

Board Office Use: Legislative File Info.	
File ID Number	14-2348
Introduction Date	1-14-2015
Enactment Number	15-0019
Enactment Date	1/14/15 O.R.



Memo

To Board of Education

From Antwan Wilson, Superintendent and Secretary, Board of Education
 By: Mia Settles-Tidwell, Chief Operations Officer
 Timothy White, Deputy Chief, Facilities Planning and Management **MST**

Board Meeting Date January 14, 2015

Subject Amendment No. 1, Purchase Order Agreement - HY Architects, Inc.- 1025 Educational Complex Project

Action Requested Approval by the Board of Education of Amendment No. 1, Purchase Order Agreement with HY Architects, Inc. for Design Services on behalf of the District at 1025 Educational Complex Project, in an amount not-to exceed \$49,000.00 increasing previous contract amount from \$20,000.00 to a not to exceed amount of \$69,000.00 and revising the end date from June 18, 2013 through August 18, 2013 to December 31, 2014. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Background HY Architects, Inc. has provided conceptual designs to assist the Board and Superintendent in formulating the next steps for community engagement for the new 1025 Educational Complex.

Local Business Participation Percentage 100.00%

Strategic Alignment Among the key purposes of the District’s Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District’s facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources, number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that

we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

Recommendation

Approval by the Board of Education of Amendment No. 1, Purchase Order Agreement with HY Architects, Inc. for Design Services on behalf of the District at 1025 Educational Complex Project, in an amount not-to exceed \$49,000.00 increasing previous contract amount from \$20,000.00 to a not to exceed amount of \$69,000.00 and revising the end date from June 18, 2013 through August 18, 2013 to December 31, 2014. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Fiscal Impact

Measure J

Attachments

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



File ID Number: 14-2348
 Introduction Date: 1/14/15
 Enactment Number: 15-0019
 Enactment Date: 1/14/15
 By: D.A.

AMENDMENT NO. 1 TO PURCHASE ORDER CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and **HY Architects, Inc.** OUSD entered into an Agreement with CONTRACTOR for services on June 18, 2013, and the parties agree to amend that Agreement as follows:

1.	Services: <input type="checkbox"/> The scope of work is <u>unchanged</u> . <input checked="" type="checkbox"/> The scope of work has <u>changed</u> . If scope of work changed : Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. <u>Attach revised scope of work</u> . The CONTRACTOR agrees to provide the following amended services: <u>The scope of the project is to develop rendered drawings options that are conceptual in nature to give District an idea of what the design of 1025 - 2nd Avenue might look like for the new Administration Building.</u>
2.	Terms (duration): <input type="checkbox"/> The term of the contract is <u>unchanged</u> . <input checked="" type="checkbox"/> The term of the contract has <u>changed</u> . If term is changed : The contract term is extended by an additional 16 months , and the amended expiration date is December 31, 2014 .
3.	Compensation: <input type="checkbox"/> The contract price is <u>unchanged</u> . <input checked="" type="checkbox"/> The contract price has <u>changed</u> . If the compensation is changed : The contract price is amended by <input checked="" type="checkbox"/> Increase of \$49,000.00 to original contract amount <input type="checkbox"/> Decrease of \$ _____ to original contract amount and the new contract total is Sixty-nine thousand dollars and no cents (\$69,000.00)

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**
 There are no previous amendments to this Agreement. This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
			\$

6. **Approval:** ~~This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.~~ *[Signature]*

OAKLAND UNIFIED SCHOOL DISTRICT

[Signature]
James Harris, President,
 Board of Education 1/15/15
 Date

[Signature]
Antwan Wilson, Superintendent
 Secretary, Board of Education 1/15/15
 Date

CONTRACTOR

[Signature] 10/27/14
 Contractor Signature Date

[Signature]
THOMAS HIBBER, PRINCIPAL
 Print Name, Title

[Signature] 11/10/14
 Timothy White, Associate Superintendent
 Facilities, Planning and Management Date

EXHIBIT "A" Scope of Work

Contractor Name: HY Architects, Inc.

Billing Rate: Forty-nine thousand dollars and no cents (\$49,000.00)

1. Description of Services to be Provided

The scope of the project is to develop rendered drawings that are conceptual in nature, to give District an idea of what the design of 1025 – 2nd Avenue might look like for the new Administration Building.

