Board Office Use: Legislative File Info.					
File ID Number	20-1026				
Introduction Date 6-10-2020					
Enactment Number	20-0919				
Enactment Date	6/10/2020 lf				



Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent

Tadashi Nakadegawa, Interim Deputy Chief, Facilities Planning and Management

Board Meeting Date June 10, 2020

Subject Award of General Services Agreement for the Madison Park Academy Expansion

Project to Urban Design Consulting Engineers - Division of Facilities Planning and

Management

Action Requested Approval by the Board of Education of Award of General Services Agreement to

Urban Design Consulting Engineers, Oakland, California, for the latter to provide Strom Water Pollution Prevention Plan (SWPPP) support Services, for the Madison Park Academy Expansion Project, in the amount of \$12,880.00, which includes a contingency fee of \$1,680.00, as the selected consultant, with work scheduled to commence on June 4, 2020, and scheduled to last December 31, 2020, and authorizing the President and Secretary of the Board to sign the Agreement for

same with said consultant.

Discussion Consultant was selected without competitive bidding because this consultant is

providing services based on their demonstrated competence and professional

qualifications. (Government Code 4526)

LBP (Local Business Participation Percentage)

100.00%

Recommendation Approval by the Board of Education of Award of General Services Agreement to

Urban Design Consulting Engineers, Oakland, California, for the latter to provide Strom Water Pollution Prevention Plan (SWPPP) support Services, for the Madison Park Academy Expansion Project, in the amount of \$12,880.00, which includes a contingency fee of \$1,680.00, as the selected consultant, with work scheduled to commence on June 4, 2020, and scheduled to last December 31, 2020, and authorizing the President and Secretary of the Board to sign the Agreement for

same with said consultant.

Fiscal Impact Fund 21 Measure J

Attachments • Agreement

Scope of work

• Insurance Certificate



CONTRACT JUSTIFICATION FORM

This Form Shall Be Submitted to the Board Office With Every Agenda Contract.

Legislative File ID No. <u>20- 1026</u>	
Department: Facilities Planning and Management	
Vendor Name: <u>Urban Design Consulting Engineers</u>	
Project Name: Cole Administration Center Fire and Intrusion Alarm	Project No.: <u>13124</u>
Contract Term: Intended Start: 6-4-2020	Intended End: <u>12-31-2020</u>
Total Cost Over Contract Term: \$12,880.00	
Approved by: Tadashi Nakadegawa	
Is Vendor a local Oakland Business or has it met the requirements of the	
Local Business Policy? Yes (No if Unchecked)	
How was this contractor or vendor selected?	
This consultant was chosen directly based on demonstrated competence, experti completed in the past for the District.	ise and experience with similar projects they
Provide Storm Water Pollution Preventive Plan (SWPPP) support services during pre-storm inspection during rain events. Attend site visits once a month during action.	ng construction, obtain weekly reports and pictures,
Was this contract competitively bid? ☐ Check box for "Yes" (If "No," let If "No," please answer the following questions: 1) How did you determine the price is competitive?	eave box unchecked)
Consultant has done work for the District before. Based on their exper the District found that the Consultant performed work quickly, accurate	1 1 71

2) Please check the competitive bidding exception relied upon:

Construction Contract:

☐ Price is at or under UPCCAA threshold of \$60,000 (as of 1/1/19)
☐ CMAS contract [may only include "incidental work or service"] (Public Contract Code §§10101(a) and 10298(a)) – contact legal counsel to discuss if applicable
☐ Emergency contract (Public Contract Code §§22035 and 22050) – contact legal counsel to discuss if applicable
☐ No advantage to bidding – contact legal counsel to discuss if applicable
☐ Sole source contractor – contact legal counsel to discuss if applicable
☐ Completion contract – contact legal counsel to discuss if applicable
☐ Lease-leaseback contract RFP process – contact legal counsel to discuss if applicable
☐ Design-build contract RFP process – contact legal counsel to discuss if applicable
☐ Energy service contract – contact legal counsel to discuss if applicable
☐ Other: – contact legal counsel to discuss if applicable
Consultant Contract:
⊠ Construction project manager, land surveyor, or environmental services – selected based on demonstrated competence and professional qualifications (Government Code §4526)
☐ Architect or engineer – use of a fair, competitive RFP selection process (Government Code §§4529.10 et seq.)
☐ Architect or engineer when state funds being used – use of competitive process consistent with Government Code §§4526-4528 (Education Code §17070.50)
☐ Other professional or specially trained services or advice – no bidding or RFP required (Public Contract Code §20111(d) and Government Code §53060) – contact legal counsel to discuss if applicable
\Box For services other than above, the cost of services is \$95,200 or less (as of $1/1/20$)
☐ No advantage to bidding (including sole source) – contact legal counsel to discuss if applicable
Purchasing Contract:
\square Price is at or under bid threshold of \$95,200 (as of $1/1/20$)
☐ Certain instructional materials (Public Contract Code §20118.3)
☐ Data processing systems and supporting software – choose one of three lowest bidders (Public Contract Code §20118.1)

Li Electronic equipment – competitive negotiation (Public Contract Code §20118.2) – contact legal of to discuss if applicable	counsel
☐ CMAS contract [may only include "incidental work or service"] (Public Contract Code §§10101(a 10298(a)) – contact legal counsel to discuss if applicable	ı) and
☐ Piggyback contract for purchase of personal property (Public Contract Code §20118) – contact les counsel to discuss if applicable	ţal
☐ Supplies for emergency construction contract (Public Contract Code §§22035 and 22050) – <i>contacounsel to discuss if applicable</i>	ct legal
☐ No advantage to bidding (including sole source) – contact legal counsel to discuss if applicable	
☐ Other:	
Maintenance Contract:	
\square Price is at or under bid threshold of \$95,200 (as of $1/1/20$)	
\square No advantage to bidding (including sole source) – contact legal counsel to discuss	
☐ Other:	

- 3) Explain in detail the facts that support the applicability of the exception marked above:
 - Consultant was selected based on demonstrated competence and professional qualifications.

OAKLAND UNIFIED SCHOOL DISTRICT GENERAL SERVICES AGREEMENT

This GENERAL SERVICES AGREEMENT ("Agreement") is made and entered into effective **June 4**, **2020**, (the "Effective Date"), by and between the Oakland Unified School District ("District") and **Urban Design Consulting Engineers** ("Contractor").

- 1. Contractor Services. Contractor agrees to provide the following services to District (collectively, the "Services"): Urban Design Consulting Engineers to provide Strom Water Pollution Preventive Plan (SWPPP) support services during construction, will obtain weekly reports and pictures, pre-storm inspection during rain events. Consultant will make site visits once a month during construction to monitor compliance and file annual SWPPP reports. The Services include all work as specified in the scope of work outlined attached to this Agreement in Exhibit A.
- 2. **Contractor Qualifications.** Contractor represents and warrants to District that Contractor, and all of Contractor's employees, agents or volunteers (the "Contractor Parties"), have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. Contractor and any Contractor Parties performing services shall be competent to perform those services.
- 3. **Term.** This Agreement shall begin on **June 4, 2020,** and shall terminate upon completion of the Services, but no later than **December 31, 2020** ("Term"), except as otherwise stated in **Paragraph 4** below. There shall be no extension of the Term of this Agreement without the express written consent of all parties. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contractor Parties. In the event of early termination, Contractor shall be paid for satisfactory Services performed to the date of termination. Upon payment by District, District shall be under no further obligation to Contractor, monetarily or otherwise, and District may proceed with the work in any manner District deems proper.
- 4. **Termination.** Either party may terminate this Agreement at any time by giving thirty (30) days advance written notice to the other party, however the parties may agree in writing to a shorter notice period. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially breaches any of the terms of this Agreement, any act or omission of Contractor or the Contractor Parties exposes District to potential liability or may cause an increase in District's insurance premiums, Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed because of Contractor's insolvency. Such termination shall be effective immediately upon Contractor's receipt of the notice.
- 5. **Payment of Fees for Services.** District agrees to pay Contractor fees in accordance with the attached Fee Schedule (See attached), for Services satisfactorily performed. Contractor shall not increase the rate over the course of this Agreement. Total fees paid by District to Contractor for Services under the Agreement shall not exceed **TWELVE THOUSAND**, **EIGHT HUNDRED EIGHTY DOLLARS NO/100 (\$12,880.00) which includes a contingency fee of \$1,680.00.** Contractor shall

perform all Services required by the Agreement even if the Fee has already been paid and no more payments will be forthcoming. District agrees to pay the Fee, up to the maximum amount provided herein, within Thirty (30) days of receipt of a detailed invoice from Contractor, including any additional supporting documentation District reasonably requests.

- 6. **Indemnity.** Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Trustees, members of the Board of Trustees (collectively, the "District Parties"), from and against any and all claims, demands, liabilities, damages, losses, suits and actions, and expenses (including, but not limited to attorney fees and costs including fees of consultants) of any kind, nature and description (collectively, the "Claims") directly or indirectly arising out of, connected with, or resulting from any act, error, omission, negligence, or willful misconduct of Contractor, the Contractor Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees in the performance of or failure to perform Contractor's obligations under this Agreement, including, but not limited to Contractor's or the Contractor Parties' use of the site, Contractor's or the Contractor Parties' performance of the Services, Contractor's or the Contractor Parties' breach of any of the representations or warranties contained in this Agreement, or for injury to or death of persons or damage to property or delay or damage to the District or the District Parties. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph.
- 7. **Equipment and Materials**. Contractor at its sole cost and expense shall provide and furnish all tools, labor, materials, equipment, transportation services and any other items (collectively, "Equipment") which are required or necessary to perform the Services in a manner which is consistent with generally accepted standards of the profession for similar services. Notwithstanding the foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contractor Parties by District. Furthermore, District may reject any Equipment or workmanship that does not conform to the requirements of this Agreement and Contractor must then promptly remedy or replace it at no additional cost to District and subject to District's reasonable satisfaction.
- 8. **Insurance.** Without in any way limiting Contractor's liability, or indemnification obligations set forth in Paragraph 6 above, Contractor shall secure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate, if applicable; and (iii) worker's compensation insurance as required by Labor Code section 3200, et seq., if applicable. Neither Contractor nor any of the Contractor Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverages have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insureds. All of the policies shall be amended to provide that the insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to District. If such a notice is not given or even if District receives a notice, District may, at its sole option, terminate this

Agreement. All insurance policies shall include an endorsement stating that it is primary to any insurance or self-insurance maintained by District and shall waive all rights of subrogation against District and/or the District Parties. A copy of the declarations page of Contractor's insurance policies shall be attached to this Agreement as proof of insurance.

- 9. **Independent Contractor Status.** Contractor is engaged in an independently established trade, occupation, or business to provide the Services required by this Agreement and is hereby retained to provide specialized services for District that are outside the usual course of District's business. Contractor is free from the control and direction of District in connection with the manner in which it provides the Services to District. Contractor understands and agrees that Contractor and the Contractor Parties shall not be considered officers, employees, agents, partners, or joint venturers of District, and are not entitled to benefits of any kind or nature normally provided to employees of District and/or to which District's employees are normally entitled.
- 10. **Taxes.** All payments made by District to Contractor pursuant to this Agreement shall be reported to the applicable federal and state taxing authorities as required. District will not withhold any money from fees payable to Contractor, including FICA (social security), state or federal unemployment insurance contributions, or state or federal income tax or disability insurance. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor and the Contractor Parties and otherwise in connection with this Agreement.
- 11. **Fingerprinting/Criminal Background Investigation Certification.** Contractor and the Contractor Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1, and shall complete the Fingerprinting Notice and Acknowledgement Form and Student Contract Form.
- 12. **Tuberculosis Certification.** Contractor and the Contractor Parties shall at all times comply with the tuberculosis ("TB") certification requirements of Education Code section 49406. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:
 - A. X Contractor and Contractor Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

В. □	The following Contractor and Contractor	Parties shall have more than limited contact
(as deter	termined by District) with District students du	uring the Term of this Agreement and, at no cost
	trict, have received a TB test in full compliant 49406:	ance with the requirements of Education Code
	[<i>A</i>	Attach and sign additional pages, as needed.]

Contractor shall maintain on file the certificates showing that the Contractor and Contractor Parties were examined and found free from active TB. These forms shall be regularly maintained and updated by Contractor and shall be available to District upon request or audit.

General Services Agreement – Urban Design Consulting Engineers – Madison Park Academy New Expansion Project - \$12,880.00

Contractor further agrees and acknowledges that all new personnel hired after the Effective Date of this Agreement by Contractor and Contractor Parties are subject to the TB certification requirements and shall be prohibited from having any contact with District students until the TB certification requirements have been satisfied and District determines whether any contact is permissible.

- 13. **Confidential Information.** Contractor shall maintain the confidentiality of, and protect from unauthorized disclosure, any and all individual student information received from the District, including but not limited to student names and other identifying information. Contractor shall not use such student information for any purpose other than carrying out the obligations under this Agreement. Upon termination of this Agreement, Contractor shall turn over to District all educational records related to the services provided to any District student pursuant to this Agreement.
- 14. **Assignment/Successors and Assigns.** Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations under this Agreement without the prior written consent of District. Subject to the foregoing, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.
- 15. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.
- 16. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by both parties and approved by the governing board.
- 17. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its choice of law rules. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Alameda, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by the District.
- 18. **Written Notice.** Written notice shall be deemed to have been duly served if delivered in person to Contractor at the address located next to the party signatures below, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who sends the notice.
- 19. **Compliance with Law.** Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. Contractor shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances, including but not limited to fingerprinting under Education Code section 45125.1, confidentiality of records, Education Code section 49406 and others. Contractor agrees that it shall comply with all legal requirements for the performance of duties under this Agreement and that failure to do so shall constitute material breach.
- 20. Non-Discrimination. There shall be no unlawful discrimination in the contracting of persons

under this Agreement because of race, color, national origin, age, ancestry, religion, sex, or sexual orientation of such persons.

- 21. **Attorneys' Fees.** If any legal action is taken to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other reasonable costs and expenses incurred in connection with that legal action.
- 22. **Liability of District.** Notwithstanding anything stated herein to the contrary, District shall not be liable for any special, consequential, indirect or incidental damages, including but not limited to lost profits in connection with this Agreement.
- 23. **Time.** Time is of the essence to this Agreement.
- 24. **Waiver.** No delay or omission by District in exercising any right under this Agreement shall operate as a waiver of that or any other right and no single or partial exercise of any right shall preclude the District from any or further exercise of any right or remedy.
- 25. **Entire Agreement.** This Agreement is intended by the parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
- 26. **Ambiguity.** The parties to this Agreement, and each of them, hereby represent that the language contained herein is to be construed as jointly proposed and jointly accepted, and in the event of any subsequent determination of ambiguity, all parties shall be treated as equally responsible for such ambiguity.
- 27. **Execution of Other Documents.** The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
- 28. **Execution in Counterparts.** This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, facsimile, or an original, with all signatures appended together, shall be deemed a fully executed agreement.
- 29. Warranty of Authority. The persons who have signed this Agreement warrant that they are legally authorized to do so on behalf of the respective parties, and by their signatures to bind the respective parties to this Agreement.
- 30. **Local Business.** Contractor shall comply with the requirements of the District's Local, Small Local, and Small Local Resident Business Enterprise Program, which may require a 50% minimum local participation requirement in the performance of this Agreement. A copy of this program may be obtained at www.ousd.k12.ca.us, under the Facilities Planning & Management Department drop down menu, at "Bids and Requests for Proposals."
- 31. **Forms.** The following forms, attached to the proposal, are incorporated into the contract:

General Services Agreement – Urban Design Consulting Engineers – Madison Park Academy New Expansion Project - \$12,880.00

- Roof project certification (if required; see Public Contract Code §3006).
- Fingerprinting Notice and Acknowledgement.
- Iran Contracting Act Certification.
- Workers' Compensation Certification.
- Drug-Free Workplace Certification.
- Buy American Certification.
- Local Business Participation Form.

