

**Oakland Unified School District
Department of Facilities Planning and Management
955 High Street Oakland CA 94601**

REQUEST FOR QUALIFICATIONS AND PROPOSALS (RFQ/P)

**Consulting Services
for Evacuation Signage at Various School Sites**

February 9, 2022 (Issued)

Responses must be received March 3, 2022, no later than 2:00 p.m.

The Governing Board (the "Board") of the Oakland Unified School District (the "District") is seeking statements of qualifications and fee proposals from companies to design evacuation signage for all schools listed in this RFQ/P with a specific focus on schools identified as being non-compliant with the City of Oakland fire regulations ("Project").

Interested companies are invited to submit a complete Statement of Qualifications ("SOQ") along with a detailed Fee Proposal (collectively "RFQ/P Packet") for the Project as described below, with one (1) unbound wet-signed original, five (5) bound copies and a PDF version on a flash drive of requested materials to:

Oakland Unified School District
Tadashi Nakadegawa, Deputy Chief
Department of Facilities Planning and Management
955 High Street, Oakland, CA 94601

Oral, telegraphic, facsimile and telephone RFQ/P Packets will not be accepted. RFQ/P Packets received after this date and time will not be accepted and returned unopened. The District reserves the right to waive any informalities or irregularities in the RFQ/P Packets. The District also reserves the right to reject any and all RFQ/P Packets and to negotiate contract terms with one or more Respondents.

Due to the circumstances caused by the Covid-19 pandemic, the District will accept electronic Proposals sent via email in lieu of hard copies. Proposals received by the District no later than 2:00 p.m. (Pacific Time) on March 3, 2022 via email will be accepted (to Juanita Hunter at juanita.hunter@ousd.org and the contacts below).

If you have any questions regarding this RFQ/P please email Kenya Chatman, Executive Facilities Director at kenya.chatman@ousd.org, and cc: to Colland Jang at colland.jang@ousd.org.

OAKLAND UNIFIED SCHOOL DISTRICT'S LOCAL, SMALL LOCAL AND SMALL LOCAL RESIDENT BUSINESS ENTERPRISE PROGRAM

District Modification: Based on the availability analysis conducted for this RFQ/P to procure specialized design services, the Oakland Unified School District has waived its mandatory Local Business Utilization Policy 7115 requirement for LBE/SLBE/SLRBE certifications.

SCHEDULE OF ACTIVITIES

Listed below is the "Schedule of Activities" which outlines pertinent dates of which companies responding to this solicitation should make themselves aware.

DATE	ACTIVITY
February 9, 2022	RFQ/P Issued.
February 17, 2022	Written requests for Interpretation, Correction or Modification are due.
February 24, 2022	District will provide written responses to requests for clarification.
March 3, 2022	Proposals Due by 2:00 p.m. (Pacific Time)
March 10, 2022	Tentative date for "virtual" interviews
April 27, 2022	Board Meeting – tentative approval of Contract
April 28, 2022	Tentative Notice to Proceed issued to Consultant

ESTIMATED PROJECT BUDGET: TBD

PROJECT DURATION: TBD

REQUEST FOR QUALIFICATIONS & PROPOSALS

The purpose of this RFQ/P is to solicit statements of qualifications and fee proposals from consulting companies to design and prepare camera-ready graphics for the production of evacuation signage with a specific focus for schools identified as being non-compliant with the City of Oakland fire regulations and all schools listed in this RFQ/P within the OUSD system ("Project"). Production and installation of signage shall be under a separate contract.

A. PROJECT DESCRIPTION

According to the Oakland Fire Department /Fire Prevention Bureau's Fire Inspection Reports for individual school sites, a number of schools were required to comply with the 2019 California Fire Code Section 404 (for an approved fire safety and evacuation plan for Group E occupancies). All Group E occupancy classrooms shall comply with the 2019 California Fire Code Sections 403.5.1 thru 403.5.4. OUSD wishes to address this requirement for all schools within its system.