2. Specific Outcomes:

Create equitable opportunities for learning; and provide accountability for quality.

3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input type="checkbox"/> Develop social, emotional and physical health	<input type="checkbox"/> Safe, healthy and supportive schools
<input checked="" type="checkbox"/> Create equitable opportunities for learning	<input checked="" type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input type="checkbox"/> Full service community district

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

Susie Butler-Berkley 10-28-2014
Susie Butler-Berkley
Contract Analyst



HIBSER YAMAUCHI Architects, Inc.

EXHIBIT A

September 15, 2014

Ms. Cate Boskoff
District Bond Counsel
Oakland Unified School District
955 High Street
Oakland, CA 94601

Re: Additional District Administration Planning Studies

Dear Cate:

Per our discussions we are pleased to assist the District with studies related to the District Administrative offices and other potential developments around that location. As I understand it, the District would like to develop its own potential options for the overall development as an internal basis for understanding the opportunities and implications prior to getting the developer on board.

Our specific goals will be to develop rendered "options" that are conceptual in nature exploring 3 potential development scenarios and giving the District an idea of what the design might look like. The components to be included in this design include:

- District offices
- Dewey high School
- K-14 Education Complex (exact scope undetermined, however will be community-based and create synergy with other District functions on site and at adjacent educational properties (i.e. La Escuelita and Laney College))
- Multi-family high rise tower

We will develop 3 potential options:

1. District Education Complex on Dewey Site / Residential Development on District Office site (assume adaptive reuse of historic 1025 building)
2. District Education Complex on existing District Office site (assume adaptive reuse of historic 1025 building) / Residential Development on Dewey site
3. District Education Complex on existing District Office site (assume demolition of 1025 building) / Residential Development on Dewey site

Our deliverable will be:

- For each option, site plan and birds-eye rendering
- One street-level image for design character

To develop options and renderings will take approximately 2 weeks. We will issue periodic updates as the design progresses. Final deliverables will be issued on or around September 29th.



Ms. Cate Boskoff
District Administration Studies
September 15, 2014

For this scope of work, we propose to provide this service on a time and materials basis with a cap in the amount of \$49,000. We will only bill for the time spent and will warn you as we get to the limit of the approved fee.

I hope that this proposal meets with your expectations. We are excited to be a part of this project!

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'MH', is written over a horizontal line. Below the line, the name 'Marcus Hibser, Principal' is printed.

Marcus Hibser, Principal

AMENDMENT INDEPENDENT CONTRACT ROUTING FORM

Project Information

Project Name	1025-2 nd Avenue Administration Building Project	Site	918
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Basic Directions

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

Attachment Checklist	<input type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider
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Contractor Information

Contractor Name	HY Architects, Inc.	Agency's Contact	Marcus Hibser		
OUSD Vendor ID #	V015480	Title	Architect of Record		
Street Address	300-27 th Street, 2 nd Floor	City	Oakland	State	CA
Telephone	510-446-2222	Policy Expires			
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
OUSD Project #	NA				

Term

Date Work Will Begin	6-18-2013	Date Work Will End By <small>(not more than 5 years from start date)</small>	12-31-2014
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Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$69,000.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$49,000.00
Other Expenses		Requisition Number	

Budget Information

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

Resource #	Funding Source	Org Key	Object Code	Amount
0111	Risk Management Fund 67	9879242601	5826	\$49,000.00

Approval and Routing (in order of approval steps)

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

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Director, Facilities Planning and Management				
	Signature	Date Approved	10/28/14		
2.	General Counsel, Department of Facilities Planning and Management				
	Signature	Date Approved	10.29.14		
	Deputy Chief, Facilities Planning and Management				
3.	Signature <i>for Tim White</i>	Date Approved	11/10/14		
	Chief Operations Officer				
4.	Signature	Date Approved	12/17/14		
	President, Board of Education				
5.	Signature	Date Approved			

Board Office Use: Legislative File Info	
File ID Number	13-1869
Committee	Facilities
Introduction Date	8-28-2013
Enactment Number	13-1803
Enactment Date	8-28-13



OAKLAND UNIFIED
SCHOOL DISTRICT

Memo

To Board of Education

From Dr. Gary Yee, Acting Superintendent
and Secretary of the Board of Education
Timothy White, Associate Superintendent, Facilities Planning and Management

Board Meeting Date August 28, 2013

Subject Division of Facilities Planning and Management P.O's. Less than \$50,000.00

Action Requested: Ratification by the Board of Education of the attached contracts for the Division of Facilities Planning and Management.

