

Board Office Use: Legislative File Info.	
File ID Number	19-0716
Introduction Date	5/22/19
Enactment Number	19-0756
Enactment Date	5/22/19 os



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

Memo

To Board of Education
From Kyla Johnson-Trammell, Superintendent
Gina Murphy-Garrett, Sr. Executive Director, Budget

Board Meeting

Date

Subject

Amendment No. 1 to Moss Adams LLP Contract
Contractor: Moss Adams, LLP
Services For:

Action Requested
and
Recommendation

Approval by the Board of Education of Amendment No. 1 to
Moss Adams LLP Contract _____ between
Oakland Unified School District and Moss Adams, LLP,
San Francisco, CA _____, for the latter to
Bond Program Financial/Performance Audit Services.

for the period of 01/10/2019 through 01/09/2022 in an amount not to exceed
270,591.

Prior Contract The Agreement was previously approved by the Board on 03/14/2019 (Enactment
No. 19-0183).

Modification This amendment modifies the scope of work and compensation.
All other provisions remain the same.

Competitively Bid Was this contract competitively bid? Yes
If no, exception:

Fiscal Impact Funding resource(s): Fund 21/ Measure J

Attachments

- Contract Amendment
- Copy of original contract and all prior amendments (if any)

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

AMENDMENT NO. 1 TO

Moss Adams LLP Contract

This Amendment amends Moss Adams LLP Contract between Oakland Unified School District (OUSD) and Moss Adams, LLP (Contractor) entered into on 03/14/2019 (OUSD Enactment No. 19-0183). The parties agree to amend that Agreement as follows:

1. **Services:** ☐ The scope of work is unchanged. ☒ The scope of work has changed.
If the scope of work has changed: Provide brief description of revised scope of work including measurable description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary.

☐ Revised scope of work attached. OR ☒ CONTRACTOR agrees to provide the following amended services:

Moss Adams will perform the following procedures:

Performance Audit

Examine expenditures of the 2006 Measure B General Obligation Bond Fund Expenditures for the years FY 2017-2018, FY 2018-2019, and FY 2019-2020, for the purpose of verifying if the use of the funds is within the scope of the published election materials specifying the intended use of bond proceeds by:

- Selecting 70% of the vendors with current year expenditures of \$250,000 and over and 30% of the vendors with current year expenditures under \$250,000, and examining compliance with published election materials specifying the intended use of bond.

Estimated Fees

2. **Term (duration):** ☒ The term of the contract is unchanged. ☐ The term of the contract has changed.

If the term has changed: The contract term began on 01/10/2019 and expires on 01/09/2022. The parties agree to extend the contract through 01/09/2022.

3. **Compensation:** ☐ The contract price is unchanged. ☒ The contract price has changed.

If the compensation has changed: The contract price is amended by

- ☒ Increase of \$ 54,091 to original contract amount.
☐ Decrease of \$ _____ to original contract amount.

The new contract total is Two Hundred Seventy, Five Hundred Ninety One Thousand Dollars (270,591)

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. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** CONTRACTOR certifies to the best of his/her/its knowledge and belief, that it and its principals 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/>).

6. **Approval:** Approval requires signature by the Board of Education and/or the Superintendent as its designee. This Amendment shall be deemed approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Eng 5/23/19
☒ President, Board of Education Date
☐ Superintendent
☐ Chief or Deputy Chief
[Signature] 5/23/19
 Secretary, Board of Education Date

CONTRACTOR

Mark Steranka 04-06-19
 Contractor Signature Date
Mark Steranka, Partner
 Print Name, Title

Form approved by OUSD General Counsel for 2018-19 FY

FOR OUSD PURPOSES ONLY – The following information is not part of the Contract.

OUSD Internal Routing			
Services above original contract cannot be provided before the amendment is fully approved and the PO amount is increased by Procurement.			
	Signature - Approved	Denied - Reason	Date
1. Administrator/Manager	<i>[Signature]</i>		<i>4/5/19</i>
2. Resource Manager (if restricted funds)			
3. Network Superintendent/Executive Director			
4. Chief/Deputy Chief			
5. Legal (if increase takes contract above \$90,200)			
6. Superintendent, Board of Education	Signature on the legal contract		

Alignment with Single Plan for Student Achievement – SPSA (required if using State or Federal Funds)

Please select:

- ☐ Action Item included in Board Approved SPSA (no additional documentation required)–Item Number: _____
- ☐ Action Item added as modification to Board Approved SPSA – Submit the following documents to the Resource Manager either electronically via email of scanned documents, fax or drop off.
- Relevant page of SPSA with action item highlighted. Page must include header with the word “Modified”, modification date, school site name, both principal and school site council chair initials and date.
 - Meeting announcement for meeting in which the SPSA modification was approved.
 - Minutes for meeting in which the SPSA modification was approved indicating approval of the modification.
 - Sign-in sheet for meeting in which the SPSA modification was approved.



