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# OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

## Memo

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent

**Board Meeting Date** August 8, 2018  
*(To be completed by Procurement)*

**Subject** Donation Agreement - Rose Foundation (contractor) - Coliseum College Preparatory Academy (site/department)

**Action Requested** Approval by the Board of Education of a Donation Agreement between the District and the Rose Foundation. Services to be primarily provided to Coliseum College Preparatory Academy for the period of February 1, 2018 through May 1, 2020.

**Background**  
*A one paragraph explanation of why the consultant's services are needed.*

The Rose Foundation for Communities and the Environment was founded in 1992, dedicated to the memory of Rose Ratner. The Foundation believes in the power of informed community involvement by supporting grassroots initiatives to inspire community action to protect the environment, consumers and public health. Environmental stewardship, community regeneration, consumer protection, robust civic participation and a healthy economy are all inextricably linked. Civic participation, especially by traditionally disempowered communities, often serves as the necessary catalyst. This project, funded by the State of California Natural Resources Agency, will convert built environments into green spaces that improve air and water quality and provide opportunities for walking, biking and recreation that are more sustainable and enjoyable while contributing to healthy and vibrant communities.

**Discussion**  
*One paragraph summary of the scope of work.*

Approval by the Board of Education of a Donation Agreement between District and Rose Foundation, Oakland, CA, for the latter to provide an Urban Greening Grant Program that will removed asphalt and concrete in the outdoor recreation areas of Coliseum College Preparatory Academy; approximately 48 trees and 750 plants will be planted, one rain garden created and another restored; a rain barrel system and a French drain will integrate with stormwater drain sites for a natural stormwater capture/filtration system; minor park amenities will be install near the planting areas for the period of February 1, 2018 through May 1, 2020, at no cost to the District.

**Recommendation** Approval by the Board of Education of a Donation Agreement between the District and the Rose Foundation. Services to be primarily provided to Coliseum College Preparatory Academy for the period of February 1, 2018 through May 1, 2020.

**Fiscal Impact** Funding resource name (please spell out): Project is funded through the Rose Foundation from the State of California Natural Resources Agency.

**Attachments**

- Donation Agreement, Rose Foundation
- Grant Award Letter
- Exhibits A, B, C - State of California, Grant Agreement

DONATION AGREEMENT FOR DEVELOPMENT, IMPLEMENTATION, AND  
MAINTENANCE OF A CAMPUS GREENING PROJECT

This Donation Agreement for Development, Implementation, and Maintenance of A Campus Greening Project ("**Agreement**") is entered as of 6/29, 2018, by and between Rose Foundation for Communities and the Environment ("**Rose Foundation**"), a California non-profit public benefit corporation and Oakland Unified School District ("**OUSD**"), a California public school district (collectively the "**Parties**" and each a "**Party**").

RECITALS

A. Whereas, the Parties wish to pursue and support a collaborative effort between the Parties to advocate for, construct, and maintain green schoolyards or other other greening projects on OUSD's Coliseum College Prep Academy and Roots International Academy campuses (the "**Program**" or "**Improvements**"). The Parties define "green schoolyards" as schoolyards that include trees, gardens, natural materials, and green infrastructure to bring multiple benefits to the school and community including educational, health, and environmental benefits.

B. Whereas, Rose Foundation entered into a Grant Agreement with the California Natural Resources Agency for funding to implement and maintain the Program. The Grant Agreement requires that the Program be maintained for twenty (20) years and Rose Foundation agrees to undertake the maintenance of the Program, contingent upon funding.

C. Rose Foundation will continue to identify and pursue potential private and public funding sources, with the collaboration of OUSD. Where sufficient grants are successfully awarded but only to the extent that they are, the Parties shall coordinate the design and construction of green schoolyards beyond the project described in the existing grant agreement between Rose Foundation and California Natural Resources Agency at sites determined by OUSD.

D. Whereas, Rose Foundation will develop a conceptual plan for Program, with the collaboration of OUSD, using the results of outreach to be performed by Rose Foundation in partnership with OUSD, and local community organizations. Rose Foundation will contract for and oversee the construction of the Program, in accordance with applicable laws and OUSD's project labor agreement and board policies.

E. Whereas, this Agreement is intended to summarize the primary roles and responsibilities of the Parties towards the shared goal of implementing and maintaining the green schoolyards. This Agreement also intends to highlight some of the contingencies that need to be satisfied in order to fulfill that objective.