Legistar #	Name	Amount	Funding Source	P.O.	Project	Date	City
13-1859	Air Sea Containers	\$1,948.00	County School Facilities Fund	P.O.	Ralph Bunche Portable Installation	5-17-2013	Oakland
13-1860	Asbesto: Management Group	\$2,600.00	Measure B	P.O.	Lowell MS Modernization	7-2-2013	Oakland
13-1861	Associates Comfort Systems	\$980.00	County School Facilities Fund	P.O.	La Escuelita Educational Center	7-25-2013	San Leandro
13-1862	Bayview Environmental Services Inc.	\$7,850.00	County School Facilities Fund	P.O.	Oakland Tech Seismic Retrofit	7-11-2013	Oakland
13-1863	Charles M. Salter Associates, Inc.	\$2,650.00	Measure B	P.O.	Highland New Classroom Building	7-11-2013	San Francisco
13-1864	Danda Hauling & Trucking	\$1,400.00	County School Facilities Fund	P.O.	Stonehurst CDC Building Replacement	5-28-2013	Brisbane
13-1865	Digital Design Communications	\$3,851.19	Developer Fee	P.O.	La Escuelita Educational Center	4-2-2013	Oakland
13-1866	Elation Systems	\$35,200.00	Measure B	P.O.	Labor Compliance Software	6-26-2013	Pleasanton
13-1867	Graham Tree Services, Inc.	\$4,500.00	County School Facilities Fund	P.O.	Ralph Bunche Portable Installation	7-8-2013	San Leandro
13-1868	H&M Mechanical Group	\$3,800.00	Measure B	P.O.	Highland New Classroom	7-24-2013	Oakland
✓ 13-1869	HY Hibser Yamauchi Architects, Inc.	\$20,000.00	Fund 67	P.O.	District Administration Planning Studies	6-18-2013	Oakland
13-1870	J&R Fence, Inc.	\$21,213.00	County School Facilities Fund	P.O.	J&R Fence, Inc.	4-18-2013	San Leandro
13-1871	Musson Theatrical	\$12,952.00	County School Facilities Fund	P.O.	Oakland Technical Seismic Retrofit AB300	4-2-2013	Santa Clara
13-1872	NVB Playgrounds, Inc.	\$2,452.00	County School Facilities Fund	P.O.	Stonehurst CDC Building Replacement	5-17-2013	Indianapolis, IN
13-1874	Peninsulators	\$1,745.00	County School Facilities Fund	P.O.	Stonehurst CDC Building Replacement	5-17-2013	San Jose
13-1875	School Dude	\$6,648.31	Fund 40	P.O.	Building & Grounds	4-9-2013	Cary, NC
13-1876	School Dude	\$19,300.95	Deferred Maintenance	P.O.	Building & Grounds	4-22-2013	Cary, NC



OAKLAND UNIFIED
SCHOOL DISTRICT

13-1877	School Outfitters	\$3,866.16	County School Facilities Fund	P.O.	School Outfitters	6-12-2013	Cincinnati, OH
13-1878	Telex Communications	\$30,000.00	Fund 1	P.O.	Telex Communications	6-7-2013	Dublin
13-1879	The Davey Tree Expert Tree Company	\$6,800.00	Measure A	P.O.	Arroyo Viejo CDC Renovation of Building	4-8-2013	San Ramon
13-1881	WiLine	\$35,000.00	Fund 67	P.O.	District Administration Relocation	6-18-2013	San Mateo

Discussion:

Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources, number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

Fiscal Impact:

Various

Recommendation:

The Board of Education is requested to approve the Facilities Planning and Management contracts and Purchase Order for the OUSD school sites.



P.O. Number: _____

P.O. Date: _____

PURCHASE ORDER TERMS AND CONDITIONS

HY Architect, Inc.

1. Definitions.

A) "Bid" means the Contractor's offer made in response to a solicitation to perform a contract to supply goods or perform services 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) "Contractor" means the business entity designated on the face of this purchase order that is supplying Deliverables to the District. Contractor shall be synonymous with "supplier", "vendor", or other similar term.

E) "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.

F) "District" means the Oakland Unified School District.