AMENDMENT ROUTING FORM 2018-2019

Amendment No. 1 to Moss Adams LLP Contract

Directions

Services beyond the original contract cannot be provided until the amendment is fully approved and PO is increased by Procurement.

1. To be eligible for an amendment, term end date of the contract cannot not be expired. If expired, a new contract is necessary.
2. Insert the amendment number (i.e. if this is the first amendment enter "1," second enter "2," etc.) at the top of the amendment.
3. If contract total amount has increased, the scope of work must change.
4. OUSD contract originator creates new requisition with the original PO number referenced in the item description.

When the contract amendment is approved, Procurement will add additional funds to the original Purchase Order.

Attachment	<ul style="list-style-type: none"> Contract amendment packet including Board Memo and Amendment Form
Checklist	<ul style="list-style-type: none"> Board approved copy of the original contract and any prior Amendments.

Contractor Information

Contractor Name	Moss Adams, LLP	Contractor's Contact	Stephen Bacchetti, CPA, CIA, CCA			
OUSD Vendor ID #	V005526	Title	Senior Manager			
Street Address	101 Second Street, Suite 900	City, State	San Francisco, CA		Zip Code	94105
Telephone	(503) 323-7385	Email (required)	stephen.bacchetti@mossadams.com			

Compensation and Terms

Current Contract Amount	\$216,500.00	OUSD Vendor ID #	V005526	Start Date of Original Contract	01/10/19
Amount of Increase	54,091	Original PO #	PO19-05667	Current Term End Date	01/09/22
Amount of Decrease	0	New Requisition #	VR19-06358	New Term End Date*	01/09/22
New Total Contract Amount	270,591	% Change		*Must be no more than five years from the start date	

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

Requisition No.	Budget Number	Resource Name	Amount
VR19-06358	210-9450-0-0000-8500-6289-918-9180-999-99999	Fund 21/Capital Assets	\$ 54,091.00
			\$ 0.00
			\$ 0.00
			\$ 0.00

Contract History

	OUSD Enactment #	Exact Name of Contract	Contract Amount
Agreement	19-0183	Moss Adams LLP	216,500.00
Amend #	OUSD Enactment #	General Description of Reason for Amendment	Increase/Decrease Amount
1		Moss Adams LLP	54,091.00

OUSD Contract Originator Information

Name of OUSD Contact	Ofelia Roxas	Email	ofelia.roxas@ousd.org		
Site/Dept. Name	Chief Financial Officer	Site #	980	Phone	510-879-4248

Approval and Routing (in order of approval steps)

Services above original contract cannot be provided before the amendment is fully approved and the PO amount is increased by Procurement.

	Signature - Approved	Denied - Reason	Date
1. Administrator/Manager			4/5/19
2. Resource Manager (if restricted funds)			
3. Network Superintendent/Executive Director			
4. Chief/Deputy Chief			
5. Legal (if increase takes contract above \$92,600)			
6. Superintendent, Board of Education	Signature on the legal contract		

Board Office Use: Legislative File Info.	
File ID Number	18-2706
Introduction Date	2/13/19
Enactment Number	19-0183
Enactment Date	2/13/19 er



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

Memo

To Board of Education
From Kyla Johnson-Trammell, Superintendent
Marcus Battle, Chief Business Officer

Board Meeting Date February 13, 2019

Subject Professional Services Agreement
Contractor: Moss Adams LLP
Services For: Bond Program Financial Performance Audit

Action Requested and Recommendation Approval_____ by the Board of Education of _____ Professional Services Agreement between the District and Moss Adams LLP _____, San Francisco, CA _____, for the latter to provide Bond Program Financial/Performance Audit Services

for the period of 1/10/2019 through 1/9/2022 in an amount not to exceed \$ 216,500.00 _____.

Background

(Why do we need these services? Why have you selected this vendor?)

The Oakland Unified School District (OUSD) Administration is requesting that the Board of Directors approve Administration's recommendation to enter into a contract and work authorization with Moss Adams LLP as the District's Bond Program Performance and Financial Auditor for the District's Capital Bond Program.

A request for Qualifications/ Proposals (RFP) (RFP- 18-2706) process was conducted by OUSD Administration to request qualified Financial/Performance Bond Auditing Firms to submit proposals to provide full comprehensive bond program Financial/ Performance audit services for OUSD. Moss Adams was selected from the RFP process.

Competitively Bid Was this contract competitively bid? Yes
If no, exception:

Fiscal Impact Funding resource(s): Fund 21, Measure J

Attachments • Professional Services Agreement

Board Office Use: Legislative File Info.	
File ID Number	18-2706
Introduction Date	2/13/19
Enactment Number	19-0183
Enactment Date	2/13/19 er



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

PROFESSIONAL SERVICES CONTRACT 2018-2019

This Agreement is entered into between Moss Adams LLP (CONTRACTOR) and Oakland Unified School District (OUSD). OUSD is authorized by Government Code Section 53060 to contract for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, and administrative matters with persons specially trained, experienced, and competent to perform such services. CONTRACTOR represents it is specially trained, experienced, and competent to provide such services. The parties agree as follows:

- Services:** CONTRACTOR shall provide the services ("Services" or "Work") as described in **Exhibit "A,"** attached hereto and incorporated herein by reference.
- Term:** The term of this Agreement shall be from 1/10/19 to 1/9/2022. The work shall be completed no later than 1/9/2022.
- Compensation:** OUSD agrees to pay CONTRACTOR for services satisfactorily rendered pursuant to this Agreement. The compensation under this Contract shall not exceed Two Hundred Sixteen Thousand, Five Hundred Dollars (\$216,500) per fiscal year. This sum shall be for full performance of this Agreement and includes all fees, costs, and expenses incurred by Contractor including, but not limited to, labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs, and other costs.

If CONTRACTOR will be compensated hourly for services provided under this Contract, CONTRACTOR shall describe in Exhibit "A," attached hereto, the specific scope of services to be delivered on an hourly basis to OUSD.

OUSD shall not be liable to CONTRACTOR for any costs or expenses paid or incurred by CONTRACTOR in performing services for OUSD.

Payment for Work shall be made for all undisputed amounts in monthly installment payments within forty-five (45) days after CONTRACTOR submits an invoice to OUSD for Work actually completed and after OUSD's written approval of the Work, or the portion of the Work for which payment is to be made.

The granting of any payment by OUSD, or the receipt thereof by CONTRACTOR, shall in no way lessen the liability of CONTRACTOR to correct unsatisfactory work, although the unsatisfactory character of that work may not have been apparent or detected at the time a payment was made. Work, which does not conform to the requirements of this Agreement, may be rejected by OUSD and in that case must be replaced by CONTRACTOR without delay.

- Equipment and Materials:** CONTRACTOR shall provide all equipment, materials, and supplies necessary for the performance of this Agreement.
- CONTRACTOR Qualifications / Performance of Services:**
 - CONTRACTOR Qualifications:** CONTRACTOR represents it is specially trained, experienced, competent and fully licensed to provide the Services identified in this Agreement in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and/or regulations, as they may apply.
 - Standard of Care:** CONTRACTOR represents that CONTRACTOR has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of OUSD. CONTRACTOR's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts and in accordance with applicable law, code, rule, regulation, and/or ordinance.
 - CONTRACTOR shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.
 - CONTRACTOR shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that CONTRACTOR or its employees may discover. CONTRACTOR shall use professional efforts in identifying any errors, inconsistencies, or omissions.
 - District Approval.** The work completed herein must meet the approval of OUSD and shall be subject to OUSD's general right of inspection and supervision to secure the satisfactory completion thereof.
- Certificates/Permits/Licenses/Registration:** CONTRACTOR and all CONTRACTOR's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this agreement.
- Invoicing:** Invoices furnished by CONTRACTOR under this Agreement must be in a form acceptable to OUSD. All amounts paid by OUSD shall be subject to audit by OUSD. Invoices shall include, but not be limited to: Contractor name, Contractor address, invoice date, invoice number, purchase order number, name of school or department service was provided to, period of service,

Professional Services Contract

name of the person performing the service, date service was rendered, brief description of services provided, number of hours of service, hourly rate, total payment requested.

8. **Notices:** All notices and invoices provided for under this Agreement shall be in writing and either personally delivered during normal business hours or sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other party at the address set forth below:

OUSD Representative:

Name: Marcus Battle, CBO

Site /Dept.: Chief Business Office

Address: 1000 Broadway, Suite 680
Oakland, CA 94607

Phone: (510) 879-4248

Email: marcus.battle@ousd.org

CONTRACTOR:

Name: Stephen Bacchetti, CPA, CIA, CCA

Title: Senior Manager

Address: 101 Second Street, Suite 900
San Francisco, CA 94105

Phone: (503) 323-7385

Email: Stephen.bacchetti@mossadams.com

Notice shall be effective when received if personally served or, if mailed, three days after mailing. Either party must give written notice of a change of address.

9. **Status of Contractor:** This is not an employment contract. CONTRACTOR, in the performance of this Agreement, shall be and act as an independent contractor. CONTRACTOR understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. 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's employees. In the performance of the work herein contemplated, CONTRACTOR is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, OUSD being interested only in the results obtained.

10. **Insurance:**

1. Unless specifically waived by OUSD, the following insurance is required:

- i. If CONTRACTOR employs any person to perform work in connection with this Agreement, CONTRACTOR shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California (including, but not limited to, Labor Code section 3700) and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease.
- ii. CONTRACTOR shall maintain Commercial General Liability insurance, including automobile coverage (or a separate stand-alone automobile policy in addition to Commercial General Liability), with limits of at least One Million Dollars (\$1,000,000) per occurrence for corporal punishment, sexual misconduct, harassment, bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured with the additional insured endorsement provided to OUSD within 15 days of request following the effective date of the Agreement (and within 15 days of each new policy year thereafter upon request during the term of this Agreement). Evidence of insurance must be attached. Endorsement of OUSD as an additional insured shall not affect OUSD's rights to any claim, demand, suit or judgment made, brought or recovered against CONTRACTOR. The policy shall protect CONTRACTOR and OUSD in the same manner as though each were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured.
- iii. If CONTRACTOR is offering OUSD professional advice under this Contract, CONTRACTOR shall maintain Errors and Omissions insurance or Professional Liability insurance with coverage limits of One Million Dollars (\$1,000,000) per claim.

OR

- iv. CONTRACTOR is not required to maintain any insurance under this agreement. (Completed and approved Waiver of Insurance Form is required from OUSD's Risk Management.) Waiver of insurance does not release CONTRACTOR from responsibility for any claim or demand.

11. **Assignment:** The obligations of CONTRACTOR under this Agreement shall not be assigned by CONTRACTOR without the express prior written consent of OUSD.
12. **Non-Discrimination:** It is the policy of OUSD that in connection with all work performed under Contracts there be no discrimination because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, CONTRACTOR agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and OUSD policy. In addition, CONTRACTOR agrees to require like compliance by all its subcontractor(s). CONTRACTOR shall not engage in unlawful discrimination in employment on the basis of actual or perceived; race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, sexual orientation, or other legally protected class.
13. **Waiver:** No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.

14. Termination:

1. **For Convenience by OUSD:** OUSD may at any time terminate this Agreement and compensate CONTRACTOR only for services satisfactorily rendered to the date of termination. Written notice by OUSD shall be sufficient to stop further performance of services by CONTRACTOR. Notice shall be deemed given when received by CONTRACTOR or no later than three (3) calendar days after the day of mailing, whichever is sooner.
2. **With Cause by District.** OUSD may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - i. material violation of this Agreement by the CONTRACTOR; or
 - ii. any act by CONTRACTOR exposing OUSD to liability to others for personal injury or property damage; or
 - iii. CONTRACTOR is adjudged bankrupt, CONTRACTOR makes a general assignment for the benefit of creditors, or a receiver is appointed on account of CONTRACTOR's insolvency.

Written notice by OUSD shall contain the reasons for such intention to terminate and, unless within ten (10) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the ten (10) calendar days cease and terminate. In the event of this termination, OUSD may secure the required Services from another CONTRACTOR. If the expense, fees, and/or costs to OUSD exceeds the cost of providing the Services pursuant to this Agreement, CONTRACTOR may be liable to pay the excess expense, fees, and/or costs to OUSD provided OUSD's termination for cause is justified. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to OUSD.

Upon termination, CONTRACTOR shall provide OUSD with all Deliverables produced maintained or collected by CONTRACTOR pursuant to this Agreement.

3. **With Cause by CONTRACTOR.** CONTRACTOR may terminate this Agreement upon giving of written notice of intention to terminate for cause. Written notice by CONTRACTOR shall contain the reasons for such intention to terminate and, unless within ten (10) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the ten (10) calendar days cease and terminate.
15. **Conduct of CONTRACTOR:** In the event that OUSD, in its sole discretion, at any time during the term of this contract, desires the removal of any CONTRACTOR related persons, employee, representative or agent from an OUSD school site and, or property, CONTRACTOR shall immediately, upon receiving notice from OUSD of such desire, cause the removal of such person or persons.
16. **No Rights in Third Parties:** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
17. **OUSD's Evaluation of CONTRACTOR and CONTRACTOR's Employees and/or Subcontractors.** OUSD may evaluate CONTRACTOR in any manner which is permissible under the law. OUSD's evaluation may include, without limitation:
 1. Requesting that OUSD employee(s) evaluate CONTRACTOR and CONTRACTOR's employees and subcontractors and each of their performance.
 2. Announced and unannounced observance of CONTRACTOR, CONTRACTOR's employee(s), and/or subcontractor(s).
18. **Limitation of Liability:** Other than as provided in this Agreement, OUSD's financial obligations to CONTRACTOR under this Agreement shall be limited to the payment of the compensation provided in this Agreement. EACH PARTY'S TOTAL LIABILITY FOR ANY AND ALL DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT FROM ANY CAUSE, INCLUDING BUT NOT LIMITED TO CONTRACT LIABILITY, NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, OR BREACH OF WARRANTY, SHALL NOT, IN THE AGGREGATE, EXCEED ONE MILLION DOLLARS (\$1,000,000). NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT, SHALL EITHER PARTY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR REVENUE, ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT FOR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.
19. **Confidentiality:** CONTRACTOR and all CONTRACTOR's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. CONTRACTOR understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement. Contractors will be permitted access to student data only where permissible under state and federal law and only after executing OUSD's Confidentiality Agreement Regarding Student Data.
20. **Conflict of Interest:** CONTRACTOR shall abide by and be subject to all applicable, regulations, statutes or other laws regarding conflict of interest. CONTRACTOR shall not hire any officer or employee of OUSD to perform any service by this Agreement without the prior approval of OUSD Human Resources.

CONTRACTOR affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between CONTRACTOR's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to OUSD's attention in writing.

Through its execution of this Agreement, CONTRACTOR acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event CONTRACTOR receives any information subsequent to execution of this Agreement which might constitute a violation of said provisions, CONTRACTOR agrees it shall notify OUSD in writing.

21. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** CONTRACTOR certifies to the best of his/her/its knowledge and belief, that it and its principals 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/>).
22. **Severability:** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
23. **Provisions Required By Law Deemed Inserted:** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
24. **Captions and Interpretations:** Section and paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
25. **Calculation of Time:** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
26. **Copyright Ownership:** CONTRACTOR understands and agrees that all final audit reports and other completed deliverables produced under this Agreement and provided to OUSD, except any Contractor Materials (defined below) incorporated therein, shall become the property of OUSD (the "Deliverables") and cannot be used without OUSD's express written permission. CONTRACTOR may retain a copy of Deliverables for archival purposes. OUSD shall have all right, title and interest in said Deliverables, including the right to secure and maintain the copyright of said matter in the name of OUSD (specifically excluding any underlying pre-existing intellectual property). Notwithstanding the foregoing, OUSD may not alter or modify any Deliverable issued under CONTRACTOR's name that reflects an opinion or other assurance position by CONTRACTOR. All Deliverables shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in those works are the property of OUSD. CONTRACTOR shall own: (i) its working papers and any internal engagement documentation; and (ii) any accounting-related general skills, know-how, expertise, ideas, concepts, methods, techniques, processes, software, materials, or other intellectual property which may have been discovered, created, received, or developed by CONTRACTOR either prior to or as a result of providing services under the Agreement (collectively, "Contractor Materials"). OUSD shall have a non-exclusive, non-transferable license to use Contractor Materials for its own internal use and only for the purposes for which they are delivered to the extent they form part of a Deliverable. Notwithstanding anything to the contrary in this Agreement, CONTRACTOR and its personnel are free to use and employ their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of this Agreement so long as they acquire and apply such information without any unauthorized use or disclosure of confidential or proprietary information of OUSD.
27. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all fees and expenses of Consultant charged to OUSD under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all such books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
28. **Litigation:** This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this Agreement.
29. **Incorporation of Recitals and Exhibits:** Any recitals and exhibits attached to this Agreement are incorporated herein by reference. CONTRACTOR agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this Professional Services Contract, the terms and provisions of this Professional Services Contract shall govern.
30. **Integration/Entire Agreement of Parties:** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
31. **Drug-Free / Smoke Free Policy:** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, CONTRACTORS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
32. **Counterparts:** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
33. **Signature Authority:** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Agreement.

34. **W-9 Form:** If CONTRACTOR is doing business with OUSD for the first time, complete and return with the signed Contract the W-9 form.
35. **Indemnification:** To the furthest extent permitted by California law, CONTRACTOR shall indemnify, defend and hold harmless OUSD, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims or losses accruing or resulting from personal injury, damage to real or tangible personal property, or death of any person to the extent arising out of or in any way related to CONTRACTOR'S performance of this Agreement. CONTRACTOR also agrees to hold harmless, indemnify, and defend the Indemnified Parties from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to CONTRACTOR arising out of or in any way related to the performance of this Agreement. CONTRACTOR shall, to the fullest extent permitted by California law, defend the Indemnified Parties against any claims for which indemnification obligations are owed by CONTRACTOR under this Section 35 at CONTRACTOR's own expense, including attorneys' fees and costs. In order to seek or receive defense and indemnification hereunder, Indemnified Parties shall provide CONTRACTOR with prompt written notice of any such claim and cooperate with CONTRACTOR in handling the claim. CONTRACTOR shall be entitled to control the handling of such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing; however, OUSD shall have the right, acting reasonably and in good faith, to accept or reject any legal representation that CONTRACTOR proposes to defend the Indemnified Parties. This provision survives termination of this Agreement.
36. **Contract Publicly Posted:** This contract, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
37. **Contract Contingent on Governing Board Approval:** OUSD shall not be bound by the terms of this Agreement until it has been formally approved by OUSD's Governing Board, and no payment shall be owed or made to CONTRACTOR absent that formal approval. This Agreement shall be deemed approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.

OAKLAND UNIFIED SCHOOL DISTRICT

Aminu Eng

☒ President, Board of Education

☐ Superintendent

☐ Chief or Deputy Chief

[Signature]

Secretary, Board of Education

2/14/19

Date

2/14/19

Date

CONTRACTOR

Mark Steranka

Contractor Signature

1/16/19

Date

Mark Steranka, Partner
Print Name, Title

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

EXHIBIT "A" SCOPE OF WORK

[IF A CONTRACTOR PROVIDES AN ACCEPTABLE DESCRIPTION OF SERVICES AS PART OF A PROPOSAL, THAT DESCRIPTION OF SERVICES MAY BE ATTACHED WITHOUT ANY TERMS, CONDITIONS, LIMITATIONS, ETC., FROM THAT PROPOSAL.]

1. Description of Services to be Provided:

Performance audit plans will focus on significant and probable risks to achievement of important and urgent bond program objectives. In this task, our professional team will kick off the engagement with the OUSD leadership team for the engagement. We will convene a meeting to confirm the work plan, validate the objectives, and finalize the engagement schedule. Our experience and understanding of construction program controls will provide useful information as the work scope is tailored to meet OUSD's specific needs. We will clarify the roles and responsibilities of the engagement team and will establish key milestones for progress reporting. It will also be important to identify an OUSD liaison that will facilitate document retrieval, interview logistics, and coordination between the project team and OUSD personnel. The key deliverables from this meeting will be a confirmed work plan and activity schedule that identifies milestones, resources, and interim/final deliverables.

Documents Review

The performance audit team will utilize key documents that describe and quantify the plans and results of your construction program. Our experience in working with similar school audit bond programs will be of specific value in this analysis. These documents will likely include the following:

- Official ballots and bonds, bond offering campaign information, and official statements
- OUSD accounting policies, guidelines, reporting tools, and accounting system documentation
- Selected job cost and accounting reports (from OUSD's financial system and contractor's project management system)
- Bond project list
- Planning documents
- Student population headcount forecasts and planning documents
- Site educational needs and facility condition surveys
- Program-wide schedules and reports (baseline versus actual)
- Guidelines regarding reimbursable expenses and allowable costs
- Sampling of construction contracts
- Sampling of professional services contracts (Architects and Engineers [A/E])
- Sampling of construction and A/E payment applications and invoices
- Subcontract files (including proposals of successful and unsuccessful bidders and bid recaps)
- Records necessary to evaluate and verify direct and indirect costs
- Change order log and sampling of change orders
- Board of trustee reports and requests for contract, change order, funding, and close-out approval
- Approvals for use of allowances and contingencies
- Sample procurement bid and award process documentation
- Safety procedures
- Insurance policies
- Relevant policies, procedures, and key correspondence
- Close-out records and reports

A Construction bond program performance audit is required for the District's Construction Bond as required by California Proposition 39, the "Smaller Classes, Safer Schools and Financial Accountability Act" (Proposition 39), the California Constitution (State Constitution) Article XIII A, and California Education Code (Education Code) Section 15272. These California State (State) requirements specify that the proceeds from the sale of school facilities bonds are expended only on the specific projects listed in the proposition authorizing the sale of bonds (Listed Projects). Both the State Constitution and Education Code require an annual independent performance audit to verify that Bond proceeds are used on Listed Projects. An annual financial audit is also required by these rules. Finally, Senate Bill 1473, "School facilities Bond proceeds: performance audits" (SB 1473), approved by the Governor on September 23, 2010, amended California Education Code to add Section 15286, which requires that the annual performance and financial audits are conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States for financial and performance audits.

Proposition 39, "Smaller Classes, Safer Schools and Financial Accountability Act" (Proposition 39) was passed by the California voters on November 7, 2000. Proposition 39 amended provisions to the California Constitution and to the California Education Code. The purpose and intent of the initiative was to implement class size reduction, to ensure that our children learn in a secure and safe environment, and to ensure that school districts are accountable for prudent and responsible spending for school facilities."

We will design the audit to provide reasonable assurance that all bond expenditures are consistent with Proposition 39 objectives to ensure that funds are spent on projects for which the ballot initiative indicated that funds would be used. Due to inherent limitations in any internal control structure, errors or irregularities may occur and not be detected. Also, projections of any evaluation of the internal control structure to future periods are subject to the risk that the internal control structure may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. If during the audit we become aware of reportable conditions that are significant deficiencies in the design or operation of the internal control structure, we

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will communicate them to you immediately. Extended services will not be performed unless they are authorized in the contractual agreement or in an amendment to the agreement.

Moss Adams will conduct the audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) for Performance Audits as codified by the Government Auditing Standards, December 2011 Revision issued by the Comptroller General of the United States. We affirm that the primary objective of this performance audit is to review the Measure J Bond Program for compliance with Bond language and Proposition 39.

Per the RFP, we will select 70% of the vendors with current year expenditures of \$250,000 and over and 30% of the vendors with current year expenditures under \$250,000, and examine compliance with published election materials specifying the intended use of bond proceeds, and District policies, including project initiation, purchase order issuance, contracts and bids, payments, project tracking, and retention/release RFP – OUSD Annual Bond Audit Page 7 procedures.

Our familiarity with these documents enables our understanding of the business processes utilized by OUSD's team and its consultants as well as the quantitative and qualitative program risks.

Bond Program Meetings

Moss Adams is available to meet with representatives of OUSD, Board of Trustees of OUSD (Board of Trustees), and Citizen's Bond Oversight Committee (CBOC) upon request, and we will attend CBOC meetings as part of the audit scope of work.

Interviews and Observation

We will interview a sample of key personnel responsible for implementing the bond program. These individuals will include the senior management and staff responsible for overseeing the planning, design, and construction work associated with each project, including team members of OUSD's program management team, OUSD's facilities and administration, and contractor project management. We will interview the accounting staff responsible for monitoring and implementing the financial controls over the programs. We may also interview selected contractors, architects, and engineers who are instrumental in executing the work of each program.

The purpose of these interviews is to gain a deeper understanding of bond program performance, as well as to assess OUSD's operational and construction management policies, procedures, and practices. This will enable our team to compare OUSD's processes, controls, and techniques to best practices in the school environment, as well as applicable practices from the private sector.

We will also visit active construction sites to gain firsthand observation of the systems, controls, and processes that are undertaken by field management. Based on our experience, valuable knowledge is gained when observing an active construction site, including the undocumented communication, teamwork, and organization of OUSD's staff, program management team, consultants, contractors, and subcontractors.

Deliverables and Report Requirements

The audit report will be developed and discussed with appropriate personnel as the engagement progresses. A draft report will be prepared at the end of the engagement for distribution and comment prior to final report issuance. In our final report, we will identify areas of effective practice and areas needing improvement within the framework of each of the major scope areas identified above. Good practices for each scope area will be identified. The elements of Finding, Criteria, Cause, Effect, Recommendation, and Benefit (as required by GAO Government Auditing Standards) will be included in each finding. Management response, responsible individual, and planned resolution date will be included in the audit recommendations matrix. The deliverables provided to OUSD are produced in a collaborative and objective manner and convey the performance audit results to achieve maximum benefit to OUSD, its Administration, and the Board of Trustees.

We will issue an audit report to the Chief Facilities Executive and the Board of Trustees and a management letter to the Chief Facilities Executive. We will be prepared to provide a presentation to the Board of Trustees and/or CBOC. We will provide bound copies of the final audit report for all School Board Members, for each responsible member of management as identified by the Chief Facilities Executive, and for state and local authorities.

2. Specific Outcomes:

1. Adherence to Design and Construction Cost Budgets

We will review the established OUSD process for the development and adherence to design and construction budgets on bond-funded projects in the facilities construction program to gather and test data in order to determine compliance and measure the effectiveness of controls.

We will also review the reconciliation of actual projects for which bond funds were expended to projects approved by the Board of Trustees, analyze the reconciliation of projects approved by the Board of Trustees to projects on the approved facilities master plan, review the reconciliation of the facilities master plan on the approved project lists for Proposition 39.

2. Adherence to Design and Construction Schedules and Timelines

We will review the methods utilized by OUSD to track the schedule of available revenues and expenditures for all projects and to plan each building project in accordance with the availability of funds. To accomplish this, we will walk through existing schedule performance tracking methods as well as Bond fund expenditure schedules and sample supporting documentation for expenditures and cost controls performance. Audit procedures will include assessment of performance against schedule as well as controls needed for reliable schedule reporting.

3. Financial Reporting and Internal Controls

We will evaluate the actions taken by OUSD to apply policies and procedures that accomplish Bond Program schedule, scope management and performance goals. We will review Bond Program reporting as needed to provide current, accurate and complete cost, schedule, and budgetary information to Program stakeholders. Based on interviews and information gathered during the course of the project audit, we will conduct an analysis on financial reporting and controls. This analysis also will review the cost, schedule, and budgetary reporting and review methodologies.

4. Payment Procedures

We will verify that OUSD was compliant with its policies and procedures related to Proposition 39 expenditures and payments for the period. We will document the use of Bond Program funds and segregation of these funds for Bond Program purposes, trace Bond funds received by OUSD and reconcile amounts received with amounts expended, and verify that these funds have been expended for Bond Program purposes. Payment approval and cost accounting controls design and operation will be verified. Review for payment in accordance with contract terms will be conducted. We will gather and test data to determine compliance and measure the effectiveness of payment controls. Cost reimbursable contracts will be given specific focus and attention, as applicable. Processes to review and approve contractor charges will be analyzed to prevent excessive charges and overpayments, and payment applications will be reviewed to assess the adequacy of supporting documentation.

