

Board Office Use: Legislative File Info.	
File ID Number	19-1967
Introduction Date	10/10/2019
Enactment Number	19-1538
Enactment Date	10/10/19 If



**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Timothy White, Deputy Chief, Facilities Planning and Management

Board Meeting Date October 10, 2019

Subject Resolutions for Declaration and Continuation of Emergency Contract for Construction Services for the Garfield Elementary School Sewer Replacement Project to ER Plumbing & Construction

Action Requested and Recommendation Approval by the Board of Education, by Four-Fifths vote, of Resolution No. 1920-0036, Declaration of Emergency for Construction Services, to allow the emergency action to for the Sewer Replacement Project for Garfield Elementary School (“Project”) in the amount of \$72,780.00 (“Contract”); Resolution No. 1920-0036A, Continuation of Emergency that Requires the Procurement of Construction Services for Emergency Abatement and Repair at Garfield Park Elementary School; and, Agreement between the District and ER Plumbing & Construction, Oakland, CA, for the period September 28, 2019 through October 5, 2019.

Discussion The scope of work of the Contract services are being provided on an emergency basis, and include the repair and construction services for sewer system and replacement of all concrete/asphalt affected by pipe replacement. The contract was deemed an emergency as the kindergarten facilities had already begun flooding, and conditions would have become worse had immediate action not been taken. To date, the Contract has not been completed, and therefore the need for the emergency persists until the Contract is completed. This continuation of resolution shall therefore maintain the emergency status of the Contract. Without approval of this resolution, the work would terminate and remain incomplete until the remaining work could be competitively bid.

LBP (Local Business Participation %) 0.00%

Fiscal Impact Routine Restriction Maintenance Account General Funds

**RESOLUTION OF THE
BOARD OF EDUCATION
OAKLAND SCHOOL DISTRICT**

RESOLUTION NO. 1920-0036

**DECLARING AN EMERGENCY THAT REQUIRES THE
PROCUREMENT OF CONSTRUCTION SERVICES FOR
EMERGENCY ABATEMENT AND REPAIR AT GARFIELD
ELEMENTARY SCHOOL, AND AWARDING A CONTRACT FOR
PERFORMANCE OF THE EMERGENCY REPAIR WORK**

WHEREAS, on or about September, 20, 2019, at Garfield Elementary School, 1640 22nd Avenue, Oakland, California, 94606 (the "Site") a sewer leak arose that presented a serious health and safety risk for both students, staff and visitors. The sewer line broke, which led to overflowing and then flooding into the kindergarten facilities and adjacent areas. Immediate action was necessary in order to protect the health of students, staff and visitors, and to avoid closing the affected section of the campus; and

WHEREAS, the District has not been able to stop the flooding or repair the break in the line, and it is necessary to hire a plumbing contractor; and

WHEREAS, without performance of the work, the affected areas of the school would be closed due to health and safety violations, and having students, staff and visitors in attendance with open sewage would be a violation of the California Health and Safety Code; and

WHEREAS, in order to abate the emergency, and to provide for the safety of students, staff, and visitors at the Site, the District had to immediately perform work to repair the broken sewer without delay("Repair Work") because of the serious health and safety concerns impact that the sewage leak would have students, staff and visitors; and

WHEREAS, the District is subject to the California Uniform Public Construction Cost Accounting Act (Pub. Contract Code, § 22000, et seq., "CUPCAA"), which requires formal competitive bidding for construction contracts over \$200,000, and formal or informal competitive bidding for construction contracts over \$60,000; and

WHEREAS, there was insufficient time to competitively bid the contract for the Repair Work, since the sewage flooding from the leak was posing an immediate health and safety concern for students, staff and visitors; and using competitive bidding would have delayed the commencement of the work until October 12, 2019, or later, and that two-week delay in the start of the work would have had a severe impact on the facilities and the operation of the school; and

WHEREAS, due to the exigent circumstances, District staff directed ER Plumbing to commence the Repair Work on September 28, 2019, with award of a contract to follow, and District staff expected that the work would be complete by October 5, 2019; and

WHEREAS, an exception to the applicable competitive bidding requirements exists in cases of emergency when repair and/or replacements are necessary, and the governing board of the District

("Board") may proceed to immediately replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts (Public Contract Code §22035); and

WHEREAS, an emergency is a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services (Public Contract Code §1102); and

WHEREAS, emergency work under Public Contract Code section 22035 must be done pursuant to the terms of Public Contract Code section 22050; and

WHEREAS, section 22050 requires, in relevant part, that the following steps be taken:

(1) Pursuant to a four-fifths vote of the Board, the District may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts;

(2) Before taking any action pursuant to paragraph (1), the Board shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency;

(3) If the Board orders any action specified above, the Board shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. If the Board meets weekly, it may review the emergency action in accordance with this paragraph every 14 days;

(4) When the Board reviews the emergency action, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts; and

WHEREAS, the proposed form of the ER Plumbing agreement has been approved by legal counsel.

NOW, THEREFORE, BE IT RESOLVED, the Governing Board of the Oakland Unified School District hereby finds, determines, declares, orders, and resolves as follows:

1. That the above recitals are true and correct;
2. That there is an emergency at the Site as defined by applicable statute(s) ("Emergency");
3. That, as described above, in order to mitigate and minimize as quickly as possible the potential health and safety impact on students, staff and visitors the Repair Work had to commence on September 28, 2019, it would not permit the delays which would result from a competitive bidding process, and this action was necessary to respond to the Emergency;
4. That the Board of Education hereby awards the proposed contract with ER Plumbing for the Repair Work in the amount of Seventy Two Thousand, Seven Hundred and Eighty dollars and no cents (\$72,780.00); and
5. That (a) District staff shall report on the status of this Emergency to the Board at its next regularly scheduled meeting so that the Board may determine, by a four-fifths vote, that there is a need to

continue the Emergency action, including a specific determination that the remainder of the Emergency action cannot be completed by giving notice for bids to let contracts; (b) after any four-fifths vote by the Board to continue the Emergency action, pursuant to this paragraph District staff shall report to the Board at its next regularly scheduled meeting for another continuation vote by the Board, including the above specific determination; and (c) if the Board ever fails to make the above determination by four-fifths vote, the Emergency action shall terminate, and any further Repair Work shall be performed pursuant to competitive bidding (unless another exception to the competitive bidding requirement applies).

Passed by the following vote:

PREFERENTIAL AYE: Student Directors Mica Smith-Dahl and Denilson Garibo

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Gary Yee, Roseann Torres, Shanthi Gonzales, James Harris, Vice President Jody London, and President Aimee Eng

NOES: None

ABSTAINED: None

RECUSE: None

ABSENT: Jumoke Hinton Hodge

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District, held on October 10, 2019.

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OAKLAND UNIFIED SCHOOL DISTRICT



Aimee Eng
President, Board of Education



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

**RESOLUTION OF THE
BOARD OF EDUCATION
OAKLAND UNIFIED SCHOOL DISTRICT**

RESOLUTION NO. 1920-0036A

**CONTINUATION OF EMERGENCY THAT REQUIRES THE
PROCUREMENT OF CONSTRUCTION SERVICES FOR
EMERGENCY ABATEMENT AND REPAIR
AT GARFIELD ELEMENTARY SCHOOL**

WHEREAS, on October 10, 2019, the District’s Board of Education (“Board”) passed a resolution by four-fifths vote to declare an emergency and award a contract for emergency repair work without the use of competitive bidding (“Contract”) at Garfield Elementary School, 1640 22nd Avenue, Oakland, California, 94606 (the “Site”); and

WHEREAS, the scope of the Contract work included repair of a broken sewer and corresponding sewer leak; and

WHEREAS, the District’s Board must review the Contract at each regularly-scheduled meeting after award of the Contract until the Contract work is completed; the Board must determine at each such meeting, by four-fifths vote, whether there is need to continue the Contract; and without a four-fifths vote to continue the Contract, the Contract would automatically terminate (Public Contract Code §22050(c)(1)); and

WHEREAS, when reviewing the Contract at each regularly-scheduled meeting per the previous paragraph, the Board must terminate the Contract (i.e., it may not continue the Contract work per Public Contract Code §22050(c)(1), above) at the earliest possible regularly-scheduled Board meeting where conditions warrant that the remainder of the Contract work may be completed by awarding a new contract through use of competitive bidding (Public Contract Code §22050(c)(3)); and

WHEREAS, the Contract work was required to be completed by October 5, 2019, but the work has been delayed and it is not finished as of the date of this Board meeting and resolution; and

WHEREAS, conditions do not allow use of competitive bidding for the remainder of the Contract work since the Contract work must be finished as quickly as possible to minimize the risks to the students, staff and visitors at the Site; and

NOW, THEREFORE, BE IT RESOLVED, the Governing Board of the Oakland Unified School District hereby finds, determines, declares, orders, and resolves as follows:

1. That the above recitals are true and correct;
2. That there is a need to continue the emergency repair work at the Site under the Contract;
3. That conditions do not warrant termination of the Contract so that the remainder of the emergency repair work under the Contract may be completed by awarding a new contract through use of competitive bidding;

4. That District staff shall continue to report on the status of this Contract to the Board at its regularly-scheduled meetings until the Board terminates the Contract (by not approving a resolution to continue the Contract) or until District staff reports that the Contract work has been completed.

Passed by the following vote:

PREFERENTIAL AYE: Student Directors Mica Smith-Dahl and Denilson Garibo

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: ^{None}

PREFERENTIAL RECUSE: None

AYES: Gary Yee, Roseann Torres, Shanthi Gonzales, James Harris, Vice President Jody London, and President Aimee Eng

NOES: None

ABSTAINED: None

RECUSE: None

ABSENT: Jumoke Hinton Hodge

CERTIFICATION


We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District, held on October 10, 2019.

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OAKLAND UNIFIED SCHOOL DISTRICT



Aimee Eng
President, Board of Education



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement effective **September 28, 2019**, is by and between the Oakland Unified School District, Alameda County, hereinafter called the “Owner,” and **ER PLUMBING & CONSTRUCTION**, hereinafter called the “Contractor,” with each a “Party,” and together the “Parties.” to this Agreement.

WITNESSETH: That the Contractor and the Owner for the consideration hereinafter named agree as follows:

ARTICLE I. SCOPE OF WORK. The Contractor agrees to furnish all labor, equipment and materials, including tools, implements, and appliances required, and to perform all the work required, by the Contract (the “Work”) in a good and workmanlike manner, free from any and all liens and claims from mechanics, material suppliers, subcontractors, artisans, machinists, teamsters, freight carriers, and laborers, and as specified in

Garfield Elementary School - Emergency Sewer Replacement Project, 1640 22nd
Avenue, Oakland, California 94606,

all in strict compliance with the plans, drawings and specifications therefore prepared by

N/A

and other Contract Documents relating thereto.

The Contract as awarded includes the base scope of work to provide emergency services for replacement of 6” inch clay piping from main building through city connection in street 15’ deep connection point using SDR-17. Excavate to sewer lateral at Main Building, hand excavation around large trees. Conduct video inspection of 6” inch lateral to check for additional lateral connections. Connect to 24” inch clay sewer main in the street. This trench must be hand dug at building connections, due to many utilities crossing proposed excavated trench. Backfill and compact all trenches and replace all concrete/asphalt affected by pipe replacement only.

ARTICLE II. CONTRACT DOCUMENTS. The Contractor and the Owner agree that all of the documents listed in Article 1.1.1 of the General Conditions form the “Contract Documents” which form the “Contract.”

ARTICLE III. TIME TO COMPLETE AND LIQUIDATED DAMAGES.

Time is of the essence in this Contract, and the time of Completion for the Work (“the Contract Time”) shall be Seven (7) calendar days, which shall start to run either on (a) the date of commencement of the Work as established in the Owner’s Notice to Proceed or (b) if no date of

commencement is established in a Notice to Proceed from Owner, the date of Contractor's actual commencement of the Work (including mobilization). The Owner anticipates that the Contract Time will start to run on **September 28, 2019**, in which case the deadline for completion would be **October 5, 2019**.

Failure to Complete the Work within the Contract Time and in the manner provided for by the Contract Documents, or failure to complete any specified portion of the Work by a milestone deadline, shall subject the Contractor to liquidated damages. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work were not completed within the Contract Time, or if any specified portion of the Work were not completed by a milestone deadline, are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the Work, disruption of activities, costs of administration and supervision, third party claims, and the incalculable inconvenience and loss suffered by the public.

Accordingly, the parties agree that the amount herein set forth shall be the amount of damages which the Owner shall directly incur upon failure of the Contractor to Complete the Work within the Contract Time or complete any specified portion of the Work by a milestone deadline: One Thousand \$1,000 for each calendar day.

In addition, Contractor shall be subject to liquidated damages, or actual damages if liquidated damages are not recoverable under law, for causing another contractor on the Project to fail to timely complete its work under its contract or for causing delayed *completion* of the Project. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if another contractor on the Project were to fail to timely complete its work under its contract or delay *completion* of the Project are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the Work, loss of use of the other contractor's work, loss of use of the Project, disruption of activities, costs of administration and supervision, third party claims, the incalculable inconvenience and loss suffered by the public, and an Owner's inability to recover its delay damages from the contractors whose work was delayed by Contractor.

Accordingly, the parties agree that the amount herein set forth shall be the amount of damages which the Owner shall directly incur upon Contractor causing another contractor on the Project to fail to timely complete its work under its contract or causing delayed *completion* of the Project: One Thousand \$1,000 for each calendar day.

For Contractor's obligations regarding claims against Owner from other contractors on the Project alleging that Contractor caused delays to their work, see General Conditions sections 3.7.4, 3.16 and 6.2.3.

If liquidated damages accrue as described above, the Owner, in addition to all other remedies provided by law, shall have the right to assess the liquidated damages at any time, and to withhold liquidated damages (and any interest thereon) at any time from any and all retention or progress payments, which would otherwise be or become due the Contractor. In addition, if it is reasonably apparent to the Owner before liquidated damages begin to accrue that they will accrue, Owner may assess and withhold, from retention or progress payments, the estimated amount of liquidated damages that will accrue in the future. If the retained percentage or withheld progress payments are not sufficient to discharge all liabilities of the Contractor incurred under this Article, the Contractor and its sureties shall continue to remain liable to the Owner until all such liabilities are satisfied in full.

If Owner accepts any work or makes any payment under the Contract Documents after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any provision in the Contract Documents regarding time of Completion, milestone deadlines, or liquidated damages.

ARTICLE IV. PAYMENT, AND RETENTION. The Owner agrees to pay the Contractor in current funds **SEVENTY TWO THOUSAND, SEVEN HUNDRED EIGHTY DOLLARS (\$72,780.00)** for work satisfactorily performed after receipt of properly documented and submitted Applications for Payment and to make payments on account thereof, as provided in the General Conditions.

ARTICLE V. CHANGES. Changes in this Agreement or in the Work to be done under this Agreement shall be made as provided in the General Conditions. To be enforceable, any written amendment or change order must be signed by both parties and approved by the Owner's governing body.

ARTICLE VI. TERMINATION. The Owner or Contractor may terminate the Contract as provided in the General Conditions.

ARTICLE VII. PREVAILING WAGES. The Project is a public work, the Work shall be performed as a public work and pursuant to the provisions of Section 1770 et seq. of the Labor Code of the State of California, which are hereby incorporated by reference and made a part hereof, the Director of Industrial Relations has determined the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification or type of worker needed to execute this Contract. Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, apprenticeship or other training programs, and similar purposes. Copies of the rates are on file at the Owner's principal office. The rate of prevailing wage for any craft, classification or type of workmanship to be employed on this Project is the rate established by the applicable collective bargaining agreement which rate so provided is hereby adopted by reference and shall be effective for the life of this Agreement or until the Director of the Department of Industrial Relations determines that another rate be adopted. It shall be mandatory upon the Contractor and on any subcontractor to pay not less than the said specified rates to all workers employed in the execution of this Agreement.

The Contractor and any subcontractor under the Contractor as a penalty to the Owner shall forfeit not more than Two Hundred Dollars (\$200.00) for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed. The difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

The Contractor and each Subcontractor shall keep or cause to be kept an accurate record for Work on this Contract and Project showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this Contract or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the Owner, its officers and agents and to the representatives of the Division of Labor Standards Enforcement of the State Department of Industrial Relations. The Contractor and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner.

Public works projects shall be subject to compliance monitoring and enforcement by the Department of Industrial Relations. For all projects over Twenty-Five Thousand Dollars (\$25,000), a contractor or subcontractor shall not be qualified to submit a bid or to be listed in a bid proposal subject to the requirements of Public Contract Code section 4104 unless currently registered and qualified under Labor Code section 1725.5 to perform public work as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code. For all projects over Twenty-Five Thousand Dollars (\$25,000), a contractor or subcontractor shall not be qualified to enter into, or engage in the performance of, any contract of public work (as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code) unless currently registered and qualified under Labor Code section 1725.5 to perform public work.

ARTICLE VIII. WORKING HOURS. In accordance with the provisions of Sections 1810 to 1815, inclusive, of the Labor Code of the State of California, which are hereby incorporated and made a part hereof, the time of service of any worker employed by the Contractor or a Subcontractor doing or contracting to do any part of the Work contemplated by this Agreement is limited and restricted to eight hours during any one calendar day and forty hours during any one calendar week, provided, that work may be performed by such employee in excess of said eight hours per day or forty hours per week provided that compensation for all hours worked in excess of eight hours per day, and forty hours per week, is paid at a rate not less than one and one-half (1½) times the basic rate of pay. The Contractor and every Subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by them in connection with the Work. The records shall be kept open at all reasonable hours to inspection by representatives of the Owner and the Division of Labor Standards Enforcement. The Contractor shall as a penalty to the Owner forfeit Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day, and

forty hours in any one calendar week, except as herein provided.

ARTICLE IX. APPRENTICES. The Contractor agrees to comply with Chapter 1, Part 7, Division 2, Sections 1777.5 and 1777.6 of the California Labor Code, which are hereby incorporated and made a part hereof. These sections require that contractors and subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for each five hours of work performed by a journeyman (unless an exemption is granted in accordance with Section 1777.5) and that contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public works solely on the ground of sex, race, religious creed, national origin, ancestry or color. Only apprentices as defined in Labor Code Section 3077, who are in training under apprenticeship standards and who have signed written apprentice agreements, will be employed on public works in apprenticeable occupations. The responsibility for compliance with these provisions is fixed with the Contractor for all apprenticeable occupations.

ARTICLE X. DSA OVERSIGHT PROCESS. The Contractor must comply with the applicable requirements of the Division of State Architect ("DSA") Construction Oversight Process ("DSA Oversight Process"), including but not limited to (a) notifying the Owner's Inspector of Record/Project Inspector ("IOR") upon commencement and completion of each aspect of the Work as required under DSA Form 156; (b) coordinating the Work with the IOR's inspection duties and requirements; (c) submitting verified reports under DSA Form 6-C; and (d) coordinating with the Owner, Owner's Architect, any Construction Manager, any laboratories, and the IOR to meet the DSA Oversight Process requirements without delay or added costs to the Work or Project.

Contractor shall be responsible for any additional DSA fees related to review of proposed changes to the DSA-approved construction documents, to the extent the proposed changes were caused by Contractor's wrongful act or omissions. If inspected Work is found to be in non-compliance with the DSA-approved construction documents or the DSA-approved testing and inspection program, then it must be removed and corrected. Any construction that covers unapproved or uninspected Work is subject to removal and correction, at Contractor's expense, in order to permit inspection and approval of the covered work in accordance with the DSA Oversight Process.

ARTICLE XI. INDEMNIFICATION AND INSURANCE. The Contractor will defend, indemnify and hold harmless the Owner, its governing board, officers, agents, trustees, employees and others as provided in the General Conditions.

By this statement the Contractor represents that it has secured the payment of Workers' Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. The Contractor shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the Owner will receive thirty (30) days' notice of cancellation.

Contractor shall provide the insurance set forth in the General Conditions. The amount of general liability insurance shall be One Million \$1,000,000 per occurrence for bodily injury, personal injury and property damage and the amount of automobile liability insurance shall be Two Million \$2,000,000 per accident for bodily injury and property damage combined single limit.

ARTICLE XII. ENTIRE AGREEMENT. The Contract constitutes the entire agreement between the parties relating to the Work, and supersedes any prior or contemporaneous agreement between the parties, oral or written, including the Owner's award of the Contract to Contractor, unless such agreement is expressly incorporated herein. The Owner makes no representations or warranties, express or implied, not specified in the Contract. The Contract is intended as the complete and exclusive statement of the parties' agreement pursuant to Code of Civil Procedure section 1856.

ARTICLE XIII. EXECUTION OF OTHER DOCUMENTS. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of the Contract.

ARTICLE XIV. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

ARTICLE XV. BINDING EFFECT. Contractor, by execution of this Agreement, acknowledges that Contractor has read this Agreement and the other Contract Documents, understands them, and agrees to be bound by their terms and conditions. The Contract shall inure to the benefit of and shall be binding upon the Contractor and the Owner and their respective successors and assigns.

ARTICLE XVI. SEVERABILITY; GOVERNING LAW; CHOICE OF FORUM. If any provision of the Contract shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The Contract shall be governed by the laws of the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Alameda, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by Owner.

ARTICLE XVII. AMENDMENTS. The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement, which includes a change order signed by the parties and approved or ratified by the Governing Board.

without the prior written consent of the surety on the payment bond, the surety on the performance bond and the Owner.

ARTICLE XIX. WRITTEN NOTICE. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who gives the notice.

CONTRACTOR

David Ball

Signature

David Ball

Print Name

Owner

Title

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Eng 10/11/19

Aimee Eng, President, Board of Education Date

Kyla Johnson-Trammell 10/11/19

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

Timothy White 10/4/19
Timothy White, Deputy Chief, Facilities Planning and Management Date

APPROVED AS TO FORM:

OUSD Facilities Legal Counsel Date

1000384

CALIFORNIA CONTRACTOR'S
LICENSE NO.

1/15/21

LICENSE EXPIRATION DATE

ARTICLE XVIII. ASSIGNMENT OF CONTRACT. The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the surety on the payment bond, the surety on the performance bond and the Owner.

ARTICLE XIX. WRITTEN NOTICE. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who gives the notice.

CONTRACTOR

Signature

Print Name

Title

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Eng, President, Board of Education Date

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

Timothy White, Deputy Chief, Facilities Planning and Management Date

APPROVED AS TO FORM:


OUSD Facilities Legal Counsel Date 10/3/19

CALIFORNIA CONTRACTOR'S
LICENSE NO.

LICENSE EXPIRATION DATE

NOTE: Contractor must give the full business address of the Contractor and sign with Contractor's usual signature. Partnerships must furnish the full name of all partners and the Agreement must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Corporations must sign with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.