CA 94103	INSURER A: Associated Indemnity Corp. NAIC # 21865	
	INSURER B: American Automobile Ins. Co. NAIC # 21849	
	INSURER C: Argonaut Insurance Company NAIC # 19801	
	INSURER D:	
	INSURER E:	
INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** 197666281 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	AZC80921878	6/26/2018	6/26/2019	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 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 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	AZC80921878	6/26/2018	6/26/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	SCW0023591801	6/26/2018	6/26/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability			121AE000217100	11/7/2018	11/7/2019	\$2,000,000 \$4,000,000 per Claim Annual Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Re: Frick Middle School Intensive Support Project, 2845-64th Avenue, Oakland, CA 94605. The Oakland Unified School District, the State of California, and their agents, representatives, employees, trustees, officers and volunteers are named as additional insureds as respects general and hired/non-owned auto liability for claims arising from the operations of the named insured. Insurance is primary and non contributory.

CERTIFICATE HOLDER Oakland Unified School District 955 High Street Nevada City CA 95959	CANCELLATION 30 Day Notice of 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 
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EXCERPTS FROM: Fireman's Fund **ABC MULTICOVER – AB 91 89 08 07**

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING: AMERICAN BUSINESS COVERAGE

2. Blanket Additional Insured

Section II – Liability Coverage, Part I. Who Is An Insured, Item 2. is amended to include:

- f. Any person or organization that you are required by a written insured contract to include as an insured, subject to all of the following provisions:
 - (1) Coverage is limited to their liability arising out of:
 - (a) the ownership, maintenance or use of that part of the premises, or land owned by, rented to, or leased to you; or
 - (b) your ongoing operations performed for that insured; or
 - (c) that insured's financial control of you; or
 - (d) the maintenance, operation or use by you of equipment leased to you by such person(s) or organization(s)

4. Blanket Waiver of Subrogation

Section II – Liability Coverage, Part K. Liability and Medical Payments General Conditions, is amended to include:

- 6. Transfer or Rights of Recovery Against Others to us and Blanket Waiver of Subrogation
 - b. If required by a written insured contract, we waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your operations or your work for that person or organization.

19. Common Policy Conditions (AB 00 09 A 01 87), Part H. Other Insurance, Item 2 is replaced with:

- 2. Coverage C – Liability

If other valid and collectible insurance is available to any insured for a loss we cover under Coverage C of this Coverage Part our obligations are limited as follows:

 - a. The insurance provided under this policy is primary if you are required by a written insured contract to include any person or organization as an insured, but only with respect to that insured's liability arising out of the ownership, maintenance, or use of that part of the premises owned by or rented to you, or your work for that insured by or for you. Any other insurance available to that person or organization is excess and noncontributory with this insurance.

EXCERPT FROM: **PROPERTY/LIABILITY POLICY -- AB 90 00 12 93**

II. K. 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 claim is made or suit is brought.

Hired Auto and Non-Owned Liability - AB 04 04 A 01 87

Policy Amendment Section II

A. Insurance is provided only for those coverages shown in the Declarations or in the Schedule.

1. Hired Auto Liability

The insurance provided under the Liability Section of the policy, Paragraph G.1. Coverage C - Liability, applies to **bodily injury** or **property damage** arising out of the maintenance or use of a **hired auto** by you or your employees in the course of your business.

2. Non-Owned Auto Liability

The insurance provided under the Liability Section of the policy, Paragraph G.1. Coverage C - Liability, applies to **bodily injury** or **property damage** arising out of the use of any **non-owned auto** in your business by any person other than you.

B. For insurance provided by this endorsement only:

1. The exclusions, under the Liability Section of the policy, Paragraph H.1. Applicable to Coverage C - Liability Coverages, other than exclusions a., b., d., f. and i. and the Nuclear Energy Liability Exclusion, are deleted and replaced by the following:

a. **Bodily injury** to:

- (1) An employee or co-employee of any insured arising out of and in the course of employment by any insured; or
- (2) Any employee, prospective employee or past employee of any insured arising out of the employment

relationship or prospective employment relationship.

- (3) The spouse, child, fetus, embryo, parent, brother, sister or any member of the household of that employee or co-employee as a consequence of (1) or (2) above.

This exclusion applies:

- (a) Whether the insured may be liable as an employer or in any other capacity; and
- (b) To any obligation to share damages with or repay someone else who must pay damages because of injury.