Now therefore, in consideration of the mutual promises contained herein the parties agree as follows:

1. Grant Agreement(s). The Parties acknowledge that, Rose Foundation's ability to design and install the Improvements and to otherwise carry out its role as set forth in this Agreement is contingent upon grant money being paid by California Natural Resources Agency awarded for the design, installation, and maintenance of the Program. Accordingly, Rose Foundation will initially use its good faith efforts to apply for grants, and shall use good faith efforts to cooperate with OUSD in the grant application process. If those grants are not awarded Rose Foundation will determine if other prospective funding sources may be available.

The Parties acknowledge that, Rose Foundation's ability to design and install the Improvements set forth in the grant agreement between Rose Foundation and California Natural Resources agency and to otherwise carry out its role as set forth in this Agreement is first contingent upon grant money being paid by California Natural Resources Agency as awarded for the design, installation, and maintenance of the Program. Accordingly, Rose Foundation will timely submit all necessary invoices and use good faith efforts to comply with all invoicing policies of the California Natural Resources Agency. Should payment for past work not be forthcoming within a reasonable period, Rose Foundation reserves the right to suspend work on the Program with notice to OUSD until payment is received from California Natural Resources Agency.

The Parties acknowledge that, Rose Foundation's ability to design and install additional improvements and to otherwise carry out its role as set forth in this Agreement is contingent upon additional grant money being awarded for the design, installation, and maintenance of further elements of the Program. Accordingly, Rose Foundation will use its good faith efforts to apply for grants, and shall use good faith efforts to cooperate with OUSD in the grant application process. If those grants are not awarded Rose Foundation will determine if other prospective funding sources may be available.

(a) Grant Applications. Rose Foundation shall lead the grant application process. OUSD shall cooperate in the grant application process and shall have an opportunity to review and comment upon grant applications. Where the grant application is not written to award the grant directly to OUSD at the outset, then OUSD, subject to approval by the respective grant funder and OUSD Board, shall accept an assignment of any Grant Agreement related to the development of the green schoolyards. Any grant applications shall make clear that OUSD is the owner of the sites and all improvements and, subject to funding, will be the long-term steward of the Improvements after they are completed by Rose Foundation and the Contractor (defined below).

(b) Incorporation by Reference. The terms of Rose Foundation's design, installation, and maintenance of the Improvements and payment therefore, shall be governed by the terms of this Agreement and any Grant Agreement. The terms of any Grant Agreement are specifically incorporated into this Agreement by this reference. In the event of any conflict between the terms of any Grant Agreement and the terms of this Agreement, the terms of the Grant Agreement shall control, then this Agreement. A copy of a template Grant Agreement is attached hereto for reference as Exhibit A.

(c) Maintenance Requirement. Rose Foundation, subject to funding, agrees to fulfill the District's role of maintaining the Improvements for 20 years. The Parties recognize and agree that this maintenance obligation does not create any land interest in OUSD understands that further grant funding will be sought from certain funders who require that the improvements be maintained for a specific period of time.

2. Term. The term ("Term") of this Agreement shall commence upon full execution and delivery hereof by the parties hereto ("Effective Date"). Except those provisions which are explicitly stated survive the termination of this Agreement, the Term, shall expire on the date upon which OUSD, subject to final acceptance and approval of the Improvements by the OUSD Director of Facilities, executes a letter accepting the Improvements as described in Section 17 below, or upon such earlier date as OUSD or Rose Foundation terminates this Agreement in accordance with Section 22 below. OUSD is aware that, pursuant to the terms of the Grant Agreement, the Improvements must be completed by Rose Foundation and accepted by OUSD prior to expiration of any performance period specified in any Grant Agreement, and OUSD shall cooperate with Rose Foundation in fulfilling its review, approval and acceptance obligations under this Agreement in a timely fashion in order to allow construction and acceptance of the Improvements to be completed within any performance period specified in any Grant Agreement.

3. Grant-writing. Rose Foundation will coordinate grant-writing responsibilities with OUSD to attempt to raise the funds necessary to cover the full cost of the design, construction and maintenance of the Improvements, as well as funds to cover Rose Foundation's staff time associated with these projects where possible. Only to the extent that the grant writing efforts are successful, and money is procured to do outreach, design, and construction for a particular school site, or school site(s), will the following provisions of this Agreement come into play for such site(s).