5. Change Order and Claim Procedures

Change order documentation will be reviewed for compliance with Public Contracting Code, California school construction state requirements and other regulations. Controls and activities to manage change orders will be evaluated. Contracts will be reviewed to gain an understanding of allowable charges and reimbursable costs related to change orders. Policies and procedures covering the review and approval of contractor change orders will be analyzed to identify potential exposures. Specific consideration will be given to change order cause, responsibility, and pricing. We will review policies and procedures to verify whether documentation exists prior to approval of change orders and to verify that required approvals were applied. Additionally, we will evaluate and review the procedures used to effectively communicate potential claims and mitigate claims risk.

6. Bidding and Procurement Procedures

We will validate support for the use of sole source procurement was documented, cost justification was available, and required approvals were applied. Summarize sole source procurement documentation reviewed and instances where the specifications were narrowly defined to be vendor specific. For competitive bids, we will verify compliance with requirements of the California school construction state requirements, Public Contracting Code, and state and other

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relevant laws and regulations. Additionally, we will evaluate procurement controls for application of competitive and compliant contracting practices.

7. Best Practices for Procurement of Materials and Services

We will determine whether OUSD has and uses a standardized items list and educational specifications, for Bond Program materials procurement, to identify facilities material requirements. We will assess whether OUSD materials requirements are available to project architects and designers, and verify whether materials specifications are used in procurements and provided to all bidders during the procurement process. Review for cost-benefit analysis performed in setting materials standards and for District Management approvals required for significant materials specification changes.

8 and 9. Conflict of Interest and Compliance with State Laws and Guidelines and Board Policy

We will analyze OUSD compliance with selected relevant state laws and regulations regarding school district facilities programs. We will perform a risk assessment and utilize our past experiences to identify laws and regulations that OUSD may be subject to. The California Schools Accounting Manual (CSAM), Education Code, Public Contract Code, Government Code, California Code of Regulations (Title 21 and Title 24) and other appropriate regulations will be considered within our analysis. We will then select some of these laws and regulations which are considered highest risk for further review to assess OUSD compliance. This analysis will not constitute a legal opinion or a complete analysis for compliance with all applicable state laws and regulations. Based on our experience in performing Proposition 39 audits, we affirm that we have the capacity and knowledge to address the key areas of OUSD's facility bond program including design, engineering, contracting, and overall financial review.

Oakland Unified School

District

Purchasing Department
1000 Broadway
Oakland, CA 94607
(510) 434-2235 FAX (510) 434-2249

PURCHASE ORDER

NO: PO19-05667

DATE 01/10/2019

SHIP TO:

FACILITY PLANNING
955 HIGH STREET
OAKLAND, CA 94601

IMPORTANT INSTRUCTIONS TO VENDOR

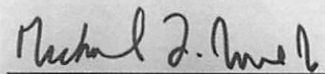
1. No payments will be made to any vendor without a valid, OUSD Board Approved or Ratified contract as applicable. (See, e.g. OUSD Board Policy 3312)
 2. Send itemized invoices to: **Accounts Payable,**
1000 Broadway Suite 450, Oakland, CA 94607.
 3. Enclose PACKING LIST with ALL shipments.
 4. No deviation in PRICE or SUBSTITUTION in kind permitted.
 5. All deliveries F.O.B. Destination unless otherwise specified. If freight is to be charged, prepaid, and add to invoice.
 6. Purchase order number must appear on packing slip.
- Standard terms and conditions located at www.ousd.org/procurement

ORDERED FROM:

FAX:

MOSS ADAMS LLP
999 THIRD AVENUE STE 2800
SEATTLE, WA 98104

ORDER LOCATION				REQUISITIONER		REQUISITION #
9720 - FACILITY PLANNING				MICHAEL EZEH		VR19-06358
DATE REQUIRED		F.O.B.	TERMS OF PAYMENT	SHIP VIA	BUYER	RPQ #
ITEM	QTY	UNIT	DESCRIPTION	UNIT COST		EXTENSION
1	1	EACH	17/18 BOND AUDIT SERVICES	70,000.00		\$70,000.00
2	1	EACH	18/19 BOND AUDIT SERVICE	72,000.00		\$72,000.00
3	1	EACH	19/20 BOND AUDIT SERVICES	74,250.00		\$74,250.00
				Order Sub-Total		\$216,250.00
				Sales Tax		.00
				Shipping		.00
				Adjustment		.00
				Order Total		\$216,250.00


Authorized Signature