B. BASIC SERVICES

The Consultant agrees to provide the Services described below:

1. The Consultant shall be responsible for the professional quality and technical accuracy of all designs, drawings, specifications and other services furnished by the Consultant under the Agreement as well as design and existing conditions coordination. The Consultant shall, without additional compensation, correct or revise any errors or omissions in its design, drawings, specifications and other Services.
2. The Consultant will use all due care and diligence to accompany that its plans and specifications and all other information provided by or on behalf of the District to potential bidders discloses and publishes any potentially relevant information that could, in any way, have an impact on a Contractor's cost of performance. The Consultant shall advise the District of the most effective methods of identifying and securing such information as part of each stage of design. The Consultant shall track for District's benefit all such suggested and disclosed information.
3. **Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the District's request, the Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. The Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation ("Mandatory Assistance").

C. STATEMENT OF WORK:

In order to meet the evacuation plan requirements of the 2019 California Fire Code Sections 403.5.1 thru 403.5.4, the signage shall be posted in conspicuous place(s) in each classroom where the plan shows the paths of travel to evacuate the room in case of emergency including an alternate route.

The plan shall designate an outdoor assembly area(s) that shall be located a safe distance from the building being evacuated and shall avoid interference with fire department

operations. The assembly area(s) shall be arranged to keep each class separate to facilitate accountability of all individuals.

A sample version of a classroom evacuation plan is provided for reference only (Attachment B).

The following is a list of all school sites included in this request for SOQs and fee proposals. Schools with an asterisk (*) are sites that were cited by the Oakland Fire Department.

<u>Elementary Schools:</u>	<u>Net Bldg Area</u>	<u># Classrooms</u>
Acorn Woodland ES/EnCompass Academy *	96,542 s.f.	33
Allendale Elementary School *	42,447 s.f.	25
Bella Vista Elementary School *	60,985 s.f.	24
Bridges Academy Elementary School *	44,725 s.f.	27
Brookfield Elementary School *	71,696 s.f.	28
Burckhalter Elementary School *	37,564 s.f.	16
Carl B. Munck Elementary School	38,025 s.f.	22
Chabot Elementary School	42,399 s.f.	27
Cleveland Elementary School *	30,564 s.f.	16
Community United/Futures Elementary School	71,124 s.f.	39
Crocker Highlands Elementary School	37,148 s.f.	17
Cox Elementary School/Reach Academy *	103,529 s.f.	53
East Oakland Pride Elementary School *	61,402 s.f.	28
Emerson Elementary School *	38,172 s.f.	22
Esperanza ES/Fred T. Korematsu Discovery Academy *	63,468 s.f.	37
Franklin Elementary School *	58,897 s.f.	39
Fruitvale Elementary School *	52,327 s.f.	25
Garfield Elementary School *	72,794 s.f.	37
Glenview Elementary School *	42,742 s.f.	20
Global Family ES/Learning without Limits (Charter) *	83,607 s.f.	40
Grass Valley Elementary School *	33,977 s.f.	19
Greenleaf Elementary School	65,325 s.f.	31
Hillcrest Elementary School *	23,951 s.f.	14
Hoover Elementary School	37,570 s.f.	22
Horace Mann Elementary School *	33,460 s.f.	18
Howard Elementary School *	42,726 s.f.	22
International Community School /Think College Now	92,273 s.f.	36
Joaquin Miller Elementary School *	39,497 s.f.	16
La Escuelita Elementary School/Metwest High *	123,000 s.f.	24
Laurel Elementary School *	37,337 s.f.	30
Lincoln Elementary School *	55,858 s.f.	30
Madison Park Academy Primary *	34,813 s.f.	18
Manzanita Community School/Manzanita SEED *	72,860 s.f.	39
Markham Elementary School *	56,676 s.f.	29
Martin Luther King Jr. Elementary School *	53,086 s.f.	23
Melrose Leadership Academy *	40,529 s.f.	24
Montclair Elementary School *	64,161 s.f.	27
New Highland Academy/Rise Community *	72,886 s.f.	37
Parker Elementary School *	54,226 s.f.	21
Peralta Elementary School *	20,685 s.f.	15
Piedmont Avenue Elementary School *	42,897 s.f.	20
Prescott Elementary School *	43,912 s.f.	22
Redwood Heights Elementary School *	41,791 s.f.	17
Sankofa United Elementary School *	44,903 s.f.	19