4. Outreach. Rose Foundation, in collaboration with OUSD, will engage and seek the support of potential advocacy and implementation partners, including national and community based organizations, policy makers, and elected officials. Rose Foundation will support other partners, as applicable, in efforts to increase community awareness of the benefits of green schoolyards. All outreach efforts for this project will be conducted with a unified message, and will include the logos of OUSD and Rose Foundation as collaborating partners. Public materials will be circulated to all partner organizations for comment before release to the public with their logos. The Project site will post a sign which identifies the California Resources Agency and other project partners.

5. Facilities Master Plan. OUSD will collaborate with Rose Foundation to incorporate Green Schoolyards in the Facilities Master Plan. This will require coordination and participation in meetings related to the planning process. OUSD will make good faith efforts to keep Rose Foundation informed of the Facilities Master Plan process including upcoming community meetings.

6. Intentionally Deleted.

7. Participatory Design Process. The Rose Foundation will collaborate with OUSD to ensure that the green schoolyard designs comply with OUSD grounds and schoolyard standards and can be incorporated into the OUSD Facilities Master Plan. The Rose Foundation will submit materials appropriately describing the Project to the California Resources Agency and will comply with all other grant requirements.

8. Right of Entry. During the Term, OUSD shall allow, with advance notice to OUSD, Rose Foundation and their employees and agents, full and unrestricted access to the the Project site to plan, install, and maintain the Improvements at no cost to OUSD. During the Term, OUSD gives Rose Foundation full authority to construct, operate, and maintain the Project with the Plans and Specifications agreed to by OUSD. A specimen Right of Entry is attached hereto as **Exhibit B**.

9. Design and Construction Documents. Rose Foundation shall secure and pay for the services of landscape architects, and engineers, if necessary, who will convert the conceptual design for each green schoolyard into detailed plans and specifications ("**Plans and Specifications**") for construction. The Plans and Specifications for each green schoolyard shall be subject to the approval of OUSD, provided that such approval shall not be unreasonably withheld. OUSD shall use its best efforts to approve or reject such Plans and Specifications within 30 days after their submission. OUSD shall provide Rose Foundation and the design team with specific and detailed explanations of any rejection, and shall work with the design team to resolve design flaws or problems on an expedited basis. Where practicable, the design team will use standard specifications for design components that have been approved in advance by OUSD, and will incorporate OUSD design standards into such specifications. Plans and Specifications for specific projects may also require the approval of the Division of the State Architect ("DSA"). Such approvals shall be in addition to the approval of OUSD. Rose Foundation, at its sole cost and expense, shall be responsible for ensuring that Plans and Specifications are properly approved by DSA prior to commencement of work.

10. Selection of a Contractor: Installation of the Improvements. Rose Foundation will select a contractor ("**Contractor**") in a manner required by law to construct and install the Improvements in accordance with the Plans and Specifications and the terms of any Grant Agreement, including any performance period for installation of the Improvements specified in any Grant Agreement. Rose Foundation shall require its contractor to provide a performance bond to ensure the completion of the Improvements.

11. Volunteer Labor. Certain aspects of preparation of green schoolyards such as planting, mulching, light construction (e.g., garden beds), weeding, pruning, removing plant materials that may attract rodents (i.e., fallen fruit, vines, certain ground covers, etc.) and artwork may be done with volunteer labor, including students, organized and supervised by Rose Foundation in collaboration with OUSD and the individual schools. No students will be utilized during instructional minutes of the schoolday unless directly supervised by an OUSD certificated teacher. Rose Foundation will hold semi-annual community work days to engage parents and other community

members in maintaining and managing plantings and other project features. During volunteer work days, the volunteers shall sign a release and comply with OUSD and individual school standards.

12. Approvals. OUSD will be responsible for providing assistance throughout the required approval process; provided, however, that all such approvals shall be secured by Rose Foundation at no cost to OUSD.

