

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

**REQUEST FOR QUALIFICATIONS & PROPOSALS
CONSTRUCTION PROGRAM & PROJECT
MANAGEMENT SOFTWARE**

RFP Issued January 15, 2020

Responses must be received February 6, 2020, no later than 2:00 p.m.

The Oakland Unified School District ("District") is requesting proposals from experienced firms, partnerships, corporations, associations, persons or professional organizations ("Consultants") for a Construction Program and Project Management Software that would efficiently support the program projects through their entire lifecycle (i.e., planning through closeout) and satisfy the various reporting requirements.

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

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

Oral, telegraphic, facsimile, telephone or email 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.

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

Schedule of Activities

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

DATE	ACTIVITY
January 15, 2020	RFQ/P Issued.
N/A	Non-Mandatory Pre-Proposal Meeting at Facilities Planning & Management.
January 22, 2020	Submit Statement of Interest with contact information (emails acceptable).
January 29, 2020	Written requests for Interpretation, Correction or Modification are due.
February 3, 2020	District will provide written responses to requests for clarification.
February 6, 2020	Proposals Due by 2:00 p.m.
N/A	Interviews of Short Listed Firms.
(TBD) March 2020	Board Meeting – tentative approval of Contract.
(TBD) March 2020	Tentative Notice to Proceed issued to Consultant.

ESTIMATED CONSTRUCTION BUDGET: N/A

PROJECT DURATION: TBD

REQUEST FOR QUALIFICATIONS & PROPOSALS

The purpose of this RFQ/P is to solicit statements of qualification and a fee proposal from consulting firms for Construction Program and Project Management Software that would efficiently support the program projects through their entire lifecycle (i.e., planning through closeout) and satisfy the various reporting requirements.

A. MANDATORY REQUIREMENTS

To minimize risk and promote industry best practices, the mandatory criteria for implementing a solution must meet all of the following requirements. Please verify that your company and offering meets these mandatory requirements.

- The solution must be developed by, implemented by and supported by the same single vendor.
- The solution must be designed for the sole purpose of supporting the construction program and project management lifecycle – Planning thru Closeout.
- The solution must be Software as a Service and built on a true multi-tenant platform with an open architecture.
- The solution must include out-of-the-box, configurable, native modules specific to the construction project lifecycle.
- The solution must have at least a ten year history of successfully supporting requirements related to construction program/project management.

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").

B. STATEMENT OF QUALIFICATIONS

1. General Information / Instructions - Statement of Qualifications

- a. The District is inviting Statements of Qualifications which shall require coordination, administration, consulting and advice, and related services.
- b. The District seeks to identify teams with a history of success and a record of excellence in efficient planning and project delivery.
- c. Special consideration would be given to firms with prior Capital Project and/or construction program and project management experience.
- d. The Statement of Qualifications must contain all requested information about the firm 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 apply to Sections 2.a thru 2.g below. Statement of Qualifications should be

complete and prepared to provide an insightful, straightforward, and concise overview of the capabilities of firm.

- e. Items identified as Attachments (in Section 3 below) and Additional Data (in Section 4 below) shall be in an Appendix and will not be counted in the fifteen page SOQ limit.

2. Content – Statement of Qualifications

a. Letter of Interest

A dated Letter of Interest must be submitted, including the legal name of the firm(s), address, telephone and fax numbers, and the name, title, and signature of the person(s) authorized to submit the Statement of Qualifications on behalf of the firm. The Letter of Interest should provide a brief statement of firm's experience indicating the unique background and qualities of the firm, its personnel, and its sub-consultants, and what will make the firm 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.

b. Executive Summary

Include a brief high-level synopsis of submitter's proposal; acknowledge receipt of any and all RFP amendments along with any other appropriate items. The proposal must bear the signature of a person duly authorized to sign the submission on behalf of the company and reference this RFP and accept its terms and conditions.

c. System Description

Include description of the system, specifications, and details regarding its delivery, implementation, upload process from the Microsoft Access Project Management Database ("OUSD PM Tools") and EADOC by Bentley Systems, Inc. as needed, and any other relevant information. Explain the features of the system and how it meets the District's program needs, technical issues, cost and other factors described in more detail below in the "Requirements" section.

d. Approach and Support

Please describe the planned approach for ongoing support, maintenance, limitations, and terms and conditions for the planned duration of system use. Be sure to include any and all options for any form of a tiered maintenance and/or support plan.

e. Proposed Staffing and Project Organization

Please describe the staff who will be assigned to work with the District. Include short resumes for each designated individual. Indicate the role and responsibility of each individual. Specifically discuss the team's background, experience, and training in executing the scope of services specified herein.

f. Company Overview

Please provide the following information:

1. Official registered business name including address, telephone and facsimile numbers, website, key contact person and their email address.
2. Person authorized to contractually bind the organization for any proposal against this RFP (if different from above).
3. Brief history of the company, including year of establishment and how long the company has been offering services and system related to this RFP. Extensive experience (10+ years) working with K-12 school districts is required.
4. Clearly identify any subcontractors, consultants or vendor relationships applicable to this RFP.

g. System Requirements

The System Requirements for providing a Construction Program and Project Management Software for the District's Capital Bond Program, must address the following:

1. Hosting Data Center and Support

- a. Does the proposed solution require the installation of any third party software other than an Internet browser to function.
- b. Is the proposed solution offered as a hosted service (i.e., Software as a Service).
- c. Describe industry certifications and compliances that your processes and product have achieved.
- d. Describe the proposed solution upgrade process.

2. Interfacing with Other System

- a. Does the proposed solution have any data exchange tools, such as a web-service API (Application Programming Interface). OUSD's current financial software system is Escape by Escape Technology.
- b. Describe the industry-standard protocols supported for exchanging data and integration.

3. System Administration

- a. Are access permissions role based within the system.
- b. Describe management of access permissions at user and project levels.
- c. Does the proposed solution allow for templates to be applied for a new project for cost, document, and process and schedule management.
- d. Can the administrator define what information users can view based upon permission levels.

4. Implementation and Training

- a. Describe implementation methodology.
- b. Describe type of training and documentation provided as part of the solution deployment.

5. Program and Project Management

- a. Is the solution capable of supporting a multi-project, multi-department program.
- b. Can project access be limited according to project type, user role, or by a specific user.
- c. Does the solution allow for creating program wide reports, as well as single project reports.

6. Cost Management

- a. Can the cost management data be fed by either a workflow, third-party databases or through manual entry.
- b. Can funding sources be managed against budgets, commitments, or actual expenditures.
- c. Does proposed solution track funding separate than of the budget with the ability to apply commitment cost controls against the funding.

7. Schedule Management

- a. Is the proposed solutions' scheduling tool collaborative where multiple users can update tasks on the schedule simultaneously.
- b. Can an existing project schedule from another scheduling tool be imported to be managed within the proposed solution.
- c. Can the schedule be shown in the proposed solution and reported in a Gantt Chart.
- d. Can the proposed solution generate reports that combine schedule data with cost data and other project data across multiple projects in one report.

8. Contact Management

- a. Does the proposed solution provide a central vendor contact database where all vendor companies and contacts can be stored.
- b. Can the proposed solution electronically attach documents (e.g., insurance certificates, LBU certifications, etc.) to a company and contact.

9. Business Process Automation (Workflow)

- a. Describe the proposed solution's Business Process Automation (BPA) workflow capabilities.
- b. Does the proposed solution have pre-defined templates for the common capital project execution processes (e.g., Change Orders, Request for Information (RFIs), etc.)

10. Document Management

- a. Does the proposed solution have the ability to send emails (message body and all attachments) into specific folders within specific projects).

- b. Does the proposed solution have the ability to convert all common file types including Microsoft Project, Word, Excel, PowerPoint and other files used on capital projects to the Bluebeam PDF format for viewing and electronic distribution.
- c. Does the proposed solution include a redline and markup toolset.

11. Procurement Management

- a. Does the proposed solution support the configuration for the District's informal bidding process (from pre-qualified pool).
- b. Does the system provide users with a public web link to publish to a newspaper or post online to a public web site for bidders to access.

12. Time Tracking

- a. Does the proposed system have a time tracking feature.
- b. Does the time tracking interact and link with other modules in your system such as Document Management or other workflow related items.

13. Building Information Modeling (BIM)

- a. Does your system provide the ability to view standard BIM file types (e.g., IFC, Revit, NavisWorks).
- b. Does the BIM feature require additional licensing or installed software in order to use.

14. Business Intelligence

- a. Does the proposed solution include a native business intelligence feature.
- b. Can the business intelligence combine data from multiple modules into a single report or dashboard.

15. Reporting and Dashboards

- a. Is a third-party product required for reporting.
- b. Can the proposed solution create reports in multiple formats (e.g., Microsoft Excel, HTML).

3. Required Attachments to be placed in an Appendix

Submitters shall execute and provide with any proposal the following completed attachments to accompany this RFP:

- a. Non-Collusion Affidavit**
- b. Completed and signed W-9**
- c. Detailed and Itemized Pricing**

Include a fee and cost breakdown including licensing fees, labor (if any), equipment, materials, travel expenses, support and maintenance, or any other fees or costs associated with implementation and ongoing use of the proposed solution. Please include what the cost will be at the end of the program for any data archive, and the cost for ongoing access if requested.

4. **Additional Data** Provide additional information about the firm as it may relate to the Statement of Qualifications. Please provide the names and contact information for at least five (5) K-12 school districts for which the company has provided similar work and system services within the last three (3) calendar years.

C. 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 Firm'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 Firm(s). The District may elect to interview one or more Firms. Interviews are tentatively scheduled as indicated above. Any firm(s) selected for interviews must make available for interview the key personnel it intends to assign to the District. 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 firm that extend beyond the information in the proposals. The District may conduct interviews of firms.

D. 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 firm for the services described herein. The District reserves the right to seek proposals from or to contract with any firm not participating in this process. The District reserves the right to reject any or all submissions, to request further information, to negotiate with any firm, 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 firm 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 firm 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 firm 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 firm or individual.

END OF RFQ/P

NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY
BIDDER AND SUBMITTED WITH BID

STATE OF CALIFORNIA)
) ss.
County of _____)

_____, being first duly sworn, deposes and says that he or she is _____ of _____ the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or a sham bid; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member of agent thereof to effectuate a collusive or sham bid.

Subscribed and sworn to (or affirmed) before me this ___ day of _____, 2019
by _____ personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) who appeared before me.

Signature _____

**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:

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer’s Liability	\$ 1,000,000

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: Timothy White Date
Deputy Chief, Facilities Planning & Management

Approved As To Form:

OUSD Facilities Legal Counsel Date

SAMPLE