Sequoia Elementary School *	39,639 s.f.	20
Thornhill Elementary School *	32,822 s.f.	18
Middle Schools:	Net Bldg Area	# Classrooms
Bret Harte Middle School *	108,682 s.f.	41
Claremont Middle School *	59,963 s.f.	24
Edna Brewer Middle School *	88,706 s.f.	34
Elmhurst United Middle School/Alliance Academy *	98,355 s.f.	40
Frick United Academy of Language *	92,280 s.f.	27
Montera Middle School *	95,459 s.f.	43
Roosevelt Middle School *	134,081 s.f.	32
United for Success Middle School/LIFE Academy *	122,455 s.f.	40
Urban Promise Academy *	49,100 s.f.	16
Westlake Middle School	86,478 s.f.	36
West Oakland Middle School *	101,567 s.f.	39
High Schools:	Net Bldg Area	# Classrooms
Castlemont High School *	217,422 s.f.	72
Coliseum College Prep	119,134 s.f.	39
Dewey Academy	23,409 s.f.	14
Fremont High School *	181,988 s.f.	52
Madison Park Academy Secondary *	82,082 s.f.	36
McClymonds High School *	172,006 s.f.	43
MetWest *	(see La Escuelita)	
Oakland High School	206,317 s.f.	79
Oakland International High School *	51,909 s.f.	25
Oakland Technical High School	280,925 s.f.	80
Ralph J. Bunche Academy *	26,137 s.f.	16
Rudsdale Continuation/Rudsdale Newcomer HS/ /Bay Area Tech (Charter)/Sojourner Truth *	98,889 s.f.	32
Skyline High School *	230,206 s.f.	93
Zapata Oakland Street Academy *	16,030 s.f.	8
Alternative Education:	Net Bldg Area	# Classrooms
Community Day School *	33,420 s.f.	4
Sojourner Truth Independent Study *	(see Rudsdale)	
Charter Schools (OUSD Authorized):	Net Bldg Area	# Classrooms
AIMS College Prep High School (@ Lakeview ES) (see 2012 Facilities Master Plan)	43,090 s.f.	22
Aspire Berkley Maynard Academy (@ Golden Gate ES)	57,190 s.f.	28
Bay Area Technical School (Charter) *	(see Rudsdale)	
Francophone Charter School of Oakland (Charter) (@ Toler Heights) *	11,906 s.f.	7
Learning Without Limits Charter School *	(see Global Family)	
Charter Schools (Non-OUSD):	Net Bldg Area	# Classrooms
Community School for Creative Education (Charter) * (see 2012 Facilities Master Plan)	17,612 s.f.	12
Lazear Charter *	30,364 s.f.	22
PreK and Child Development Centers:	Net Bldg Area	# Classrooms
Acorn Woodland CDC	(in Main Building)	
Allendale State PreK	(in Main Building)	
Arroyo Viejo CDC	5,571 s.f.	3

Bella Vista CDC	4,000 s.f.	5
Bridges State PreK *	1,760 s.f.	3
Brookfield State PreK *	(in Main Building)	
Burbank State PreK	33,420 s.f.	18
Centro Infantil CDC *	3,200 s.f.	4
Cox Reach State PreK *	2,880 s.f.	2
CUES State PreK	(in Main Building)	
Emerson CDC	(in Main Building)	
Fruitvale CDC *	(in Main Building)	
Garfield State PreK *	(in Main Building)	
Harriet Tubman CDC	7,440 s.f.	4
Highland Children Center *	10,459 s.f.	5
Hintil Kuu CDC *	5,910 s.f.	5
Howard State PreK	(in Main Building)	
International CDC	8,264 s.f.	3
Jefferson CDC	6,300 s.f.	2
Laurel CDC *	7,235 s.f.	5
Lockwood CDC	6,528 s.f.	4
Manzanita CDC *	6,080 s.f.	5
MLK State PreK	(in Main Building)	
Prescott CDC	(in Main Building)	
Sankofa CDC	(in Main Building)	
Stonehurst CDC *	6,749 s.f.	3
United National CDC *	(in Main Building)	
Yuk Yau CDC *	1,600 s.f.	2

Site Inventory information on the sites can be found in the following link (unless otherwise noted): <https://www.2020ousdmasterplan.org/>

The District can provide 1A diagrams for the majority of the sites. The Consultant shall be required to field verify all sites for accuracy and changes due to recent construction.

The Consultant will be expected to perform the scope of services described in the General Services Agreement accompanying this RFQ/P (*Attachment A*), which will be the form of agreement that the Consultant must execute. Any statement of qualifications and proposal submitted in response to this RFQ/P (including the proposed contract price) must be based on the scope of services, obligations, and other terms of this agreement.