Within ten (10) days after award and before commencement of the services, the signed agreement, insurance documentation, and Student Contract Form (see Exhibit B to the Fingerprinting Notice and Acknowledgement) shall be submitted to the District.

32. **Mediation.** A party to this Agreement shall, as a condition precedent to initiating any litigation against the other party, demand mediation of any dispute. The parties shall endeavor to include any third party claimant in the mediation. The parties shall select a mediator and schedule the mediation within thirty (30) days of the initial demand for mediation. If the parties cannot agree on a mediator, the mediator shall be appointed by JAMS. The parties to the mediation, including the parties to this Agreement, shall pay equal shares of the mediator's fees. Each party shall bear its own attorney's fees related to the mediation.

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1116			
	, , ,,		

CONTRACTOR:

OAKLAND UNIFIED SCHOOL DISTRICT

Jody Shill	6/11/2020	By:	94	
Jody London, President, Board of Education	Date	Name:	Jason Ling	
If the have	6/11/2020	Title:	Principal	

Kyla Johnson-Trammell, Date Superintendent, Board of Education

Tadashi Nakadegawa Date
Interim Deputy Chief, Facilities Planning
& Management

Approved As to Form:

OUSD Facilities Legal Counsel Date

Exhibit A

General Services Agreement – Urban Design Consulting Engineers – Madison Park Academy New Expansion Project - \$12,880.00



Madison MS, Oakland USD Storm Water Pollution Prevention Plan Scope of Services

SCOPE OF SERVICES as set forth below:

		Lump Sum, Billable Montly
1.	Extend Owner's SWPPP support during Construction	Dry Season (April
	Obtain from Construction Contractor the following for project records:	through October)
	Weekly Reports and Pictures	\$800 per month
	Pre-Storm Inspection	
	Rain Event Action Plans	Wet Season
	2. Visit site at least once a month during construction to monitor	November
	compliance and suggest corrective action, if necessary	through March)
	3. File Annual Reports	\$1,200 per month
	FEES FOR NOTICE OF INTENT AND ANNUAL FILING INCLUDED	
	(to help Oakland USD expedite the State registration.)	
	ENVIRONMENTAL SAMPLING EXCLUDED	
	RISK LEVEL 3 SUBJECT TO ADDITIONAL SERVICES	

Terms of COMPENSATION:

Compensation shall be amended for a Lump Sum \$1,600.00 for monthly compliance visits in April and May 2020.

Total Lump Sum is \$1,600.00, billed monthly.



DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

	Basic Directions Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board. The proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000			
	Project Informa	tion		
Project Name	Madison Park Academy Expansion	Site	215	
	Basic Directio	ns		
Services ca			d by the Superintendent pursuant to	
Attachment Checklist	x Proof of general liability insurance, including certificatesx Workers compensation insurance certification, unless v			

Contractor Information								
Contractor Name Urban Design Consulting Engineers Agency's Contact Janson Ling								
OUSD Vendor ID#								
Street Address	318 Harrison Street, Suite 302	City Oakl		land	State	CA	Zip	94607
Telephone 510-868-1085 Policy Expires								
Contractor History Previously been an OUSD contractor? X Yes □ No Worked as an OUSD employee? □ Yes X No								
OUSD Project #	13124							

Term of Original/Amended Contract				
Date Work Will Begin (i.e., effective date of contract)	6-4-2020	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	12-31-2020	
		New Date of Contract End (If Any)		

Compensation/Revised Compensation						
If New Contract, Total Contract Price (Lump Sum)						
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$			
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				
9799 9560	Fund 21 Msr J	210-9799-0-9560-8500-6289-215-9180-9901-9999-99999	6289	\$12,880.00				

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.	1. Acting Director, Building & Grounds						
	Signature Forkanya Chatman		Date Approved	9820			
2.	General Counsel Department of Facilities Planning and Management						
۷.	Signature As to form only		Date Approved	5/7/2020			
	Interim Deputy Chief, Families Planning and Management						
3.	Signature		Date Approved	5/9/20			
	Chief Financial Officer						
4.	Signature		Date Approved				
	President, Board of Education						
5.	Signature		Date Approved				