13. Construction. Rose Foundation shall enter into contracts with the selected Contractor and will be fully responsible for all payments to the Contractor and all other contractors and subcontractors at no cost to OUSD, in accordance with the terms of any Grant Agreement. Rose Foundation shall ensure that all contractors, including Volunteer Labor as set forth in Section 11, comply with the criminal background and fingerprinting requirements, to the extent that such contractors or Volunteer Labor are likely to come in contact with schoolchildren, and shall certify the same by executing the certification attached hereto as **Exhibit C**. Rose Foundation shall act as project manager for each Project and shall ensure that each living schoolyard is constructed in a good workmanlike manner, free of defects, and that it be delivered to OUSD in good working order and condition. If no professional construction management firm is hired, Rose Foundation and Contractor will provide general management of construction activity, including but not limited to scheduling construction activity, insuring construction meets Plans and Specifications, conducting progress meetings, providing meeting minutes and coordinating communications between all parties. OUSD staff will participate in the scheduled progress meetings to keep abreast of construction activity and to insure that work follows approved Plans and Specifications. OUSD will not be responsible for any construction documents or specifications, and will not oversee any contractors or construction implementation.

14. Construction Inspections. OUSD or its designee will conduct on-site construction inspections and approvals, per a pre-determined schedule of critical work, to ensure that construction of the Improvements is in conformance with the Plans and Specifications. To the extent work is being conducted on DSA-approved Plans and Specifications, an Inspector of Record will be retained to oversee the underlying construction work, as required by law. Upon substantial completion, OUSD or its designee's staff will prepare a punch list ("**Punch List**"), which will need to be completed by Contractor prior to receiving Final Acceptance pursuant to Section 17.

15. Permits and Fees for Construction. Whenever permits, permit fees or any other fees (collectively, "**Fees**") are due to be paid to any Federal, State, County, or City agency in connection with the construction of the Improvements, Rose Foundation shall pay all such Fees. Rose Foundation shall respond to all requests for Fees by obtaining the permits and paying and/or obtaining a waiver of the Fees within fifteen (15) calendar days of receipt of such requests.

16. Scope, Term and Costs of Program. It is the intention of the Parties that the green Project will be designed and installed by the Rose Foundation by or through its agents or contractors or subcontractors with the funding from the California Natural Resources Agency Grant that Rose Foundation has secured.

17. Indemnification.

(a) During the Term of this Agreement, with respect to each Project site which OUSD owns, Rose Foundation shall indemnify and save harmless OUSD and their respective officers, agents and employees from any and all loss, expense, damage, injury, liability and claims thereof for injury to or death of a person or loss of or damage to property, resulting directly or indirectly from any activity or use under this Agreement, regardless of the negligence of OUSD or whether liability without fault is imposed or sought to be imposed on OUSD, except to the extent that such loss, damage, injury, liability or claim is the result of the gross negligence or willful misconduct of OUSD, its officers, agents or employees. The indemnity obligations described in this Section 17(a) shall survive expiration of this Agreement. In addition to Rose Foundation's obligation to indemnify OUSD, Rose Foundation specifically acknowledges and agrees that it has an immediate and independent obligation to defend OUSD from any claim that actually or potentially falls within this indemnification provision.

(b) Following issuance by OUSD of the Acceptance Letter and completion of the 20 year maintenance period, OUSD shall indemnify and save harmless Rose Foundation and their respective officers, agents and employees from any and all loss, expense, damage, injury, liability and claims thereof for injury to or death of a person or loss of or damage to property, resulting directly or indirectly from any activity or use under this Agreement, regardless of the negligence of Rose Foundation or whether liability without fault is imposed or sought to be imposed on Rose Foundation, except to the extent that such loss, damage, injury, liability or claim is the result of the gross negligence or willful misconduct of Rose Foundation, its officers, agents or employees. The indemnity obligations described in this Section 17(b) shall survive expiration of this Agreement. In addition to OUSD's obligation to indemnify Rose Foundation and GSA, OUSD specifically acknowledges and agrees that it has an immediate and independent obligation to defend Rose Foundation from any claim that actually or potentially falls within this indemnification provision.

18. Insurance. During the Term, Rose Foundation shall maintain the insurance coverage required under any of the Grant Agreements. In addition the general liability and automobile liability policies of such coverage shall contain, or be endorsed to contain, the following provisions:

- a. The OUSD, its officers, agents and employees shall be covered as additional insured with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Rose Foundation during the Term; and with respect to liability arising out of work or operations performed by or on behalf of the Rose Foundation during the Term, including materials, parts or equipment furnished in connection with such work or operations.
- b. For any claims related to this agreement, Rose Foundation's insurance coverage shall be primary insurance with respect to OUSD, its officers, agents and employees.