D. LIMITATIONS

This RFQ/P is not an offer by the District to contract with any party responding to this RFQ/P. The District reserves the right to add additional prequalified Respondents for consideration after distribution of this RFQ/P if it is found to be in the best interest of the District. All decisions concerning the selection will be made in the best interests of the District. The awarding of the contract pursuant to this RFQ/P, if at all, is at the sole discretion of the District.

The District makes no representation that participation in the RFQ/P process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing any RFQ/P Packet in response to this RFQ/P. RFQ/P Packets and any other supporting materials submitted to the District in response to this RFQ/P will not be returned and will become the property of the District unless portions of the materials are designated as proprietary at the time of submittal, and are specifically requested to be returned. Vague designations and/or blanket statements regarding entire

pages or documents are insufficient and will not bind the District to protect the designated matter from disclosure. Pursuant to *Michaelis, Montanari, & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, RFQ/P Packets shall be held confidential by the District and shall not be subject to disclosure under the California Public Records Act until after either: (1) the District and the successful Respondent have completed negotiations and entered into an Agreement, or (2) the District has rejected all Proposals. Furthermore, the District will have no liability to the Respondent or other party as a result of any public disclosure of any RFQ/P Packet.

E. RESTRICTIONS ON LOBBYING AND CONTACTS

From the period beginning on the date of the issuance of this RFQ/P and ending on the date of the award of the contract, no person, or entity submitting in response to this RFQ/P, nor any officer, employee, representative, agent, or Consultant representing such a person or entity shall contact through any means or engage in any discussion regarding this RFQ/P, the evaluation or selection process/or the award of the contract with any member of the District, Governing Board, selection members, or any member of the Citizens' Oversight Committee. Any such contact shall be grounds for the disqualification of the Respondent submitting a RFQ/P Packet.

F. STATEMENT OF QUALIFICATIONS

1. General Information / Instructions - Statement of Qualifications

- 1.1.** The District is inviting Statements of Qualifications for the "Project" which shall require coordination, administration, consulting and advice, and related services.
- 1.2.** The District seeks to identify teams with a record of excellence in efficient planning and project delivery.
- 1.1.** The Statement of Qualifications must contain all requested information about the company and must be on no larger than 8 1/2 x 11 paper and no more than fifteen (15) printed pages in length. The 15-page limit (as if printed single sided) shall cover Sections 2.1 thru 2.5 below. Statement of Qualifications should be complete and prepared to provide an insightful, straightforward, and concise overview of the capabilities of company. Additional information about the company and/or personnel may be placed in an Appendix which would not count against the 15-page limit.

2. Content – Statement of Qualifications

- 2.1. Letter of Interest** - A dated Letter of Interest must be submitted, including the legal name of the company(s), address, telephone, email address(es) and fax numbers, and the name, title, and signature of the person(s) authorized to submit the Statement of Qualifications on behalf of the company. The Letter of Interest should provide a brief statement of company's experience indicating the unique background and qualities of the company, its personnel, and its sub-Consultants, and what will make the company a good fit for work in the District. The letter shall also include the following statements:

"[RESPONDENT'S NAME] received a copy of the District's Agreement attached as **EXHIBIT A** to the RFQ/P. [RESPONDENT'S NAME] has reviewed the indemnity provisions in **EXHIBIT A** and insurance requirements contained in the Agreement. If given the opportunity to contract with the District, [RESPONDENT'S NAME] has no objections to the use of the Agreement."

Respondent shall certify that no official or employee of the District, nor any business entity in which an official of the District has an interest, has been employed or retained to solicit or assist in the procuring of the resulting contract(s), nor that any such person will be employed in the performance of any/all contract(s) without immediate divulgence of this fact to the District.

2.2. Executive Summary - The Executive Summary should contain an outline of company's approach, along with a brief summary of company's qualifications.

2.3. Company Information

Narrative - Provide a comprehensive narrative of the services offered by company. The narrative should include all of the following:

2.3.1. Provide a brief history of company, team companies, and, if a joint venture, of each participating company. Identify legal form, ownership, and senior officials of company(ies). Describe number of years in business and types of business conducted.

2.3.2. Describe company's philosophy and how it will work with District administration officials, community partners and district facilities staff.