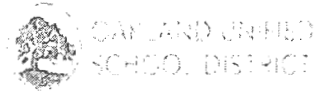
2. Assignment; Subcontracting. The Contractor may not assign this Contract in whole or in part, and/or monies due Contractor, without the prior written consent of the District and surety, if any. Subject to the foregoing, this Contract shall be binding upon the parties and their respective successors and assigns. All subcontractors must be approved in advance by the District. Upon the District's written request, Contractor shall terminate any subcontractor.

3. Audit. The District shall have the right to examine and audit Contractor's records related to this Contract. Contractor and its subcontractors shall maintain and preserve all such records for a period of at least three (3) years after final payment to Contractor or after final Contract closeout, as determined by the District.

4. Award of Contract. The Bidder's Bid or quotation is deemed a firm offer; issuance of this document as a purchase order evidences the District's acceptance of that offer. If an award is made on a bid, the contract will be awarded according to the authority granted by the Board of Education of the District ("Board") pursuant to California law

5. Acceptance/Rejection of Bids. The District may award a contract on an individual item or combination of items, whichever is in the best interest of the District. A bidder may specify that the District's acceptance of one item shall be contingent upon the District's acceptance of one or more additional items submitted in the same Bid. Bids shall remain open and valid for 120 days after bid opening date unless otherwise stipulated and may be accepted without further written notice by the District. The Bidder may withdraw its Bid at any time before the Bid opening.

6. 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.



7. **Fingerprinting.** The Contractor and its subcontractors shall fully comply with the provisions of Education Code Section 45125.1 when Contractor and/or its subcontractors will have more than limited contact with District pupils

8. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the state of California, without regard to conflicts of laws.

9. **Indemnification.** Contractor agrees to indemnify and hold harmless the District, the Board, and their employees, agents, volunteers, affiliates, officers and directors from, and defend each of them against, any injury to person or property, claims, suits, liabilities or expenses (including reasonable attorneys' fees and costs) resulting from or connected with Contractor's performance hereunder, breach of its representations, warranties or obligations hereunder, or Contractor's failure to comply with any applicable law, or regulation.

10. **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.

11. **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.

12. **Insurance.** Upon the District's request, Contractor shall provide, and require its subcontractors to maintain, insurance policy/policies and limits of coverage acceptable to the District to protect against claims that may arise from this Contract.

13. **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.

14. **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.

15. **Non-Discrimination.** Contractor shall comply with all laws prohibiting discrimination in employment and shall include this nondiscrimination requirement in all subcontracts to perform work under the Contract.

16. **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.

17. 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.

18. Performance Guarantee. A performance guarantee may be required on award of annual contracts which exceed \$81,000.

19. 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.

20. Severability. If any provision or part of this Contract shall be declared illegal, void, or unenforceable, such term or provision shall be deemed stricken and the remaining provisions shall continue in full force and effect to the extent permitted by law.

21. Substitutions. Product substitutions require the prior, express written authorization from an authorized District representative.

22. 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.

23. **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.

24. **Title.** Title to and risk of loss of Deliverables shall pass to and vest in the District upon final acceptance by the District.

26. **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.

AGREED and ACCEPTED:

By: MARCUS HIBSER
Its (Title): PRINCIPAL

Date: 6/21/13



P.O. Number: _____

P.O. Date: _____

PURCHASE ORDER TERMS AND CONDITIONS

HY Architect, Inc.

1. Definitions.

A) "Bid" means the Contractor's offer made in response to a solicitation to perform a contract to supply goods or perform services 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) "Contractor" means the business entity designated on the face of this purchase order that is supplying Deliverables to the District. Contractor shall be synonymous with "supplier", "vendor", or other similar term.

E) "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.

F) "District" means the Oakland Unified School 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.

3. Audit. The District shall have the right to examine and audit Contractor's records related to this Contract. Contractor and its subcontractors shall maintain and preserve all such records for a period of at least three (3) years after final payment to Contractor or after final Contract closeout, as determined by the District.