- c. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

19. Final Acceptance. Upon notice from Rose Foundation that the Improvements on the Project site has been installed in accordance with the Plans and Specifications, OUSD or its designee shall, within fifteen (15) working days of such notice, perform a final inspection; provided, however, that Rose Foundation shall not deliver such notice to OUSD until Rose Foundation has: (1) obtained all necessary regulatory approvals, (2) submitted to OUSD the completed Punch List prepared by OUSD or its designee pursuant to Section 14, (3) submitted to OUSD the waivers and releases and assignments required under Section 19 of this Agreement. If OUSD's final inspection discloses any deficiencies, OUSD shall prepare a new Punch list for completion by Rose Foundation and Contractor. Upon OUSD's inspection and decision to accept the work, OUSD will promptly submit the project to the Director of Facilities for final approval and acceptance. Upon this approval, OUSD shall prepare a letter of final acceptance (the "Acceptance Letter") addressed to the Rose Foundation. Upon receipt of the Acceptance Letter, Rose Foundation shall immediately remove all of its property from the Project site and shall repair, at Rose Foundation's cost, any damage to the Project site caused by such removal or caused by 's construction activities on the Project site.

20. Assignment and Assumption of Grant Agreement(s). Some obligations of the Grant Agreement(s), e.g., provisions pertaining to accepted uses and maintenance of the Prospective Property, extend beyond installation of the Improvements by Rose Foundation and acceptance thereof by OUSD. Rose Foundation agrees to continue to maintain the Project and fulfill other grant requirements, unless the Parties mutually agree to formally assign such grant revenues and obligations to OUSD.

21. Delivery of Improvements. Following Final Acceptance by OUSD, Rose Foundation shall deliver the Improvements free of all liens, easements or potential claims and shall provide OUSD fully executed waivers and releases from the Contractor and all other contractors and subcontractors of all claims against OUSD, its employees and agents. Rose Foundation shall assign to OUSD any warranties or guaranties attendant or concomitant to its contracts with the Contractor and any other contractors and subcontractors. Rose Foundation shall also assign to OUSD the right to any available remedies for latent defects. Rose Foundation shall deliver as-built drawings that are marked-up on hard copy of construction drawings, operating manuals, all warranties and any additional requirements as outlined in the Plans and Specifications.

22. Signage. OUSD agrees that Rose Foundation shall have the right to erect informational plaques or signs on the Prospective Site, detailing proper use of improvements and acknowledging the contributions of Rose Foundation and the California Natural Resources Agencies, any other grantors under any Grant Agreements, and community based organizations, subject to the prior approval of OUSD and contingent upon the receipt of all necessary approvals pursuant to normal OUSD



procedures. Signage shall be installed by Rose Foundation during installation of the Improvements or by OUSD following Final Acceptance, in accordance with the requirements of any Grant Agreement.

23. Program Promotion. OUSD agrees that OUSD staff will actively participate in the program in ways that will promote its success, which may include attending press conferences and other publicity events associated with the program, communicating with government officials regarding the program, and working to achieve the success of the program at each school.

24. Publicity. The Parties agree to cooperate and coordinate with respect to the nature, text, and timing of any press release or public announcement(s) concerning the existence of this Agreement or the design or construction of any Improvements except as may be legally required by applicable laws, regulations, or judicial order. The Parties agree to notify each other in writing of any press release, public announcement, or marketing of the Program. Further, any press release, public announcement, marketing materials or brochures, prepared by any Party shall refer to the Program as a joint project between Rose Foundation, California Natural Resources Agency, and OUSD. To the extent stipulated in any Grant Agreement, the Parties shall duly notify any grantors, and each other, prior to any public or media event publicizing the accomplishments funded by any Grant Agreement, and provide the opportunity for attendance and participation by grantors representatives. Further, the Parties shall coordinate the scheduling and organization of any public or media event to provide the opportunity for attendance and participation by officials and/or representatives of all three Parties; including elected officials and public officials. Similarly, any document, written report, or brochure prepared by any of the three Parties, in whole or in part pursuant to installation of the Improvements, shall contain acknowledgements required under all applicable Grant Agreements.

25. OUSD "Garden Steward". Subject to interest and labor agreements, OUSD will designate a "garden steward" who is a member of the school community who will serve as a liaison for Rose Foundation and the District and provide basic upkeep for the living schoolyard.