2.3.3. Discuss the company's/team's ability to meet schedules for comparable projects, company's schedule management procedures, and how the company has successfully handled potential agency approval delays.

2.3.4. Identify school district and relevant building type projects performed by company in the past three (3) years. Limit response to no more than the twenty (20) most recent projects. Please include the following information for each project.

2.3.4.1. Name of project and client,

2.3.4.2. Scope of projects, description of services provided,

2.3.4.3. Contact person, telephone number and email address,

2.3.4.4. Company person in charge of each project,

2.3.4.5. Construction dollar value of each project,

2.4. Litigation - All litigation arising from the project, if any, in the last five years. State the issues in the litigation, the status of litigation, names of parties, and outcome.

2.5 Professional Fees

2.5.1 A detailed Fee Proposal for the Project shall include a line item for a 10% contingency to the proposed not-to-exceed fee. The contingency will be to cover potential additional services and shall be subject to District approval.

2.5.2. Provide a detailed schedule of the Consultant's and Sub-Consultant's hourly billing rates and a breakdown of associated costs for all tasks proposed (including contingency costs per task). Also note the time period that the fee schedule would apply and shall include period covering the project duration.

The District reserves the right to negotiate different rates submitted with the RFQ/P prior to the execution of the agreement.

2.6 Additional Data - Provide additional information about the company as it may relate to the Statement of Qualifications. These may include letters of reference or

testimonials. Indicate ongoing commitment to professional education of staff, total number of permanent employees, and any other data that may assist the District in understanding company's qualifications, capacity and/or expertise. This additional data shall be in an Appendix and will not be counted in the fifteen page SOQ limit.

3. Insurance (Mandatory Requirements)

Attach a sample Certificate of Insurance showing coverages are current or a letter from your insurance company indicating your company's ability to provide insurance. The following is a tentative schedule:

- 3.1** A.M. Best financial strength rating (FSR) of A- or better.
- 3.2** Commercial General Liability Insurance: Commercial general Liability Insurance shall be at least as broad as Insurance Services office General Liability Coverage (Occurrence Form CG 0001), with coverage limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage/ Two Million Dollars (\$2,000,000) aggregate.
- 3.3** Automobile Liability Insurance: Automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto), with coverage limits of at least One Million Dollars (\$1,000,000) for bodily injury and property damage each accident limit and Two Million Dollars (\$2,000,000) in the aggregate.
- 3.4** Workers' Compensation and Employer's Liability Insurance: The selected Consultant shall insure (or be a qualified self-insured) under the applicable laws relating to workers' compensation insurance, all of their employees working on the Project, in accordance with the "Workers Compensation and Insurance Act," Division IV of the California Labor Code. The selected Consultant shall provide employer's liability insurance in the amount of at least One Million Dollars (\$1,000,000) per accident for bodily injury and disease.
- 3.5** Errors and Omissions Insurance: errors and omissions insurance on an claims made basis with a limit of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate with a deductible in an amount not to exceed the sum of Ten Thousand Dollars (\$10,000.00).
- 3.6** All insurance will be in a form and with insurance companies acceptable to the District.
- 3.7** Insurance carriers shall be qualified to do business in California and maintain an agent for process within the State.

G. District's Evaluation / Selection Process – Statement of Qualifications

- 1.** Submittals will be reviewed for responsiveness and evaluated pursuant to established objective criteria, with particular attention to, without limitation, each respondent's qualifications, demonstrated competence in like construction, and the Company's ability to integrate its personnel with the District's staff and Consultants.
- 2.** After the submittals are evaluated and/or ranked, the District, at its sole discretion, may elect to interview the top Company(s). The District may elect to interview one or more Companies. Interviews are tentatively scheduled as indicated above. Any company(s) selected for interviews must make available for interview the key personnel it intends to assign to the District's Project(s). Any comments or objections to the form of Agreement attached hereto as **EXHIBIT A** to this RFQ/P shall be

provided in writing before the interview and may be the subject of inquiry at the interview. Any comments or objections to the form of Agreement not provided in writing before the interview will not be entertained by the District. Adequate time will be allowed for presentation of qualifications followed by questions and answers.

- 3. District Investigations** - The District may check references, and may perform investigations of company that extend beyond the information in the proposals. The District may conduct interviews of companies.

