

Board Office Use: Legislative File Info.

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Introduction Date	5-8-2019
Enactment Number	19-0615
Enactment Date	5/8/19 lf



OAKLAND UNIFIED SCHOOL DISTRICT
Community Schools. Thriving Students.

Memo

To Board of Education

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

Board Meeting Date May 8, 2019

Subject Equipment, Materials & Supplies Contract Greater than \$92,600 - Krueger "KI" International, Inc. - Fremont High School New Construction Project

Action Requested Approval by the Board of Education of an Equipment, Materials & Supplies Contract Greater than \$92,600, between the District and Krueger "KI" International, Inc., Green Bay, WI, for the latter to provide delivery of furniture for the new Frog Building, to furnish a total of 12 classrooms, in conjunction with the Fremont High School New Construction Project, more specifically delineated in the scope of services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing May 9, 2019, and concluding no later than December 31, 2019, in an amount not-to-exceed \$357,022.00.

Discussion Vendor will provide purchase & delivery of furniture for site.

LBP (Local Business Participation Percentage) 00.00%

Recommendation Approval by the Board of Education of an Equipment, Materials & Supplies Contract Greater than \$92,600, between the District and Krueger "KI" International, Inc., Green Bay, WI, for the latter to provide delivery of furniture for the new Frog Building, to furnish a total of 12 classrooms, in conjunction with the Fremont High School New Construction Project, more specifically delineated in the scope of services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing May 9, 2019, and concluding no later than December 31, 2019, in an amount not-to-exceed \$357,022.00.

Procurement Method Materials, Supplies, Equipment and/or Services greater than Bid limit \$92,600

Fiscal Impact Fund 25

Attachments

- Equipment, Materials, & Supplies Contract
- Including scope of work
- Certificate of Insurance



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

Legislative File ID No. 19-0657

Department: Facilities Planning and Management

Vendor Name: Krueger "KI" International

Project Name: Fremont New Construction Project No.: 13158

Contract Term: Intended Start: 5/9/2019 Intended End: 12/31/2019

Annual (if annual contract) or Total (if multi-year agreement) Cost: \$357,022.00

Approved by: Tadashi Nakadegawa

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

Local Business Policy? Yes (No if Unchecked)

How was this Vendor selected?

Advertised Request for Qualification and Proposal for FF & E awarded to entity following OUSD complete solicitation process

Summarize the services this Vendor will be providing.

KI would provide furniture for the New Fremont High School Frog Building furnish a total of 12 classrooms.

Was this contract competitively bid? Yes (No if Unchecked)

If No, please answer the following:

1) How did you determine the price is competitive?

Competitive prices was determine when RQP was provided
Including 10% contingency

2) Please check the competitive bid exception relied upon:

- Educational Materials**
- Special Services** contracts for financial, economic, accounting, legal or administrative services
- CUPCCAA Exception** (Uniform Public Construction Cost Accounting Act)
- Professional Service Agreements** of less than \$90,200 (increases a small amount on January 1 of each year)
- Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternative energy supply sources)
- Emergency** contracts
- Technology** contracts
 - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - Western States Contracting Alliance Contracts (WSCA)
 - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- Piggyback" Contracts** with other governmental entities
- Perishable Food**
- Sole Source**
- Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- Other, please provide specific exception**

3) **Not Applicable - no exception - Project was competitively bid**

EQUIPMENT, MATERIALS, & SUPPLIES
Greater Than \$92,600

This Equipment, Materials, & Supplies ("Agreement" or "Contract") is made as of the 15th day of April in the year 2019, between the **Oakland Unified School District** ("District") and **Krueger "KI" International** ("Contractor"). The District and Contractor may be individually referred to herein as a "Party" or collectively referred to herein as the "Parties."

1. Definitions.

A) "Bid" means the Contractor's offer made in response to a solicitation to perform a contract to supply Equipment, Materials & Supplies at a specified price.

B) "Bidder" means a supplier who submits a Bid to the District in response to a solicitation.

C) "Contract" means Contractor's Bid; drawings or specifications, if any; these bid/purchase order terms and conditions together with the terms appearing on the reverse side hereof; and any other documents identified therein or herein as incorporated by reference and inclusive of any subsequently issued addenda and/or amendments.

D) "Deliverables" means the tangible and/or intangible personal property, product, service, software, information technology, telecommunications technology, and other items to be delivered pursuant to this purchase order including any such items furnished incident to the provision of services

2. Services. Contractor shall furnish to the District the following equipment, materials, and/or supplies, as more fully described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"):

The scope of the project is to provide delivery of furniture for the new Frog Building, to Furnish a total of 12 classrooms.

3. Term. Contractor shall commence providing Services under this Agreement on **May 9, 2019,** and will diligently perform as required or requested by District as applicable. The term for these Services shall expire on **December 31, 2019.** This Agreement may be extended upon mutual approval of both Parties in writing on an annual basis to the extent permissible under applicable law.

4. Submittal of Documents. The Contractor shall not commence the Work under this Agreement until the Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<input checked="" type="checkbox"/> Signed Agreement	<input checked="" type="checkbox"/> W-9 Form
<input checked="" type="checkbox"/> Insurance Certificates & Endorsements	<input checked="" type="checkbox"/> Workers' Compensation Certificate
<input type="checkbox"/> Bonds (as requested by District)	<input checked="" type="checkbox"/> Debarment Certification
<input checked="" type="checkbox"/> Fingerprinting/Criminal Background Investigation Certification	<input type="checkbox"/> Other: _____

5. Compensation. District agrees to pay the Contractor for Services satisfactorily rendered pursuant to this Agreement, at the rates indicated in the Bid and as more specifically described in **Exhibit "B,"** up to **a maximum amount not-to-exceed THREE HUNDRED FIFTY-SEVEN THOUSAND, TWENTY-TWO DOLLARS AND NO/100 (\$357,022.00)** ("Contract Price"). District shall pay Contractor only for all undisputed amounts in installment payments within thirty (30) days after the Contractor 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.

6. **Independent Contractor.** Contractor shall perform its obligations under this Contract as an independent contractor of the District. Nothing herein shall be deemed to constitute Contractor and the District as partners, joint venturers, or principal and agent. Contractor has no authority to represent the District. Contractor shall not at any time or manner represent that it or any of its subcontractors or agents are in any manner agents or employees of the District.
7. **Independence of Bid.** Unless Bidder is furnishing a joint bid, by submitting this Bid, Bidder swears under penalty of perjury that it did not conspire with any other supplier to set prices in violation of antitrust laws.
8. **Joint Bids.** A joint bid submitted by two or more bidders participating jointly in one bid may be submitted, and each participating bidder must sign the joint bid. If the contractor is comprised of more than one legal entity, each entity shall be jointly and severably liable under this contract. In addition, the joint contractors must designate, in writing, one individual having authority to represent them all in matters relating to the contract. The District assumes no responsibility or obligation for the division of orders or purchases among joint contractors.
9. **License.** Upon payment in full for software, Contractor grants the District a perpetual, non-exclusive, worldwide, irrevocable, fully paid right and license, to install and use the software on all computing devices used by or for the benefit of the District. This license is subject to the limitation on the maximum number of end users or other scope limitations listed on the facing page and, if none are listed, this license shall be deemed to be enterprise-wide and the software may be used by all District end users without any maximum number of users. The license shall extend to permit contractors working for the District to use the software in the performance of their duties for the District.
10. **Packaging, Delivery and Acceptance.**
 - A) **Packaging.** Items shall be packaged to protect them from damage during transit. Packing slips must include the District Purchase Order number, contents, quantity, and description. Material Safety Data Sheets shall be included when applicable.
 - B) **Delivery.** Contractor shall be responsible for delivery on a free-on-board (FOB) Destination basis and shall incur all costs associated with the delivery unless otherwise specified in this Contract. All deliveries shall be set on the District's dock and/or pallets or as otherwise prescribed by the District. All Deliverables are subject to acceptance by District. District will notify Contractor in writing of any defect or nonconformity and Contractor will repair or replace such defective or nonconforming goods or, at the District's option, refund the purchase price to District.
 - C) **Acceptance.** If items are not properly packaged or identified, or if items are determined by the District to be defective or non-conforming, deliveries or any part thereof may be rejected, and all costs (return and re-delivery) shall be at the Contractor's expense. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by the District at destination, notwithstanding any payment or inspection at source. The District shall give written notice of the rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. Acceptance shall not be construed to waive any warranty rights the District may have at law or by express reservation in this Contract with respect to conformity. Title to and risk of loss of Deliverables shall vest in the District upon acceptance.
11. **Performance Guarantee.** If specified in the Bid, a performance guarantee may be required.

12. **Samples.** Samples of items may be required by the District for inspection and specification testing and must be furnished free of expense to the District. The samples furnished must be identical in all respects to the items bid and/or specified in the Contract. Samples must be plainly marked with the name of Bidder, bid number, and date of bid opening. Samples may be retained for comparison with deliveries and if not destroyed by tests, may, upon request at the time the sample is furnished, be returned at Contractor's expense. Bidder/Contractor assumes all risk of loss of or damage to samples.
13. **Substitutions.** Product substitutions require the prior, express written authorization from an authorized District representative.
14. **District Name May Not Be Used.** The name and/or logo of the District or any school of the District may not be used in any advertisements or communications which may convey the impression that the District authorizes the solicitation and/or that there may be some connection or endorsement between the District and the Contractor.
15. **Tax.** The District shall pay only California sales tax and use tax and/or Alameda County sales and use tax, as applicable. Contractor shall separately list all applicable taxes on the invoice. The District is exempt from payment of Federal Excise Tax. Contractor shall cooperate with the District in all matters related to taxation and the collection of taxes. The District may, at its option, self-accrue tax and remit same to the state of California pursuant to the District's permit with the state of California.
16. **Termination.** The District may, by written notice to Contractor, terminate this Contract in whole or in part at any time at the District's convenience or for Contractor default. The District shall hold Contractor liable and responsible for all damages which may be sustained because of the Contractor's default. If Contractor fails or neglects to furnish or deliver any of the deliverables listed herein at the prices named and at the time and places stated herein or otherwise fails or neglects to comply with the terms of the Contract, the District may, upon written notice to the Contractor, cancel the Contract in its entirety, or cancel any or all items affected by such default; and may, whether or not the Contract is cancelled in whole or in part, purchase the Deliverables elsewhere without notice to the Contractor. The prices paid by the District at the time such purchase is made shall be the prevailing market prices. Any extra costs incurred by such default may be collected by the District from the Contractor.
17. **Title.** Title to and risk of loss of Deliverables shall pass to and vest in the District upon final acceptance by the District.
18. **Warranty.**
- A)** Contractor warrants that all Deliverables furnished hereunder will be free from defects in design, material, and workmanship, and will conform to applicable specifications, drawings, samples, and descriptions. All warranties shall be in addition to any warranties available under law and any standard Contractor warranty.
 - B)** At the time of delivery, no software shall contain any virus, "Trojan horse," timer, counter or other limiting design, instruction, or routine that would erase data or programming or cause the software or any hardware or computer system to become inoperable or otherwise incapable of being used in the full manner for which it was designed and created.
 - C)** No Deliverable shall violate or infringe upon the rights of any third party, including, without limitation, any patent, copyright, trademark, trade secret, or other proprietary rights of any kind. There is no action, suit, proceeding, or material claim or investigation pending or threatened against Contractor, that, if adversely determined, might affect any Deliverable or restrict the District's right to use any Deliverable. Contractor knows of no basis for any such action, suit, claim, investigation, or proceeding.

D) Contractor warrants it has full title to the Deliverables and has the right to grant the District the rights and licenses contemplated herein without the requirement for consent of any third party.

19. Local, Small Local and Small Local Resident Business Enterprise (L/SL/SLRBE)

Program: Contractor shall comply with the requirements of District's L/SL/SLRBE Program, as applicable, which may require a fifty percent (50%) mandatory minimum local participation requirement in the performance of this Agreement. A copy of the District's Local Business Participation Policy can be obtained on the District's website, at www.ousd.k12.ca.us, under District Services, Facilities Planning & Management Department, Bids and Requests for Proposals.

20. Standard of Care.

20.1. Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Contractor's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.

20.2. Contractor hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.

20.3. Contractor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Contractor understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Contractor in performing the Services.

20.4. Contractor shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.

21. Originality of Services. Contractor agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Contractor and shall not be copied in whole or in part from any other source, except that submitted to Contractor by District as a basis for such services.

22. Copyright/Trademark/Patent. Contractor understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Contractor consents to use of Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

23. Indemnification. To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, Contractors, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors,

Contractors, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Contractor in conjunction with this Agreement. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

24. Insurance.

24.1. The Contractor shall procure and maintain, and require its subcontractors to maintain, at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

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

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

24.1.2. **Workers' Compensation and Employers' Liability Insurance.**

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

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

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

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

24.2.1. 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."

24.2.2. 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.

24.2.3. An endorsement stating that the District and the State and their representatives, employees, trustees, officers, and volunteers are named additional insureds

under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District.

24.3. All policies shall be written on an occurrence form, except for Professional Liability which shall be on a claims-made form. **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. . 2. **Assignment; Subcontracting.** The Contractor may not assign this Contract in whole or in part, and/or monies due Contractor, without the prior written consent of the District and surety, if any. Subject to the foregoing, this Contract shall be binding upon the parties and their respective successors and assigns. All subcontractors must be approved in advance by the District. Upon the District's written request, Contractor shall terminate any subcontractor.

25. **Compliance with Laws.** Contractor shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

26. **Permits/Licenses.** Contractor and all Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.

27. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

28. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

29. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).

30. **Fingerprinting of Employees.** The Contractor shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Contractor shall not permit any employee to have any contact with District pupils until such

time as the Contractor has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Contractor's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Contractor. Verification of compliance with this section shall be provided in writing to the District prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student.

31. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.
32. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate the Contractor in any manner which is permissible under the law. The District's evaluation may include, without limitation:
- 32.1. Requesting that District employee(s) evaluate the Contractor and the Contractor's employees and subcontractors and each of their performance.
 - 32.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
33. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
34. **Disputes:** In the event of a dispute between the parties as to performance of Work, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Contractor shall neither rescind the Agreement nor stop Work.
35. **Confidentiality.** The Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
36. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

Oakland Unified School District
955 High Street
Oakland, CA 94601
Tel: 510-535-7038; Fax: 510-535-7082
ATTN: Tadashi Nakadegawa

Contractor
Krueger "KI" International
1330 Bellevue Street
Green Bay, WI 54302
Tel: 800-454-9796

ATTN: Michael Pum

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

37. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
38. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the California county in which the District's administration offices are located.
39. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
40. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
41. **Order of Precedence.** This Contract constitutes the entire agreement between the parties and supersedes any prior or contemporaneous written or oral understanding or agreement and any contrary provisions on packing slips, invoices, or other documents submitted by the Contractor. Any conflict or inconsistency among the components of this Contract shall be resolved by giving precedence in the following order: (1) Contractor's Bid; (2) these Contract Terms and Conditions; (3) all other attachments incorporated into the Contract by reference. No term or condition of this Contract may be terminated, modified, rescinded, or waived except by a writing signed by both parties. No modification or waiver of this Contract shall be deemed effected by Contractor's acknowledgment, confirmation or other documentation containing other or different terms. Should any such document from Contractor contain additional or different terms than this Contract, those terms shall be considered proposals by Contractor which are hereby rejected.
42. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

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


Tadashi Nakadegawa
Director of Facilities Planning & Management

[SIGNATURES ON NEXT PAGE]

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

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Eng 5/9/19

Aimee Eng, President, Board of Education Date

[Signature] 5/9/19

Kyla Johnson-Trammell, Superintendent & Secretary, Board of Education Date

[Signature] 5/15/19
Timothy White, Deputy Chief, Facilities Planning and Management Date

APPROVED AS TO FORM:

OUSD Facilities Legal Counsel Date

CONSULTANT Contractor

Michael J. Pum 04/10/2019

Michael Pum / Assistant Secretary Krueger International, Inc. Date

Information regarding ~~Consultant~~ Contractor

Consultant: Krueger International, Inc.
Contractor

License No.: _____

Address: 1330 Bellevue Street

Green Bay, WI 54302

Telephone: 800-454-9796

Facsimile: 920-468-2781

E-Mail: jessica.gelin@ki.com

Type of Business Entity:

____ Individual

____ Sole Proprietorship

____ Partnership

____ Limited Partnership

Corporation, State: Wisconsin

____ Limited Liability Company

____ Other: _____

<p>39-1375589 _____ : Employer Identification and/or Social Security Number</p> <p>NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.</p>
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WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part provides:

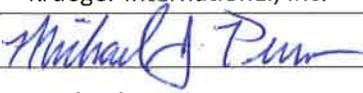
Every employer except the State shall secure the payment of compensation in one or more of the following ways:

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

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

Date: 04/10/2019

Proper Name of Consultant: Krueger International, Inc.

Signature: 

Print Name: Michael Pum

Title: Assistant Secretary

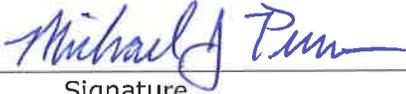
(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

The undersigned is aware of and hereby certify that neither **Krueger "KI" International** ("Consultant") 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. Further, the undersigned agrees to include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

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

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named Consultant on the 10th day of April 2019 for the purposes of submission of this Agreement.

By: 
Signature

Michael Pum
Typed or Printed Name

Assistant Secretary
Title

FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

One of the three boxes below **must** be checked, with the corresponding certification provided, and this form attached to the Independent Consultant Agreement for Professional Services ("Agreement"):

- Consultant's employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Education Code § 45125.1 (c))

Date: _____

District Representative's Name and Title: _____

District Representative's Signature: _____

- The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant's services under this Agreement and Consultant certifies its compliance with these provisions as follows: *"Consultant certifies that the Consultant has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Consultant's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*

- Consultant's services under this Agreement shall be limited to the construction, reconstruction, rehabilitation, or repair of a school facility and although all Employees will have contact, other than limited contact, with District pupils, pursuant to Education Code section 45125.2 District shall ensure the safety of the pupils by at least one of the following as marked:

- The installation of a physical barrier at the worksite to limit contact with pupils.
- Continual supervision and monitoring of all Consultant's on-site employees of Consultant by an employee of Consultant, _____, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.
- Surveillance of Employees by District personnel.

Date: _____

District Representative's Name and Title: _____

District Representative's Signature: _____

Contractor

I am a representative of the ~~Consultant~~ entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

Date: April 10, 2019

Name of ~~Consultant~~ Contractor: Krueger International

Signature: 

Print Name and Title: Michael Pum, Assistant Secretary

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

EXHIBIT "A"
Scope of Services

Contractor shall perform the following Services:

[INCLUDE/ATTACH A DETAILED SCOPE OF WORK (DO NOT INCLUDE ANY TERMS FROM CONTRACTOR'S PROPOSAL)]



Oakland Unified School District: Fremont High School Phase 1

KI is pleased to present the enclosed quotation. The following items are included:

- **SCOPE OF WORK**
- To provide delivery of furniture for the New Frog Building to furnish a total of 12 classrooms.

Quote Number: 19CAM-230341B/C

CREATED 3/21/2019 | **Valid Through 6/19/2019**

PRODUCT TOTALS	\$348,447.40
See Quote Detail Summary	\$36,578.88
GRAND TOTAL	\$385,026.28

Sales Team:

Jessica Gelin
Sales Rep
jessica.gelin@ki.com
(510) 593-3597

Carrie Manos
Inside Sales Specialist
carrie.manos@ki.com
855-853-8646

Requested Delivery Date: To be Determined

Sold To

Oakland Unified School District
955 High Street
Oakland, CA 94601--440
P. (510) 879-8373 F. (510) 879-1857
Customer # 10739

End User

Fremont High School
4610 Foothill Blvd
Oakland, CA 94601
P. (510) 553-8643

Ship To

To be Determined

Installation

To be Determined

Client Notes:

Changes in fabrics, finishes and quantities may affect pricing.
Freight included
Labor included in each work group option





QUOTATION

CREATED 3/21/2019
VALID THROUGH 6/19/2019
Prepared By Jessica Gelin
Quote Filename Oakland Unified School District: Fremont High School Phase 1 - 19CAM-230341B/C

Product options that must be determined (aka TBDs) exist and must be selected prior to purchase order submittal. These items are notated in the far right column with (?)

Line	Model	Qty.	Sell Price	Extended Total	TBD Options
1.8	UWFFC48R  U-Series Wardrobe/Cabinet,48"H,File/File,Wardrobe Right Paint Color To Be Determined TBD<< Key Option To Be Determined TBD<< Pull Style To Be Determined TBD<< Price Description: Delivered/Open Market	12	\$680.56	\$8,166.72	(?)
1.9	CZSLKSTDD3660-CLCK  CZ Steel Locker, Standard w/Drawer 2x4 w/Combination,36"Wx63-3/4"H Shell Paint Color To Be Determined TBD<< Door Paint Color To Be Determined TBD<< Price Description: Delivered/Open Market	48	\$1,821.59	\$80,436.32	(?)
1.10	Labor  Labor Classroom Low Labor Classroom Low One Time 2800.00 Chg	1	\$0.00	\$2800.00	
Tag 1: Typical Classroom (32 students)				WorkGroup Product Subtotal	\$287,982.28

Quote Summary

Product SubTotal: \$287,982.28
Estimated Sales Tax 9.2500%: \$36,578.88
Quote Total: \$324,561.16

NOTES:

- Images shown above are intended for approximate visual reference only and may not represent the exact models, numbers, descriptions or options selected. Refer to the model number/description/options shown for full product specifications.
- Sales Tax (For Shipment within the United States Only): Estimated sales/use tax will be calculated when order is entered. It is the customer's responsibility to pay any applicable sales/use tax due upon invoicing. A customer will not be charged sales tax if (1) a Resale Certificate, (2) an Exempt Organization Certificate, or (3) a Direct Pay permit is on file with KI's Finance Department. If no certificate is on file, the appropriate sales/use tax rate in effect at shipment will be applied and tax will be added to the customer's invoice.



QUOTATION

CREATED 3/21/2019
VALID THROUGH 6/19/2019
Prepared By Jessica Gelin
Quote Filename Oakland Unified School District: Fremont High School Phase 1 - 19CAM-230341B/C

Product options that must be determined (aka TBDs) exist and must be selected prior to purchase order submittal. These items are notated in the far right column with (?)

Line	Model	Qty.	Sell Price	Extended Total	TBD Options	
Tag 1: Typical Classroom (32 students)						
1.1	SLNAP 	Strive Four-Leg Armless Chair, Poly	256	\$92.91	\$23,784.96	
		Frame Color Starlight Silver Metallic /SX Poly Seat & Back Color No Fire Retardant /NFR Poly Seat & Back Color To Be Determined TBD<< Glide Option To Be Determined TBD<<				
		Price Description: Delivered/Open Market				
1.2	SLSNAP 	Strive Four-Leg Armless Cafe Stool, Poly	256	\$138.46	\$35,445.76	
		Seat Height 23" Seat Height /23 Frame Color Starlight Silver Metallic /SX Poly Seat & Back Color No Fire Retardant /NFR Poly Seat & Back Color To Be Determined TBD<< Glide Option To Be Determined TBD<<				
		Price Description: Delivered/Open Market				
1.3	T25P-74P 	Trek Rect Tbl, Pin Adj, 74P Edge, 24x60"W	256	\$503.77	\$120,000.00	
		Surface Finish KI Laminates Standard KI Laminates To Be Determined TBD<< Edge Color To Be Determined TBD<< Base Option 4 black casters w/black hub caps (2 locking) /4CB Base Colors To Be Determined TBD<<				
		Price Description: Delivered/Open Market				
1.4	RUX20E 	Ruckus Single Post Pneumatic Adjustable Lectern w/Modesty Panel on Casters	12	\$513.24	\$6,158.88	
		Book Storage Option No book storage /NB Caster Option To Be Determined TBD<< Surface Finish KI Laminates Standard KI Laminates To Be Determined TBD<< Edge Color To Be Determined TBD<< Frame Color Starlight Silver Metallic /SX Modesty Panel Color To Be Determined TBD<<				
		Price Description: Delivered/Open Market				
1.5	SPDNAP 	Strive Task Armless Chair, Poly	12	\$156.95	\$1,783.40	
		Base Color Warm Grey /WG Poly Seat & Back Color No Fire Retardant /NFR Poly Seat & Back Color To Be Determined TBD<< Caster Option To Be Determined TBD<<				
		Price Description: Delivered/Open Market				
1.6	7D/D2448-74P-F 	700 Series Desk, Full Modesty Panel, 74P Edge, 24x48"W	12	\$379.74	\$4,556.88	
		Grommets No grommet /NG Enamel Color Starlight Silver Metallic /SX Surface Finish To Be Determined TBD<< Edge Color (also color of Grommet and/or PowerUp, if selected) To Be Determined TBD<<				
		Price Description: Delivered/Open Market				
1.7	S7P/1520FBBF 	700 Series Files Freestanding Ped-Box/Box/File-20" Nominal Depth	12	\$420.78	\$5,049.36	
		Pull Options To Be Determined TBD<< Unit Color To Be Determined TBD<< Counterbalance Option With Counterbalance /CBW Key Option To Be Determined TBD<<				
		Price Description: Delivered/Open Market				

Final Considerations:

To ensure your Purchase Order (PO) is processed quickly and efficiently, please adhere to the following requirements:

1. All purchase orders must be issued to KI or KI c/o the dealer with this address:
KI
1330 Bellevue Street
Green Bay, WI 54302
2. The following items must be included on all purchase orders:
 - Sold To/Bill To Information: complete legal name, address, telephone number and fax number
 - Ship To Information: complete legal name, address, contact name, contact phone number
 - Purchase Order Number: a customer-specific identifier, typically a sequential purchase order number or requisition number
 - Issue Date: date the purchase order was issued
 - Sales Tax: applicable sales tax will be added upon KI invoicing. If tax exempt, customer must provide or have the tax exempt certificate on file at KI
 - Purchase Order Total: total of all items and services included on the purchase order
 - Authorization: signature of authorized purchasing agent or buying entity
 - Order Details: reference a fully optioned KI quote (ex: 11KGH-85432) or include all the information listed below
 - Quantity of each item
 - Complete model number, including all finish and option information (by line item)
 - Net purchase price (by line item)
 - Extended net purchase price (all line items)
 - Any additional applicable charges (ex: installation and/or delivery charges)
 - Contract name and/or number if pricing is based on a contract reference
3. Signatures on a quote or a worksheet cannot be accepted as a purchase order.
4. In the event that you do not have a formal Purchase Order process, please contact your KI Sales Representative or call 1-800-424-2432, and we will assist you with creating a PO.