This exclusion does not apply to:

- (i) Liability assumed by the insured under an **insured contract**; or
- (ii) **Bodily injury** arising out of and in the course of domestic employment by the insured unless benefits for such injury are in whole or in part either payable or required to be provided under any workers compensation law.

b. **Property damage** to:

- (1) Property owned or being transported by, or rented or loaned to the insured; or

This Form must be attached to Change Endorsement when issued after the policy is written. One of the Fireman's Fund Insurance Companies as named in the policy



Secretary



President

- (2) Property in the care, custody or control of the insured.
2. WHO IS AN INSURED in the Liability Section of the policy, Part I, is replaced by the following:

Each of the following is an insured under this endorsement to the extent set forth below:

- a. You;
- b. Any other person using a **hired auto** with your permission;
- c. For a **non-owned auto** any partner or executive officer of yours, but only while such **non-owned auto** is being used in your business; and
- d. Any other person or organization, but only for their liability because of acts or omissions of an insured under a., b. or c. above.

None of the following is an insured:

- (1) Any person engaged in the business of his or her employer for **bodily injury** to any co-employee of such person injured in the course of employment;
- (2) Any partner or executive officer for any **auto** owned by such partner or officer or a member of his or her household;

- (3) Any person while employed in or otherwise engaged in duties in connection with an **auto business**, other than an **auto business** you operate;
- (4) The owner or lessee (of whom you are a sublessee) of a **hired auto** or the owner of a **non-owned auto** or any agent or employee of any such owner or lessee;
- (5) Any person or organization for the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the declarations.

C. The following additional definitions apply:

1. **Auto Business** means the business or occupation of selling, repairing, servicing, storing or parking **autos**.
2. **Hired Auto** means any **auto** you lease, hire or borrow. This does not include any **auto** you lease, hire or borrow from any of your employees or members of their households, or from any partner or executive officer of yours.
3. **Non-Owned Auto** means any **auto** you do not own, lease, hire or borrow which is used in connection with your business. However, if you are a partnership, a **non-owned auto** does not include any **auto** owned by any partner.

All other terms and conditions of the policy apply.

Additional Insured - Owners, Lessees or Contractors - AB 90 67 12 93

Policy Amendment Section II

Insured: dsk, LLP

Policy Number: AZC80921878

Producer: Dealey, Renton & Associates
P. O. Box 12675
Oakland CA 94604-2675

Effective Date: 6/26/2018

Schedule

Name of Person(s) or Organization(s)

Re: Frick Middle School Intensive Support Project, 2845-64th Avenue, Oakland, CA 94605. The Oakland Unified School District, the State of California, and their agents, representatives, employees, trustees, officers and volunteers

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

The following is added to Part I - WHO IS AN INSURED in the Business Liability Section of this policy arising out of your work for that insured by or for you.

5. The person or organization shown in the Schedule is also an insured, but only with respect to liability All other terms and conditions of the policy apply.

This Form must be attached to Change Endorsement when issued after the policy is written.
One of the Fireman's Fund Insurance Companies as named in the policy


Secretary


President



AMENDMENT ROUTING FORM 2018-2019

Amendment No. 1 to SMALL ARCHITECTURAL DESIGN CONTRACT

Directions

Services beyond the original contract cannot be provided until the amendment is fully approved and PO is increased by Procurement.

- To be eligible for an amendment, term end date of the contract cannot not be expired. If expired, a new contract is necessary.
- Insert the amendment number (i.e. if this is the first amendment enter "1," second enter "2," etc.) at the top of the amendment.
- If contract total amount has increased, the scope of work must change.
- OUSD contract originator **creates new requisition with the original PO number referenced in the item description.**

When the contract amendment is approved, Procurement will add additional funds to the original Purchase Order.

Attachment Checklist

- Contract amendment packet including Board Memo and Amendment Form
- Board approved copy of the original contract and any prior Amendments.

Contractor Information

Contractor Name	DSK Architects	Contractor's Contact	Amir Kakavand		
OUSD Vendor ID #	001432	Title	President		
Street Address	926 Natoma St. Suite 200	City, State	San Francisco, CA	Zip Code	94103
Telephone	415-839-6418	Email (required)	jakesloan@aol.com		

Compensation and Terms

Current Contract Amount	\$236,965.00	OUSD Vendor ID #	001432	Start Date of Original Contract	6-22-2016
Amount of Increase	11,800	Original PO #		Current Term End Date	4-1-2019
Amount of Decrease		New Requisition #		New Term End Date*	12-31-2019
New Total Contract Amount	248,765	% Change		*Must be no more than five years from the start date	