H. Final Determination And Award

The District reserves the right to contract with any entity responding to this RFQ/P, to reject any proposal as non-responsive, and not to contract with any company for the services described herein. The District reserves the right to seek proposals from or to contract with any company not participating in this process. The District reserves the right to reject any or all submissions, to request further information, to negotiate with any company, to extend the submission deadline, or to amend or cancel in part or in its entirety this RFQ/P. This RFQ/P does not commit the District to award a contract or to reimburse any company for costs incurred in submitting a proposal.

The awarding of contract(s) is at the sole discretion of the District. The District may, at its option, determine to award contracts only for portions of the scope of work. In such case, the successful proposing company will be given the option not to agree to enter into the Agreement and the District will retain the right to negotiate with any other proposing company selected as a finalist. If no finalist is willing to enter into a contract for the reduced scope of work, the District will retain the right to enter into negotiations with any other Respondent responding to this RFQ/P.

The RFQ/P packet, and any other supporting materials submitted to the District in response to this RFQ/P will not be returned and will become the property of the District unless portions of the materials are designated as proprietary at the time of submittal, and are specifically requested to be returned. This RFQ/P does not commit the District to negotiate an agreement with any proposing company or individual.

END OF RFQ/P

EXHIBIT A

OAKLAND UNIFIED SCHOOL DISTRICT
GENERAL SERVICES AGREEMENT

This GENERAL SERVICES AGREEMENT (“Agreement”) is made and entered into effective _____, 20____ (the “Effective Date”), by and between the Oakland Unified School District (“District”) and _____ (“Contractor”).

1. **Contractor Services.** Contractor agrees to provide the following services to District (collectively, the “Services”):

_____.

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 _____, 20____, and shall terminate upon completion of the Services, but no later than _____ (“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 at the rate of \$ _____ per _____ for Services satisfactorily performed *[require attachment of a schedule of all applicable hourly fees, if necessary]*. 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 \$ _____ (the “Fee”). 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 sixty (60) 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. 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.

B. The following Contractor and Contractor Parties shall have **more than limited contact** (as determined by District) with District students during the Term of this Agreement and, at no cost to District, have received a TB test in full compliance with the requirements of Education Code section 49406:

_____.

[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.

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:

- 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.

IN WITNESS WHEREEOF, the Parties hereto have executed this Agreement on the date indicated below:

DISTRICT:

OAKLAND UNIFIED SCHOOL DISTRICT

_____ Date
Aimee Eng, President, Board of Education

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

CONTRACTOR:

Name: _____

Title: _____

Name: Tadashi Nakadegawa Date
Acting Deputy Chief, Facilities Planning & Management

Approved As To Form:

OUSD Facilities Legal Counsel Date

FINGERPRINTING NOTICE AND ACKNOWLEDGEMENT

(Education Code Sections 45125.1 and 45125.2)

Business entities entering into contracts with the Owner for the construction, reconstruction, rehabilitation or repair of a facility must comply with Education Code sections 45125.1 and 45125.2. Such entities are responsible for ensuring full compliance with the law and should therefore review all applicable statutes and regulations. The following information is provided to you, the bidding contractor, simply to assist such entities with compliance with the law.

1. The Owner has determined that your employee(s), or you as a sole proprietorship, will have more than limited contact with students, therefore the Owner requires that you must use one or more of the following methods to ensure the safety of pupils (Education Code §45125.2(a)):
 - a. Install a physical barrier at the worksite to limit contact with pupils.
 - b. If you are not a sole proprietorship, have one of your employees, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony (see *Attachment C* to this Notice and Acknowledgement), continually monitor and supervise all of your employees. For the Department of Justice to so ascertain, your employee may submit fingerprints to the Department of justice pursuant to Education Code section 45125.1(a).
 - c. Arrange, with Owner's approval, for surveillance of your employees by Owner's personnel.

Prior to commencing the Work, you shall submit the Independent Contractor Student Contact Form (see *Attachment D* to this Notice and Acknowledgement) to the Owner, which will indicate which of the above methods you will use.

2. If you are providing the construction, reconstruction, rehabilitation or repair services in an emergency or exceptional situation, you are not required to comply with Education Code section 45125.2, above. An "emergency or exceptional" situation is one in which pupil health or safety is endangered or when repairs are needed to make a facility safe and habitable. Owner shall determine whether an emergency or exceptional situation exists. (Education Code §45125.2(d).)
3. If you use one or more of the three methods in Section 1 (above), you are not required to comply with Education Code section 45125.1. (Education Code §45125.2(b).) If you use one or more of these three methods, you must submit the Independent Contractor Student Contact Form (see *Attachment B* to this Notice

and Acknowledgement) to the Owner, which will indicate which of the above methods you will use.