4. Award of Contract. The Bidder's Bid or quotation is deemed a firm offer; issuance of this document as a purchase order evidences the District's acceptance of that offer. If an award is made on a bid, the contract will be awarded according to the authority granted by the Board of Education of the District ("Board") pursuant to California law

5. Acceptance/Rejection of Bids. The District may award a contract on an individual item or combination of items, whichever is in the best interest of the District. A bidder may specify that the District's acceptance of one item shall be contingent upon the District's acceptance of one or more additional items submitted in the same Bid. Bids shall remain open and valid for 120 days after bid opening date unless otherwise stipulated and may be accepted without further written notice by the District. The Bidder may withdraw its Bid at any time before the Bid opening.

6. 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.



7. **Fingerprinting.** The Contractor and its subcontractors shall fully comply with the provisions of Education Code Section 45125.1 when Contractor and/or its subcontractors will have more than limited contact with District pupils
8. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the state of California, without regard to conflicts of laws.
9. **Indemnification.** Contractor agrees to indemnify and hold harmless the District, the Board, and their employees, agents, volunteers, affiliates, officers and directors from, and defend each of them against, any injury to person or property, claims, suits, liabilities or expenses (including reasonable attorneys' fees and costs) resulting from or connected with Contractor's performance hereunder, breach of its representations, warranties or obligations hereunder, or Contractor's failure to comply with any applicable law, or regulation.
10. **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.
11. **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.
12. **Insurance.** Upon the District's request, Contractor shall provide, and require its subcontractors to maintain, insurance policy/policies and limits of coverage acceptable to the District to protect against claims that may arise from this Contract.
13. **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.
14. **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.
15. **Non-Discrimination.** Contractor shall comply with all laws prohibiting discrimination in employment and shall include this nondiscrimination requirement in all subcontracts to perform work under the Contract.
16. **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.

17. 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.

18. Performance Guarantee. A performance guarantee may be required on award of annual contracts which exceed \$81,000.

19. 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.

20. Severability. If any provision or part of this Contract shall be declared illegal, void, or unenforceable, such term or provision shall be deemed stricken and the remaining provisions shall continue in full force and effect to the extent permitted by law.

21. Substitutions. Product substitutions require the prior, express written authorization from an authorized District representative.

22. 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.

23. **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.

24. **Title.** Title to and risk of loss of Deliverables shall pass to and vest in the District upon final acceptance by the District.

26. **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.

AGREED and ACCEPTED:

By: MARCUS HIBSER
Its (Title): PRINCIPAL

Date: 6/21/13



HIBSER YAMAUCHI Architects, Inc.

6/21/13

Susie Butler-Berkley
Contract Analyst
Division of Facilities, Planning and Management
Oakland Unified School District
955 High Street
Oakland, CA 94601

Dear Susie,

Per your request, attached please find signed agreement for the project of Ad Hoc District Administration Planning Studies.

Please feel free to contact me with any questions. Thank you.

Best regards,

Marcus Hibser
Principal

----- Original Email -----

From: Susie Berkley [<mailto:susie.berkley@ousd.k12.ca.us>]
Sent: Wednesday, June 19, 2013 9:12 AM
To: Marcus Hibser
Cc: Tadashi Nakadegawa
Subject: Purchase Order Agreement - HY Architects - Ad Hoc District Administration Planning Studies- \$20,000.00

2013 JUN 24 P 12:15
CLIPPER PLANNING

Dear Mr. Hibser:

Please sign and return the attached form at your earliest convenience. Thank you.

--
Susie Butler-Berkley
Contract Analyst
Division of Facilities, Planning and Management
Oakland Unified School District
955 High Street
Oakland, CA 94601
Office: (510) 535-7079
Fax: (510) 535-7082
Email: susie.berkley@ousd.k12.ca.us



HIBSER YAMAUCHI Architects, Inc.

EXHIBIT A

June 4, 2013

Mr. Tadashi Nakadegawa
Director of Facilities
Oakland Unified School District
955 High Street
Oakland, CA 94601

Re: Ad Hoc District Administration Planning Studies

Dear Tadashi:

Per our discussion we are pleased to assist the District with studies related to the District Administrative offices and other potential developments around that location. As I understand it, the District is considering a development partnership with potential public and private developers. We will study the potential residential development of the site looking at both the District's parcels and the potential City parcel recently vacated by the realignment of 12th Street.

Our task will be to evaluate the potential code requirements in the Merritt Station Specific Plan and identify potential development opportunities with these constraints in mind. The general program consists of the District Administration, Dewey high School, Peralta CCD Administration and an unnamed middle school. In addition we will be available to make adjustments as needed.