26. Termination. Any failure to perform or comply with any of the terms, covenants, obligations, conditions or representations made under this Agreement shall constitute an event of default ("**Event of Default**"), provided that Rose Foundation shall have a period of 15 business days from the date of written notice from OUSD of such failure within which to cure such default under this Agreement, or, if such default is not capable of cure within such 15-day period, Rose Foundation shall have a reasonable period of time to complete such cure if Rose Foundation promptly undertakes action to cure such default within such 15-day period and uses its best efforts to complete such cure within 60 calendar days after receipt of notice of default. Upon occurrence of an Event of Default by Rose Foundation, OUSD shall have the right, in its sole discretion, to seek enforcement of the terms and conditions of this Agreement, to terminate this Agreement or to exercise any of its rights or remedies available at law or in equity.

Rose Foundation shall have the right to terminate this Agreement, if, despite Rose Foundation's good faith efforts, Rose Foundation is unable to secure grant funding for the design, construction, and maintenance of the Improvements on the Project Site.

27. Force Majeure. "Event of Force Majeure" means an event beyond the control of the District and the Rose Foundation, which prevents a Party from complying with any of its obligations under this Contract, including but not limited to: an act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods); war, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilisation, requisition, or embargo; rebellion, revolution, insurrection, or military or usurped power, or civil war; state administratorship or state takeover of the District; sale of the Project site.

Consequences of Force Majeure Event. Neither Party shall be considered in breach of this Contract to the extent that performance of their respective obligations is prevented by an Event of Force Majeure that arises after the Effective Date. The Party (the "Affected Party") prevented from carrying out its obligations hereunder shall give notice to the other Party of an Event of Force Majeure upon it being foreseen by, or becoming known to, the Affected Party.

If and to the extent that the Rose Foundation is prevented from implementing or maintaining the Project by the Event of Force Majeure, Rose Foundation shall be relieved of its obligations under this Agreement.

If an Event of Force Majeure occurs and its effect continues for a period of 180 days, either Party may give to the other a notice of termination, which shall take effect 30 days after the giving of the notice.

28. Green Schoolyard Maintenance. Rose Foundation shall maintain the Projects funded by California Natural Resources Agency in good condition (including taking corrective action in the event of damage or decay necessitating repair) for twenty years.

29. CEQA Compliance. OUSD shall work with Rose Foundation to provide an Environmental Compliance Certification Form, which certifies the Program is exempt or in compliance with the California Environmental Quality Act (CEQA) and/or the National Environmental Policy Act (NEPA). Rose Foundation shall be responsible for all costs associated with the completion of said process.

30. Miscellaneous.

(a) This Agreement may be amended or modified only in a writing signed by the Parties. This Agreement may be signed in counterparts.

(b) This Agreement (including the Exhibits hereto, which are incorporated herein by reference) contains the entire understanding between the Parties as of the date of this Agreement, and all prior written or oral negotiations, discussions, understandings and agreements are superseded by this Agreement.

(c) All actions described herein including but not limited to the construction of the Improvements on the Prospective Site as permitted herein, are subject to and must be conducted and accomplished in accordance with the applicable requirements of the City of Oakland and County of Alameda's charters, their municipal codes and applicable state and federal laws, building codes and regulations.

(d) Except as expressly provided to the contrary, all approvals, consents and determinations to be made by OUSD hereunder may be made by Cesar Monterrosa, Director of Facilities of OUSD or his or her designee in his or her sole and absolute discretion.

IN WITNESS WHEREOF, the parties have caused this Donation Agreement for Development and Construction of Living Schoolyards on Oakland Unified School District Campuses to be executed as of the date first written above.

**OAKLAND UNIFIED SCHOOL DISTRICT**, a California public school district

By: *Aimee Eng* Date 8/9/18  
President, Aimee Eng

By: *Kyla Johnson Trammell* Date 8/9/18  
Kyla Johnson Trammell, Superintendent  
and Secretary of the Board

**Rose Foundation for Communities and the Environment**, a California nonprofit public benefit corporation.

By: *Tim Little* Date: 6/29/18

*Tim Little, Executive Director*

OAKLAND UNIFIED SCHOOL DISTRICT

Office of the General Counsel

APPROVED FOR FORM & SUBSTANCE

By: *Marion McWilliams*

Marion McWilliams, General Counsel



EDMUND G. BROWN JR., Governor  
JOHN LAIRD, Secretary for Natural Resources

November 29, 2017

Jill Ratner, President and Program Director  
Rose Foundation for Communities and the Environment  
1970 Broadway #600  
Oakland, CA 94612

Dear Jill,

Congratulations on behalf of the California Natural Resources Agency (Agency). It is my pleasure to inform you that your application has been selected for funding under the Urban Greening Grant Program, in the amount of \$469,749 for the Coliseum College Prep DAC High School Greening Project.