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

Requisition No.	Budget Number	Resource Name	Amount
	210-9799-0-9648-8500-6215-203-9180-9901-9999-99999	9799 9648	\$ 11,800.00
			\$ 0.00
			\$ 0.00
			\$ 0.00

Contract History

	OUSD Enactment #	Exact Name of Contract	Contract Amount
Agreement	16-1075	Frick Middle School Intensive Support Site Project	\$236,965.00
Amend #	OUSD Enactment #	General Description of Reason for Amendment	Increase/Decrease Amount

OUSD Contract Originator Information

Name of OUSD Contact	Tadashi Nakadegawa	Email	tadashi.nakadegawa	@ousd.org	
Site/Dept. Name	Facilities Planning and Management	Site #	918	Phone	510-353-7038

Approval and Routing (in order of approval steps)

Services above original contract cannot be provided before the amendment is fully approved and the PO amount is increased by Procurement.

	Signature - Approved	Denied - Reason	Date
1. Administrator/Manager			
2. Resource Manager (if restricted funds)			1/24/19
3. Network Superintendent/Executive Director			
4. Chief/Deputy Chief			1/25/19
5. Legal (if increase takes contract above \$90,200)			
6. Superintendent, Board of Education	Signature on the legal contract		

Procurement-Date Received: _____

THIS FORM IS NOT A CONTRACT

Board Office Use: Legislative File Info.	
File ID Number	16- 1505
Introduction Date	6-22-2016
Enactment Number	16-1073
Enactment Date	6-22-16 02



Memo

To Board of Education

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

Board Meeting Date June 22, 2016

Subject Small Architectural Design Contract - DSK Architects - Frick Middle School Intensive Support Site Project

Action Requested Approval by the Board of Education of a Small Architectural Design Contract between the District and DSK Architects, San Francisco, CA., for the latter to provide second phase design services for campus wide work requiring DSA review and approval including security system, site landscaping, electrical and technology upgrade, LCD interactive screen at library, new sound system and lounge finishes at multipurpose room and new flooring, lighting and sound system at the gym, in conjunction with Frick Middle 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 June 22, 2016 and concluding no later than April 1, 2019, in an amount not-to exceed \$236,965.00.

Discussion This agreement is for architectural and engineering services.

LBP (Local Business Participation Percentage) 50.00%

Procurement Method Professional Services Agreement - Formal - Advertised RFP / Awarded to entity following OUSD competitive solicitation process.

Recommendation Approval by the Board of Education of a Small Architectural Design Contract between the District and DSK Architects, San Francisco, CA., for the latter to provide second phase design services for campus wide work requiring DSA review and approval including security system, site landscaping, electrical and technology upgrade, LCD interactive screen at library, new sound system and lounge finishes at multipurpose room and new flooring, lighting and sound system at the gym, in conjunction with Frick Middle 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 June 22, 2016 and concluding no later than April 1, 2019, in an amount not-to exceed \$236,965.00.

Fiscal Impact Fund 21, Measure J

Attachments

- Small Architectural Design Contract 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. 16-1505

Department: Facilities Planning and Management

Vendor Name: DSK Architects

Project Name: Frick Field Project Project No.: 15105

Contract Term: Intended Start: _____ Intended End: _____

Annual (if annual contract) or Total (if multi-year agreement) Cost: \$ 236,965.00

Approved by: Joe Dominguez

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

Local Business Policy? Yes No

How was this Vendor selected?

DSK designed the first phase and is the architect of record for the Frick ISS Project.

Summarize the services this Vendor will be providing.

Designing the second phase of this project.

Was this contract competitively bid? Yes No

If No, please answer the following:

1) How did you determine the price is competitive?

Agreement for Architectural Services

BY AND BETWEEN
OAKLAND UNIFIED SCHOOL DISTRICT
AND

DSK Architects

This Agreement for Architectural Services is made as of the 17th day of May, 2016, between the **Oakland Unified School District**, a California public school district ("District"), and **DSK Architects** ("Architect") (Individually a "Party" and collectively the "Parties"), for the following project ("Project"):

Frick Middle School Intensive Support Site, located at 2845 64th Avenue, 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-Builts")**: 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 second phase design services for campus wide work requiring DSA review and approval including security system, site landscaping, electrical and technology upgrade, LCD Interactive screen at library, new sound system and lounge finishes at multipurpose room and new flooring, lighting and sound system at the gym for the Frick School Site, more specifically delineated in the Scope of Services in Exhibit "A", commencing June 22, 2016 and concluding no later than April 1, 2019.
- 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

The Architect shall commence Services under this Agreement upon Board of Education approval 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.