In addition, the District will require our assistance in determining the scope of the renovation of the existing building. We will look at various systems and will also explore the condition of the existing building with respect to its approval history. This study will include conceptual costs.

For this scope of work, we therefore propose to provide this service on a time and materials basis with a cap in the amount of \$20,000. We will only bill for the time spent and will warn you as we get to the limit of the approved fee.

I hope that this proposal meets with your expectations. We are excited to be a part of this project!

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Marcus Hibser', written over a horizontal line.

Marcus Hibser, Principal

OAKLAND UNIFIED SCHOOL DISTRICT
Department of Facilities Planning & Management

AGREEMENT REQUEST FORM

DATE SUBMITTED 06-18-13 SUBMITTED BY: Tadashi Nakadegawa

V015480

SECTION I. TYPE OF AGREEMENT (PLEASE CHECK ONE BOX)

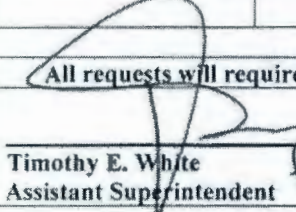
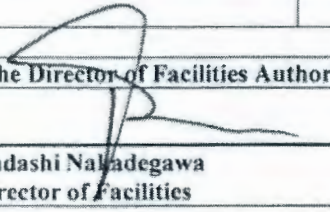
1.) A&E (Architects and Engineers) Contract	<input type="checkbox"/>	5.) "Small"(under \$15,000.00) Construction Contract	<input type="checkbox"/>
2.) IOR (Inspector of Record) Contract	<input type="checkbox"/>	6.) Resolution Awarding Bid & Construction Contract	<input type="checkbox"/>
3.) Agreement for Professional Services-Testing Etc.	<input type="checkbox"/>	7.) Change Order	<input type="checkbox"/>
4.) Amendment to Agreement for Professional Services (Amendment #--)	<input checked="" type="checkbox"/>	8.) Purchase Order	<input type="checkbox"/>

Vendor Number: _____
Fiscal Year: 2012-2013
P.O. Under \$50K: _____
Date Processed: 6-18-2013
To: MB 6/18 To DR: _____

SECTION II LOCAL BUSINESS PARTICIPATION PERCENTAGE

Local Business	Small Local Business	Small Local Resident Business	Total Percentage

All requests will require the Assistant Superintendent's and the Director of Facilities Authorization and Signature

 Timothy E. White Assistant Superintendent	for	Date <u>6/18/13</u>	 Tadashi Nakadegawa Director of Facilities	Date <u>6/18/13</u>
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SECTION III. AGREEMENT INFORMATION:

Project Name:	Ad Hoc District Administration Planning Studies	Project No:	<u>9879242601-5826</u>
Vendor Name:	HY Hibser YAMAUCHI Architects, Inc.	Vendor Contact:	Marcus Hisber, Principal
Vendor Phone Number:	510-446-2222 ph - 510-446-2211	Vendor Mailing Address:	300 27 th Street, 2 nd Floor Oakland, CA 94612
Agreement Start & Stop Dates:	Start: 06-18-13 Stop: 08-18-13	Amounts:	Current Contract Amount: Not to Exceed Amount: \$20,000.00 Revised Contract Amount:
Has Work Started?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes give an explanation:	Has Work Been Completed?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Certificate of Insurance Attached	<input type="checkbox"/> Yes <input type="checkbox"/> No	Date provided:	

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>


For Construction Contracts \$15,000, please provide or attach the following:

- 1) Number of Bids Received, List of Bidders and Amounts (Bid Form) (Attach Bid Documents) _____
 2) Date(s) of Bid Advertisement No. 13-1869 6) Performance Bonds Attached _____
 3) Date of Bid Opening Introduction Date 8-28-2013 7) Payment Bonds Attached _____
 4) Name of Architect Enactment No. 13-1803 8) Number of Phases _____
 5) Liquidated damages per day Enactment Date 6/28/13 (Sections 6 & 7 to be completed by Contract Administration department)

Scope of Work: (Needed to prepare Executive Summary) _____

Discussion Information (Needed to prepare Executive Summary) Scope and renovation of the Administration Building.

Funding Source Fund 67 Budget Number: _____
Res 011

Certified: 
 Gary Yee Ed.D., Secretary
 Board of Education 6-18-2013