I have read the foregoing and agree to comply with the requirements of Education Code §§ 45125.1 and 45125.2 as applicable.

Dated: _____

Signature

Name: _____

Title: _____

ATTACHMENT C

Violent and Serious Felonies

Under Education Code section 45125.1, no employee of a contractor or subcontractor who has been convicted of or has criminal proceedings pending for a violent or serious felony may come into contact with any student. A violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.

- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.
- (23) A violation of subdivision (b) or (c) of Section 11418.

A serious felony is any felony listed in subdivision (c) Section 1192.7 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter; (2) Mayhem; (3) Rape; (4) Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) Lewd or lascivious act on a child under the age of 14 years; (7) Any felony punishable by death or imprisonment in the state prison for life; (8) Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) Attempted murder; (10) Assault with intent to commit rape, or robbery; (11) Assault with a deadly weapon or instrument on a peace officer; (12) Assault by a life prisoner on a non-inmate; (13) Assault with a deadly weapon by an inmate; (14) Arson; (15) Exploding a destructive device or any explosive with intent to injure; (16) Exploding a destructive device or

any explosive causing bodily injury, great bodily injury, or mayhem; (17) Exploding a destructive device or any explosive with intent to murder; (18) Any burglary of the first degree; (19) Robbery or bank robbery; (20) Kidnapping; (21) Holding of a hostage by a person confined in a state prison; (22) Attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) Any felony in which the defendant personally used a dangerous or deadly weapon; (24) Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) Any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) Grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machine gun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Sections 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision.

ATTACHMENT D

INDEPENDENT CONTRACTOR STUDENT CONTACT FORM

Note: This document must be executed and submitted before Contractor may commence any work.

Contractor Firm Name: _____
Supervisor/Foreman Name: _____
Start Date: _____
Completion Date: _____
Location of Work: _____
Hours of Work: _____
Length of Time on Grounds: _____
Number of Employees on the Job: _____

Yes No

 Employees or sole proprietor will have more than limited contact with students as determined by Owner or Contractor, but if determined by Contractor, please explain the basis for such determination:

If "yes" is checked above, my contracting firm will use the following methods to ensure student safety (check at least one):

- A physical barrier will be installed at the worksite to limit contact with pupils.
- If you are not a sole proprietorship, employees will be continually monitored and supervised by an employee who has not been convicted of a violent or serious felony.

Name of Supervising Employee:

Date of Department of Justice verification that supervising employee has not been convicted of a violent or serious felony:

Name of employee who is the custodian of the Department of Justice verification information:

- The Owner has agreed that my employees or sole proprietor will be surveilled by Owner's personnel.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: _____

Signature

Typed Name: _____

Title: _____

Contractor: _____

END OF DOCUMENT

WORKERS' COMPENSATION CERTIFICATE

Labor Code Section 3700, in relevant part, provides:

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer or as one employer in a group of employers. Said certificate may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees, ... "

I am aware of the provisions of the Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract. I shall supply the District with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the District will receive thirty (30) days' notice of cancellation.

Name of Contractor

Signature

Print Name

Date

(In accordance with Article 5 (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under the contract.)

DRUG-FREE WORKPLACE CERTIFICATION

This Drug-Free Workplace Certification is required pursuant to Government Code Sections 8350 *et seq.*, the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract awarded by a State agency may be subject to suspension of payments or termination of the contract, or both, and the contractor may be subject to debarment from future contracting if the state agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition;
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The person's or organization's policy of maintaining a drug-free workplace;
 - (3) The availability of drug counseling, rehabilitation and employee-assistance programs;
 - (4) The penalties that may be imposed upon employees for drug abuse Violations;
- (c) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by Section 8355(a) and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the Owner determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract or grant awarded herein is subject to suspension of payments, termination, or both. I further understand that should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Section 8350 *et seq.*

I acknowledge that I am aware of the provisions of Government Code Section 8350 *et seq.* and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Name of Contractor

Signature

Print Name

Date

END OF DOCUMENT