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 **Two hundred thirty-six thousand, nine hundred sixty-five dollars and no cents (\$236,965.00)**.
- 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

- 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 (10th) 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
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

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, 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:

District:
Oakland Unified School District
955 High Street
Oakland, CA 94601
Attn: Tadashi Nakadegawa
(510)-535-7038

Architect:
DSK Architects
926 Natoma Street, Ste. 200
San Francisco, CA 94103
Attn: Amir Kakavand
(415) -839-6418

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.org, 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

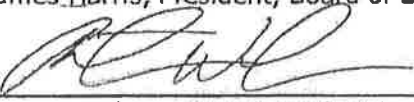
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

ACCEPTED AND AGREED on the date indicated below:

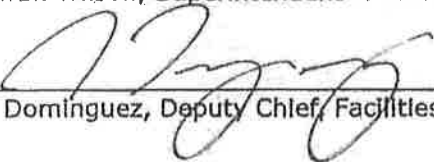
OAKLAND UNIFIED SCHOOL DISTRICT



James Harris, President, Board of Education 6/23/16
Date

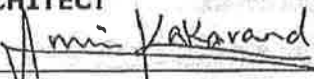


Antwan Wilson, Superintendent & Secretary, Board of Education 6/23/16
Date



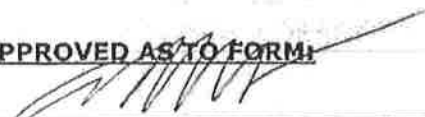
Joe Dominguez, Deputy Chief, Facilities Planning and Management Date

ARCHITECT



By: Amir Kakavand, dsk architects, Principal 5/18/16
Date

APPROVED AS TO FORM:



OUSD Facilities Legal Counsel 5-26-2016
Date

File ID Number: 16-150.5
Introduction Date: 6-22-16
Enactment Number: 16-1073
Enactment Date: 6-22-16
By: CC



fee proposal

EXHIBIT A

March 21, 2016

Client: Oakland USD
Project: Frick Middle School

dsk Number: 15044.00

Attention John Esposito, Facilities Program Manager

Dear John:

Per your request, I'm pleased to present our fee proposal for the above mentioned project.

Scope of Work:

Campus-wide general modernization, utilization of existing facility to implement a STEAM (Science, Technology, Engineering, Art and Math) program. The scope is inclusive of:

- New Sound system at Cafeteria
- Site Signage
- Existing gymnasium Modernization
- Site Fencing
- Existing Multi-Use Modernization.
- New LED lighting
- Drinking fountain and water fill stations
- New Exterior Windows

Scope of Services:

- Schematic Design
- Design Development
- Construction Documents and DSA approval
- Bidding Assistance
- Construction Administration
- Record Documents
- Project certification

Schedule:

The construction of the project is intended to be complete by 2018.





fee proposal

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fee proposal

District responsibilities:

- a) Provide a recent or current geotechnical investigation
- b) Provide existing and original drawings
- c) Provide Hazmat Report

Compensation:

Design through construction Administration \$236,965

Compensation shall be a lump sum of two hundred thirty six thousand nine hundred sixty five dollars.

Please see enclosed fee break-down for programming and design through construction.

Please call me if any further clarification is desired.

Sincerely yours,

Amir Kakavand, AIA, LEED®AP

Cell: 415-244-6953
Email: amir@dskarch.com



DESIGN PHASE A/E FEE PROPOSAL

Project Site: Frick Middle School
 Address: 2845 64th Ave.
 OUSD Project #:
 Architect: dsk architects

	Hourly Rate	Design Phase Scope of Services Tasks							Total Hours	Cost	Percentage
		Schematic Design	Design Development	Construction Documents/DSA	Construction Bid and Procurement	Construction Administration	Record Drawings	Project Closeout and Warranty			
		Hours	Hours	Hours	Hours	Hours	Hours	Hours			
Architecture											
Principal/QC	\$225	5	12	24	4	16	2	4	67	\$15,075	49.95%
Project Architect	\$175	20	36	48	8	36	6	12	166	\$29,050	
Job Captain	\$120	24	48	96	2	20	12	12	214	\$25,680	
Designer/CAD	\$95	48	64	180	12	20	40	16	380	\$36,100	
Administrative	\$70	24	28	48	12	40	12	14	178	\$12,460	
Total Hours		121	188	396	38	132	72	58	1005	\$118,365	
Mechanical											
Consultant Name:	H & M								Subtotal:	\$18,000	7.60%
Plumbing											
Consultant Name:	H & M								Subtotal:	\$18,000	7.50%
Electrical											
Consultant Name:	Zeiger Engineers								Subtotal:	\$30,000	12.66%
Structural											
Consultant Name:	KPW								Subtotal:	\$25,600	10.80%
Civil											
Consultant Name:	BKF								Subtotal:	\$12,000	5.06%
Cost Estimator											
Consultant Name:	Leland Saylor								Subtotal:	\$15,000	6.33%
Fire Protection											
Consultant Name:									Subtotal:	\$0	
Other Consultant											
Consultant Name:									Subtotal:	\$0	
									total Subconsultants "small local Oakland":	\$118,500	50.05%
									Subtotal: A/E and Subconsultants:	\$236,965	
									Reimbursable Costs: (If Applicable)	\$0	
									Grand Total	\$236,965	
									Approximate Construction Budget	\$2,000,000.00	
									% Fee to Construction Budget	11.85%	

Client#: 12765

DSKLLP

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/18/2016

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: Jo Lusk, PHONE: 510 465-3090, FAX: 510 452-2193, E-MAIL: jlusk@dealeyrenton.com. INSURER(S) AFFORDING COVERAGE: INSURER A: Associated Indemnity Corp., INSURER B: American Automobile Ins. Co., INSURER C: Argonaut Insurance Company, INSURER D: , INSURER E: , INSURER F: .

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. Rows include Commercial General Liability, Automobile Liability, Workers Compensation and Employers' Liability, and Professional Liability.

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

General Liability policy excludes claims arising out of the performance of professional services.

Re: Frick Middle School Intensive Support Project, 2845-64th Avenue, Oakland, CA 94605.

The Oakland Unified School District, the State of California, and their agents, representatives, employees, trustees, officers and volunteers are named as additional insureds as respects general and hired/non-owned auto liability for claims arising from the operations of the named insured. Insurance is primary and non contributory.

CERTIFICATE HOLDER

CANCELLATION

Certificate Holder: Oakland Unified School District, 955 High Street, Nevada City, CA 95959. 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: [Signature]

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Additional Insured - Owners, Lessees or Contractors - AB 90 67 12 93
Policy Amendment Section II

Insured *dsk, LLP*

Policy Number *AZC80904603*

Producer *Dealey, Renton & Associates*

Effective Date *06/26/2015*

Schedule

Name of Person(s) or Organization(s)

Oakland Unified School District
955 High Street
Nevada City, CA 95959

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

The following is added to Part I - WHO IS AN INSURED in the Business Liability Section of this policy

arising out of your work for that insured by or for you.

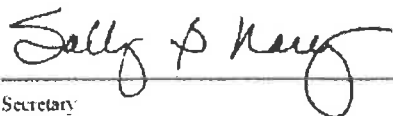
5. The person or organization shown in the Schedule is also an insured, but only with respect to liability

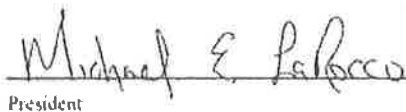
All other terms and conditions of the policy apply.

Re: Frick Middle School Intensive Support Project, 2845-64th Avenue, Oakland, CA 94605. NAME OF PERSON(S) OR ORGANIZATION(S)
CONT.: The Oakland Unified School District, the State of California, and their agents, representatives, employees, trustees, officers and volunteers

This Form must be attached to Change Endorsement when issued after the policy is written.

One of the Fireman's Fund Insurance Companies as named in the policy


Secretary


President



SMALL ARCHITECTURAL DESIGN ROUTING FORM

Project Information

Project Name	Frick Intensive Support Site	Site	203 ✓
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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	DSK Architects	Agency's Contact	Amir Kakavand		
OUSD Vendor ID #	V062801	Title	Architect of Record		
Street Address	926 Natoma Street, Suite 200	City	SF	State	CA
Telephone	415-839-6418	Policy Expires	6-26-2016		
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 #	15105				

Term

Date Work Will Begin	6-22-2016 ✓	Date Work Will End By <small>(not more than 5 years from start date)</small>	4-1-2019
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Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$236,965.00
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
9450	Fund 21, Measure J	2039905890 ✓	6215	\$236,965.00

Approval and Routing (in order of approval steps)

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

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Director, Facilities Planning and Management	Signature	Date Approved	5/27/16	
2.	General Counsel, Department of Facilities Planning and Management	Signature	Date Approved	5-23-16	
3.	Interim Deputy Chief, Facilities Planning and Management	Signature	Date Approved		
4.	Senior Business Officer	Signature	Date Approved		
5.	President, Board of Education	Signature	Date Approved		