We appreciate your cooperation in providing us with all the required information listed above on your Purchase Order. Complete information helps us serve you better. Thank you for your order.

Purchase Orders that do not meet these requirements will be placed on hold until complete information is received by KI. Purchase orders on hold are not released to manufacturing or assigned a delivery date. KI order lead times begin once the order is released to manufacturing.

Sales resulting from purchase orders issued by the customer to KI (Whether related to this quotation or otherwise) are governed and controlled by the Terms and Conditions found at www.KI.com/terms

Prepared by Jessica Gelin
"Reference Only"
Market Code: 2=2=K-12

Opportunity #: 230341

Quote Filename: Oakland Unified School District: Fremont
High School Phase 1 - 19CAM-230341B

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

The following is added to the Paragraph **A.1.c., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage"

occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in **SECTION II**.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**BLANKET ADDITIONAL INSURED
(CONTRACTORS)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. WHO IS AN INSURED – (Section II) is amended to include any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:
 - a) Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
 - b) If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.
2. The insurance provided to the additional insured by this endorsement is limited as follows:
 - a) In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
 - b) The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
 - i. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
 - ii. Supervisory, inspection, architectural or engineering activities.
3. The insurance provided to the additional insured by this endorsement is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover under this endorsement. However, if the "written contract requiring insurance" specifically requires that this insurance apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But the insurance provided to the additional insured by this endorsement still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under such "other insurance".
4. As a condition of coverage provided to the additional insured by this endorsement:
 - a) The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:
 - c) The insurance provided to the additional insured does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

COMMERCIAL GENERAL LIABILITY

- i. How, when and where the "occurrence" or offense took place;
 - ii. The names and addresses of any injured persons and witnesses; and
 - iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b) If a claim is made or "suit" is brought against the additional insured, the additional insured must:
- i. Immediately record the specifics of the claim or "suit" and the date received; and
 - ii. Notify us as soon as practicable.
- The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c) The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d) The additional insured must tender the defense and indemnity of any claim or "suit" to

any provider of "other insurance" which would cover the additional insured for a loss we cover under this endorsement. However, this condition does not affect whether the insurance provided to the additional insured by this endorsement is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured as described in paragraph 3. above.

5. The following definition is added to SECTION V. – DEFINITIONS:

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

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



Department of Facilities Planning and Management

ROUTING FORM

Project Information

Project Name	Fremont New Construction	Site	250
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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

Contractor Information

Contractor Name	Krueger "KI" International	Agency's Contact	Jessica Gelin
OUSD Vendor ID #	002443	Vendor Title:	
Address	1330 Bellevue Street	Telephone	5105933597
	Green Bay, WI 54302	Policy Expires:	
Contractor History	Previously been an OUSD contractor?	<input type="checkbox"/> Yes	Worked as an OUSD employee? <input type="checkbox"/> Yes
OUSD Project #	13158		

Term

Date Work Will Begin	5/9/2019	Date Work Will End By (not more than 5 years from start date)	12/31/2019
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Compensation

Total Contract Amount		Total Contract Not To Exceed	\$357,022.00
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	Amount
0000/9594	Fund 25	250-0000-0-9594-8500-6432-302-9180-9000-9999-99999	6432	\$357,022.00

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, Department of Facilities Planning and Management				
	Signature		Date Approved		4/15/19
2.	General Counsel, Department of Facilities Planning and Management		Date Approved		
	Signature		Date Approved		4/16/19
3.	Deputy Chief, Department of Facilities Planning and Management				
	Signature		Date Approved		
4.	Senior Business Officer, Board of Education		Date Approved		
	Signature		Date Approved		
5.	President, Board of Education				
	Signature		Date Approved		