Please coordinate any public announcements related to your grant award with our Communications Director Sam Chiu at (916) 651-7585 or via e-mail at [sam.chiu@resources.ca.gov](mailto:sam.chiu@resources.ca.gov).

Agency staff will contact you in the coming weeks to begin developing your grant agreement. Should you have any questions in the interim, please do not hesitate to contact the Bonds & Grants Office at (916) 653-2812 or via e-mail at [urbangreening@resources.ca.gov](mailto:urbangreening@resources.ca.gov).

We look forward to working with you in the coming months.

Sincerely,

A handwritten signature in black ink that reads "John Laird".

John Laird  
Secretary for Natural Resources

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 <http://resources.ca.gov>

Baldwin Hills Conservancy • California Coastal Commission • California Coastal Conservancy • California Conservation Corps • California Tahoe Conservancy  
Coachella Valley Mountains Conservancy • Colorado River Board of California • Delta Protection Commission • Delta Stewardship Council • Department of Boating & Waterways • Department of Conservation  
Department of Fish & Game • Department of Forestry & Fire Protection • Department of Parks & Recreation • Department of Resources Recycling and Recovery • Department of Water Resources  
Energy Resources Conservation & Development Commission • Native American Heritage Commission • Sacramento-San Joaquin Delta Conservancy • San Diego River Conservancy  
San Francisco Bay Conservation & Development Commission • San Gabriel & Lower Los Angeles Rivers & Mountains Conservancy • San Joaquin River Conservancy  
Santa Monica Mountains Conservancy • Sierra Nevada Conservancy • State Lands Commission • Wildlife Conservation Board



EXHIBIT A

STATE OF CALIFORNIA NATURAL RESOURCES AGENCY  
GRANT AGREEMENT

Urban Greening Grant Program  
Senate Bill (SB) 859- Greenhouse Gas Reduction Fund

**Grantee Name:** Rose Foundation for the Community and the Environment  
**Project Title:** Coliseum College Prep DAC High School Greening Project  
**Agreement Number:** U29126-0  
**Project Location:** 1390 66<sup>th</sup> Avenue at the Coliseum College Prep Academy

**Project Scope:**

The project will remove asphalt and concrete in the outdoor recreation areas of Coliseum College Prep Academy in Oakland. Approximately 48 trees and 750 plants will be planted, one rain garden created and another restored. A rain barrel system and a French drain will integrate with stormwater drain sites for a natural stormwater capture/filtration system. Minor park amenities will be installed near the planting areas. Project components include:

- Removing approximately 2,800 sq. ft. of asphalt including excavation of about 48 tree-well sites;
- Planting approximately:
  - 48 drought tolerant trees, with about 23 trees 60-ft. from conditioned;
  - 750 native, drought-tolerant understory plants;
- Reconfiguring approximately 687 linear feet of gutters for use with rain barrels, tree wells, and stormwater capture filtration system;
- Restoring a raingarden near the school cafeteria;
- Installing at least one:
  - planting strip adjacent to a parking lot;
  - rain barrel system;
  - French drain;
  - natural stormwater capture/filtration system;
  - rain garden at the south corner of school;
  - temporary irrigation system using approximately 240 Driwater tube and gel packs;
  - bike rack;
  - funding sign;
- Installing approximately:
  - 2 cubic yards of drain rock;
  - 2,100 sq. ft. of mulch;
  - 60 cubic yards of soil amendment;
  - seven benches;
  - seven picnic tables;
- Establishing and monitoring all plants, trees, and stormwater capture.

EXHIBIT A

**Project Schedule:**

Activity Description	Timeline
Preliminary work on the project including outreach, design and permitting	Feb. -Aug. 2018
Submit final site design/plans/specifications to State*/**	Aug. 2018
CEQA completion and filing; Operations and Maintenance submission to State	Feb. 2019
Mobilization, excavation and begin construction (Tree wells, drainage structures, downspout maximization).	Jan. to Oct 2019
Second round community and city outreach	Jan.-Oct. 2019
Finish construction and restoration: drip irrigation, trees, benches, rain garden, rain barrel, French drain	Oct. 2019-Apr. 2020
Third round community and city outreach	Oct 2019-Apr 2020
Official project completion ceremony-community and project partners; State final site visit	Apr - May 1 2020
Record MOUGA and Submit Project Closeout package with final Payment Request to State	Apr - May 1 2020

\*A plant palette for all plants within the footprint of the project must be submitted with final designs and reflect appropriate plantings for the area, with consideration given to carbon sequestration and plant origin (native/non-invasive). Trees, regardless of the funding source, may not exceed 15 gallons in initial planting size.

\*\*All projects must comply with the Model Water Efficient Landscape Ordinance (MWEL0) or the local agency landscape water ordinance (if as strict or stricter) and use low water, drought tolerant plantings.

**Cost Estimate:** See Exhibit A-1

**Exhibit B**

**PERMIT TO ENTER**

This Permit to Enter from Oakland Unified School District ("Permit") is entered as of \_\_\_\_\_, 2018, by and between Oakland Unified School District ("OUSD"), a California public school district and The Rose Foundation for Communities and the Environment ("Rose Foundation"),

By this Permit, OUSD gives, the Rose Foundation, its subcontractors and GSA permission to enter, with advance notice to OUSD, the Coliseum College Prep academy and Roots International Academy (Parcel #41-4132-15-3) for the purpose of designing, implementing, and maintaining the agreed upon improvements.

In exchange for this permission to enter the Property, OUSD requires that the Rose Foundation, and its agents, employees, and subcontractors agree to and shall:

(a) Release, protect, defend, indemnify, and hold harmless Landowner and its successors and assigns, respective directors, officers, employees, partners, and consultants from and against any and all liability, loss, damage, claims, demands, governmental penalties, governmental fines, cost and expense of whatsoever nature (including without limitation court costs and attorney fees) arising out of your negligent or wrongful acts in connection with your entering the Property.

(b) Comply with all applicable laws, rules, ordinances and regulations including fingerprinting requirements

(c) Notify and coordinate access with the individual Schools.

You understand and acknowledge that, in entering upon the Property, you may be exposed to site conditions which are dangerous. You assume any and all risks in entering, and while upon, the Property.

Please sign and print your name on the attached sheet, agreeing to the above terms.

This Permit to Enter shall not be valid unless and until it is signed by all parties, with a signed copy returned (via email or U.S mail) to the other party.

OAKLAND UNIFIED SCHOOL DISTRICT, a California public school district

By: Aimee Eng Date: 8/9/18

President, Aimee Eng

By: Kyla Johnson-Trammell Date: 8/9/18

Kyla Johnson-Trammell, Superintendent  
and Secretary of the Board

Rose Foundation for Communities and the Environment, a California non-profit  
public benefit corporation

By: Tim L Date: 6/29/18  
Executive Director

OAKLAND UNIFIED SCHOOL DISTRICT  
Office of the General Counsel  
APPROVED FOR FORM & SUBSTANCE  
By: Marion McWilliams  
Marion McWilliams, General Counsel



**Exhibit C**

**CRIMINAL BACKGROUND INVESTIGATION/  
FINGERPRINTING CERTIFICATION**

PROJECT/CONTRACT NO.: \_\_\_\_\_ between the \_\_\_\_\_ School  
District ("District") and  
("Contractor" or "Bidder") ("Contract" or "Project").

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the Contractor currently under contract with the District; that I am familiar with the facts herein certified; and that I am authorized and qualified to execute this certificate on behalf of Contractor.

Contractor certifies that it has taken at least one of the following actions with respect to the construction Project that is the subject of the Contract (check all that apply):

The Contractor has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Contractor's employees and all of its Subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, 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 Contractor's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

Pursuant to Education Code section 45125.2, Contractor has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Contractor's employees and District pupils at all times; and/or

Pursuant to Education Code section 45125.2, Contractor certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Contractor who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Contractor's employees and its subcontractors' employees is:

Name:

Title:

The Work on the Contract is at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of Contract shall come in contact with the District pupils.

Contractor's responsibility for background clearance extends to all of its employees, Subcontractors, and employees of Subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Contractor.

Date:

Proper Name of Contractor:

Signature:

Print Name:

Title: