

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION**

The mission of Albany Unified School District is to provide excellent public education that empowers all to achieve their fullest potential as productive citizens. AUSD is committed to creating comprehensive learning opportunities in a safe, supportive, and collaborative environment, addressing the individual needs of each student.

REGULAR MEETING

ALBANY CITY HALL

1000 San Pablo Ave.

Albany, CA 94706

Tuesday, August 14, 2018

Closed Session: 6:00 p.m. - 7:30 p.m.

Open Session: 7:30 p.m. - 9:00 p.m.

The public is encouraged to address the Board on any topic on the agenda. The President will also invite the public to speak during the section titled "Persons to Address the Board on Matters Not on the Agenda". To ensure accurate information is captured in the Board meeting minutes, please complete the "Speaker Slip" provided on the table and hand it to the clerk when speaking.

AGENDA

<p style="text-align: center;">Meeting Norms</p> <ol style="list-style-type: none"> 1. Maintain a focus on what is best for our students. 2. Show respect (never dismiss/devalue others). 3. Be willing to compromise. 4. Disagree (when necessary) agreeably. 5. Make a commitment to effective deliberation, each one listening with an open mind while others are allowed to express their points of view. 6. Participate by building on the thoughts of a fellow Board member. 7. Make a commitment to open communication and honesty; no surprises. 8. Commit the time necessary to govern effectively. 9. Be collaborative. 10. Maintain confidentiality (which leads to the building of trust). 11. Look upon history as lessons learned; focus on the present and the future. <p style="text-align: center;">All meetings are videotaped. (To view the videos, visit www.ausdk12.org)</p>	<p>I. OPENING BUSINESS 6:00 p.m.</p> <p style="padding-left: 40px;">A) CALL TO ORDER</p> <p style="padding-left: 40px;">B) ROLL CALL</p> <p style="padding-left: 40px;">C) IDENTIFY CLOSED SESSION PURSUANT TO AGENDA SECTION III BELOW</p> <p>II. PUBLIC COMMENT PERIOD FOR CLOSED SESSION ITEMS</p> <p><i>General public comment on any Closed Session item will be heard. The Board may limit comments to no more than three (3) minutes.</i></p> <p>III. CLOSED SESSION - 6:05 p.m. WITH RESPECT TO EVERY ITEM OF BUSINESS TO BE DISCUSSED IN CLOSED SESSION:</p> <p style="padding-left: 40px;">A) PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Gov. Code Section 54957): Superintendent</p> <p>IV. OPEN SESSION 7:30 p.m. (10 mins.)</p> <p><i>Depending upon completion of Closed Session items, the Board of Education intends to convene to Open Session at 7:30 p.m. to conduct the remainder of its meeting, reserving the right to return to Closed Session at any time.</i></p>
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A) CALL TO ORDER (Reconvene to Open Session)

B) ROLL CALL

C) PLEDGE OF ALLEGIANCE

D) READING OF AUSD MISSION & VISION STATEMENT

E) REPORT OF ACTION TAKEN IN CLOSED SESSION

F) APPROVAL OF AGENDA

G) APPROVAL OF CONSENT CALENDAR

The Consent Calendar includes routine items that may be handled with one action. Board Members may request any item be removed from the Consent Calendar without formal action.

1) Human Resources

a) Certificated Personnel Assignment Order & Classified Personnel Assignment Order (pg.5)

2) Business Services

a) Independent Contractor Agreement with YMCA of the East Bay for Active Supervision
During Lunch Recess (pg.7)

3) Curriculum, Instruction, and Assessment

a) Adoption of Literature Novels for Albany High School (pg.15)

b) Adoption of Business Management Textbook for Albany High School (pg.18)

c) Overnight Field Trip: Albany High School to Chamber Singers Retreat in Montara, CA (pg.20)

4) Student Services

a) Quarterly Report on Williams Uniform Complaints (pg.22)

H) BOARD AND SUPERINTENDENT REPORT

7:40 p.m.

(5 mins.)

I) PERSONS TO ADDRESS THE BOARD ON MATTERS NOT ON THE AGENDA

7:45 p.m.

(5 mins.)

Board practice limits each speaker to no more than three (3) minutes. The Brown Act limits Board ability to discuss or act on items which are not on the agenda; therefore, such items may be referred to staff for comment or for consideration on a future agenda.

J) REVIEW AND ACTION**7:50 p.m.**

- 1) Superintendent
 - a) Recognition of Albany Performing And Fine Arts Boosters As An AUSD Booster Organization And Authorization to Operate at the School (5 mins.) (pg.24)
- 2) Business Department
 - a) Budget Advisory Committee (20 mins.) (pg.42)
 - b) Independent Contractor Agreement with CAS Inspections, Inc. for Inspector of Record Services for the Albany High School Addition Project (5 mins.) (pg.44)
 - c) Independent Contractor Agreement with Ninyo & Moore for Geotechnical, Materials Testing, and Special Testing Services for the Albany High School Addition Project (5 mins.) (pg.53)
 - d) Purchase of Equipment and Programming Services from Ojo Technology for A Security Camera System and Access Control System for the Albany Middle School Annex Project (5 mins.) (pg.62)
 - e) Independent Contractor Agreement with Rincon Consultants, Inc. for Environmental Review Services for the Ocean View School Construction Project (5 mins.) (pg.82)
 - f) Independent Contractor Agreement with A3GEO for Geotechnical Engineering Services for the Ocean View School Construction Project (5 mins.) (pg.97)
 - g) Independent Contractor Agreement with Kister, Savio & Rei, Inc. for Topographic and Underground Utility Survey Services for the Ocean View School Construction Project (5 mins.) (pg.107)
 - h) Amendment to Agreement with Derivi Castellanos Architects to Provide Program Management Services for Ocean View Elementary School Renovation/Rebuild (5 mins.) (pg.117)
 - i) Amendment to Agreement with HY Architects to Provide Architectural Services for the Ocean View School Construction Project (5 mins.) (pg.127)

AGENDA ITEMS/MATTERS INTRODUCED BY THE BOARD**8:55 p.m.**

(5 mins.)

V. ADJOURNMENT**9:00 p.m.**

The Board believes that late night meetings deter public participation, can affect the Boards decision-making ability, and can be a burden to staff. Regular Board Meetings shall be adjourned by 9:30 p.m. unless extended to a specific time determined by a majority of the Board.

FUTURE BOARD MEETINGS

Date	Time	Location
August 28, 2018	7:00 – 9:30 p.m.	Albany City Hall
September 11, 2018	7:30 – 9:30 p.m.	Albany City Hall

The Board of Education meeting packet is available for public inspection at: Albany Unified School District, 1051 Monroe Street; and is available on the Albany Unified School District web site: www.ausdk12.org. If you provide your name and/or address when speaking before the Board of Education, it may become a part of the official public record and the official minutes will be published on the Internet. In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact the Superintendent's Office at 510-558-3766. Notification must be given forty-eight (48) hours prior to the meeting to make reasonable arrangements for accessibility (28 CFR 35.102.104 ADA Title II).

Personnel Assignment Order: Pending Approval**BOE Meeting: 8/14/2018****Class: Certificated****Category: Leave**

<i>Position</i>	<i>Name</i>	<i>Site</i>	<i>FTE/Amt</i>	<i>Effec Date</i>	<i>End Date</i>	<i>Action</i>	<i>Funding</i>
Teacher	Cohen, Amanda	CO	0.17	8/24/18	6/14/19	Approve	
Teacher	Loya, Danielle	OV	1.00	8/24/18	6/14/19	Approve	
Teacher	Park, Jessica	AHS	0.2	8/24/18	6/14/19	Approve	

Category: New Hire

<i>Position</i>	<i>Name</i>	<i>Site</i>	<i>FTE/Amt</i>	<i>Effec Date</i>	<i>End Date</i>	<i>Action</i>	<i>Funding</i>
Counselor	Friesen, Karen	AMS	0.2	8/24/18	6/14/19	Approve	Sch Care
Librarian	Scheuer, Mary Ann	AHS	1.00	8/24/18	6/14/19	Approve	GF
Teacher	Atkinson, Marjorie	AHS	0.4	8/24/18	6/14/19	Approve	GF
Teacher	Bradbury, Cynthia	ACC	1.00	8/24/18	6/14/19	Approve	GF
Teacher	Bryant, Craig	AHS	0.17406	8/24/18	6/14/19	Approve	GF
Teacher	Castrillon, Holly	MA	1.00	8/24/18	6/14/19	Approve	GF
Teacher	Coons, David	OV	1.00	8/24/18	6/14/19	Approve	GF
Teacher	Dinov, Amber	Sp Ed	1.00	8/24/18		Approve	SE
Teacher	Galvarro, Gabrielle	Sp Ed	1.00	8/24/18		Approve	SE
Teacher	Johnson, Geoffry	AHS	1.00	8/24/18	6/14/19	Approve	GF
Teacher	Krasnor, Daniel	OV	1.00	8/24/18	6/14/19	Approve	GF
Teacher	Law, Jared	AHS	1.00	8/24/18	12/21/18	Approve	GF
Teacher	Litchenstein, Ashleigh	MA	1.00	8/24/18	6/14/19	Approve	GF
Teacher	McManus, Laura	MA	1.00	8/24/18	6/14/19	Approve	GF
Teacher	Mickelson, Melanie	CO	0.4	8/24/18	6/14/19	Approve	GF
Teacher	Silas, Amanda	MA	0.2	8/24/18	6/14/19	Approve	GF

Category: Separation of Service

<i>Position</i>	<i>Name</i>	<i>Site</i>	<i>FTE/Amt</i>	<i>Effec Date</i>	<i>End Date</i>	<i>Action</i>	<i>Funding</i>
Director III, Special Education	Marie, Diane	DO	1.00	7/1/19		Approve	
Substitute Teacher	Kennedy, James	DO		6/8/18		Approve	

Class: Classified**Category: Leave**

<i>Position</i>	<i>Name</i>	<i>Site</i>	<i>FTE/Amt</i>	<i>Effec Date</i>	<i>End Date</i>	<i>Action</i>	<i>Funding</i>
SPED Para-educator	Sullivan, Erin	OV	0.8	8/27/18	6/14/18	Approve	

Category: New Hire

<i>Position</i>	<i>Name</i>	<i>Site</i>	<i>FTE/Amt</i>	<i>Effec Date</i>	<i>End Date</i>	<i>Action</i>	<i>Funding</i>
Athletic Director	Juengling, Astrid	AHS/AMS	\$60,000	8/1/18	6/30/19	Approve	GF
Chief Business Official	Kim, Miyhon	DO	1.00	7/23/18		Approve	GF
Head Varsity Football Coach	Hawari, Amer	AHS	\$3,780.00	9/1/18	11/30/18	Approve	GF
Senior Guard	Chu, Charles	Pool	\$17.75/hr	6/11/18		Approve	Pool
Strength & Conditioning Coach	Jones, Benjamin	AHS	\$3,387.97	9/1/18	11/30/18	Approve	GF
Student Worker	Wu, Yung-Chen	CK	\$11.00/hr	8/28/18	6/14/18	Approve	CK
Substitute Para-educator	Whitaker, Megan	ACC	\$13.30/hr	7/26/18		Approve	Pool

Category: Separation of Service

<i>Position</i>	<i>Name</i>	<i>Site</i>	<i>FTE/Amt</i>	<i>Effec Date</i>	<i>End Date</i>	<i>Action</i>	<i>Funding</i>
Café Assistant I	Villafuerte, Gisela	CK	0.625	8/8/18		Approve	
Clerk I	Villafuerte, Gisela	CK	0.2667	8/8/18		Approve	
SPED Para-educator	Kanninen, Morgan	Sp Ed	.8	6/18/18		Approve	

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: **INDEPENDENT CONTRACTOR AGREEMENT WITH THE
YMCA OF THE EAST BAY FOR ACTIVE SUPERVISION DURING
LUNCH RECESS**

PREPARED BY: **JACKIE KIM, CHIEF BUSINESS OFFICIAL**

TYPE OF ITEM: **CONSENT**

PURPOSE: Approval of the Independent Contractor Agreement with the YMCA of the East Bay to provide active supervision during lunch recess at the Albany Middle School, Cornell Elementary, Marin Elementary, and Ocean View Elementary

BACKGROUND INFORMATION: This agreement is entered into for the purpose of establishing an effective partnership to provide a comprehensive, accessible, and positive physical activity program that meets the health needs of the youth in the school community. The YMCA of the East Bay and the Albany Unified School District both recognize the benefit of regular exercise and will work together to create a safe and positive environment in which all students can grow both mentally and physically.

DETAILS: This agreement is coordinated through the Albany Middle School, Cornell Elementary, Marin Elementary, and Ocean View Elementary school sites. Each program will align with the needs identified by the school principal focused on active supervision during lunch recess.

KEY QUESTIONS/ANSWERS:

1. How is this program being funded?
 - a. This program is being funded by the General Fund and a contribution by SchoolCARE.

FINANCIAL INFORMATION:

General Fund: \$69,858.31

SchoolCARE: \$12,000.00

Total: \$81,858.31

STRATEGIC GOALS ADDRESSED: This Board Item addresses



Objective #3: Communicate and Lead Together.

Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.

RECOMMENDATION: Approval of the Independent Contractor Agreement with the YMCA of the East Bay for Active Supervision during Lunch Recess

**ALBANY UNIFIED SCHOOL DISTRICT
INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

This agreement is hereby entered into this 14th day of August, 2018 in the County of Alameda, State of California, by and between the Albany Unified School District, hereinafter referred to as "DISTRICT," and
YMCA of the East Bay

<hr/>			
CONTRACTOR			
2330 Broadway			
<hr/>			
MAILING ADDRESS			
Oakland	CA	94612	
CITY	STATE	ZIP	

hereinafter referred to as 'CONTRACTOR.'" DISTRICT and CONTRACTOR shall be collectively referred to as the Parties.

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

Active supervision during lunch recess for the Albany Middle School, Cornell Elementary, Marin Elementary, and Ocean View Elementary. YMCA Staff will be fully trained by the YMCA in active supervision, leading games, teaching sports, positive behavior modification, group management, child abuse prevention, safety, and character development. The YMCA program will run throughout the 2018/19 school year, with the exception of days designated by the Principal.

2. Contractor Qualifications. Contractor represents and warrants to District that Contractor and all of Contractor's employees, agents or volunteers (the "Contracted Parties") have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. If any of the Services are performed by any of Contractor's Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor.

3. Term. CONTRACTOR shall:

☐

Provide services under this AGREEMENT on the following specific date's

_____, _____, _____, _____, _____, _____, _____, and

complete performance no later than _____;

OR

☒

Commence providing services under this AGREEMENT on August 28, 2018 and

complete performance no later than June 14, 2019.

There shall be no extension of the Term of this Agreement without the express written consent from all parties. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contracted Parties. In the event of early termination, Contractor shall be paid for satisfactory work 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 time period for the effectiveness of such termination. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially violates any of the terms of this Agreement, any act or omission by Contractor or the Contracted 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 on account of Contractor's insolvency. Such termination shall be effective immediately upon Contractor's receipt of said notice.
5. Compensation. DISTRICT agrees to pay the CONTRACTOR for services satisfactorily rendered pursuant to this AGREEMENT. DISTRICT shall pay CONTRACTOR according to the following terms and conditions:

- a. Such compensation shall be based on:
- ☐ An hourly rate of \$_____ for a total amount of _____ hours.
- ☐ A daily rate of \$_____ for a total amount of _____ days.
- ☒ **\$ 81,858.31**
- b. Payment method shall be:
- ☐ Upon Completion.
- ☐ Date of Service
- ☒ **Other (Specify): Monthly**

Any work performed by Contractor in excess of said amount shall not be compensated.

Payment shall be made upon approval of DISTRICT and receipt of an invoice from CONTRACTOR one copy clearly marked original. CONTRACTOR's invoice shall be sent to: Albany Unified School District, Attention: Accounts Payable, 904 Talbot Street, Albany, CA, 94706.

6. 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 of the Contracted Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contracted Parties by District. Furthermore, any Equipment or workmanship that does not conform to the regulations of this Agreement may be rejected by District and in such case must be promptly remedied or replaced by Contractor at no additional cost to District and subject to District's reasonable satisfaction.
7. California Residency. Contractor and the Contracted Parties shall be residents of the State of California.
8. Indemnity. Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Education, members of the Board of Education (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 the performance of this Agreement, including but not limited to Contractor's or the Contracted Parties' use of the site; Contractor's or the Contracted Parties' performance of the Services; Contractor's or the Contracted Parties' breach of any of the representations or warranties contained in this Agreement; injury to or death of persons or damage to property or delay or damage to District or the District Parties; or for any act, error, omission, negligence, or willful misconduct of Contractor, the Contracted Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. 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.

9. Insurance. Without in any way limiting Contractor's liability or indemnification obligations set forth in Paragraph 8 above, District reserves the right to require contractor to procure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits not less than \$1,000,000.00 each occurrence and \$2,000,000.00 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$100,000.00 each occurrence and \$100,000.00 in the aggregate; if applicable; and neither Contractor nor any of the Contracted Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insured. 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 any of the required insurance is not reinstated, District may, at its sole option, terminate this Agreement. All of the policies shall also 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.
10. Independent Contractor Status. Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that s/he and the Contracted Parties shall not be considered officers, employees, agents, partners, or joint ventures 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.
11. 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 compensation 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 Contracted Parties and otherwise in connection with this Agreement.
12. Fingerprinting/Criminal Background Investigation Certification. Contractor and the Contracted Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:
 - ☐ Contractor and the Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.
 - ☐ The following Contracted Parties have **more than limited contact** (as

determined by District) with District students during the Term of this Agreement:

[Attach and sign additional pages, as needed.]

☒ All of the Contracted Parties noted above, at no cost to District, have completed background checks and have been fingerprinted under procedures established by the California Department of Justice and the Federal Bureau of Investigation, and the results of those background checks and fingerprints reveal that none of these Contracted Parties have been arrested or convicted of a serious or violent felony, as defined by the California Penal Code.

Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information, including additional personnel, which differs in any way from the representations set forth above, Contractor shall immediately notify District and prohibit any new personnel from having any contact with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any such contact is permissible.

13. Tuberculosis Certification. Contractor and the Contracted 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:

☐ Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☒ The following Contracted 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:

Contractor shall maintain on file the certificates showing that the Contracted 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 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 such contact is permissible.

14. 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.

15. Assignment. 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.
16. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Contractor and District and their respective successors and assigns.
17. 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.
18. 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.
19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate court in Alameda County, California.
20. Non-Discrimination. CONTRACTOR shall not discriminate on the basis of a persons' actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation.
21. 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 mail to the last business address known to the person who sends the notice.
22. 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.
23. Attorney Fees. If any legal action is taken to 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.

24. Liability of District. Notwithstanding anything stated herein to the contrary, District shall not be liable for any special, consequential, indirect or incident damages, including but not limited to lost profits in connection with this Agreement.
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. Subject To Approval of Board. This Agreement confers no legal or equitable rights until it is approved by the District Board of Education at a lawfully conducted public meeting.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

DISTRICT:

CONTRACTOR: YMCA of the East Bay

ALBANY UNIFIED SCHOOL DISTRICT

Tax Identification Number: _____

By: _____

Name: Jackie Kim

Title: CBO

By: _____

Name: Mary D'Elia

Title: Executive Director

Address for District Notices:

Albany Unified School District
904 Talbot Street
Albany, CA 94706

Address for Contractor Notices:

YMCA of the East Bay
2330 Broadway
Oakland, CA 94612

Date of Board Approval: _____

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

**ITEM: ADOPTION OF LITERATURE NOVELS
FOR ALBANY HIGH SCHOOL**

**PREPARED BY: MARIE WILLIAMS, DIRECTOR III-
CURRICULUM, INSTRUCTION AND ASSESSMENT**

TYPE OF ITEM: CONSENT

PURPOSE: The purpose of this item is to approve the proposal from Albany High School's English department to adopt new literature novels.

BACKGROUND INFORMATION:

Albany High School's English department is recommending several new texts for Board approval. The list of texts, with a brief synopsis and rationale for adoption was presented, at the [June 12, 2018 Board of Education meeting](#). Some of the texts were piloted during the fall 2017 semester, some have been available to the English department for some time (with no documentation of prior Board approval), and some are reference texts that will be useful tools to supplement the English department's curriculum.

The texts listed below have been chosen with consideration for pedagogical merit in the classroom and for their range of narrative voices and styles. These new texts will be essential to update an aging curriculum, and bring fresh ideas into the classroom.

DETAILS:

1. *Salvage the Bones* by Jesmyn Ward
2. *The House on Mango Street* by Sandra Cisneros
3. *Between the World and Me* by Ta-Nehisi Coates
4. *A Gathering of Old Men* by Ernest J Gaines
5. *A Visit from the Goon Squad* by Jennifer Egan
6. *The Orphan Master's Son* by Adam Johnson
7. *Purple Hibiscus* by Chimamanda Ngozi Adichie
8. *Americanah* by Chimamanda Ngozi Adichie

9. *The Best We Could Do* by Thi Bui
10. *Orlando* by Virginia Woolf
11. *The Brief Wondrous Life of Oscar Wao* by Junot Diaz
12. *The Color Purple* by Alice Walker
13. *The Immortal Life of Henrietta Lacks* by Rebecca Skloot
14. *The Hate U Give* by Angie Thomas
15. *Understanding Comics* by Scott McCloud
16. *Out on the Wire* by Jessica Abel
17. *Kindred* by Octavia Butler
18. *A People's History of the United States* by Howard Zinn
19. *Sentence Composing for Middle School* by Don Killgallon
20. *Sentence Composing for High School* by Don Killgallon

The following texts have been at Albany High School for some time, but are not currently on the approved book list either by accident or omission. These are texts that should have been added to the approved list over a decade ago.

1. *All The Pretty Horses* by Cormac McCarthy
2. *Jane Eyre* by Charlotte Bronte
3. *Metamorphosis* by Franz Kafka
4. *The Importance of Being Earnest* by Oscar Wilde
5. *The Old Man and the Sea* by Ernest Hemingway
6. *Cat on a Hot Tin Roof* by Tennessee Williams
7. *Civil Disobedience and Walden* by Henry David Thoreau
8. *Raisin in the Sun* by Lorraine Hansberry
9. *The Autobiography of Malcolm X* by Malcolm X
10. *The Maltese Falcon* by Dashiell Hammett

11. *The Things They Carried* by Tim O'Brien

FINANCIAL INFORMATION:

The new titles being recommended for approval were purchased in Spring 2017 in order to begin a comprehensive pilot process in Fall 2017. District funds are allocated annually to purchase replacement texts as needed.

STRATEGIC OBJECTIVES ADDRESSED:



***Objective #1:** Assess and Increase Academic Success. **Goal:** We will provide a comprehensive educational experience with expanded opportunities for engagement, assessment, and academic growth so that all students will achieve their fullest potential.*

RECOMMENDATION: APPROVE THE PROPOSED LITERATURE NOVELS FOR ALBANY HIGH SCHOOL

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: ADOPTION OF BUSINESS MANAGEMENT TEXTBOOK FOR ALBANY HIGH SCHOOL

PREPARED BY: MARIE WILLIAMS, DIRECTOR III-CURRICULUM, INSTRUCTION AND ASSESSMENT

TYPE OF ITEM: CONSENT

PURPOSE: The purpose of this item is to approve the proposal to adopt instructional materials for a new business management course at Albany High School.

BACKGROUND INFORMATION:

In January 2018 the decision was made to replace the two year VENTURE business program, which had consisted of a design course and an accounting course, with a one year Business Management course. The change was made due to lack of funding, lack of enrollment, and changes in staffing. The new one year course gives students the opportunity to combine Business Management with culinary arts, computer science, graphic design, or other applied or fine arts courses to prepare themselves for success in fields where many workers are self-employed. The course was offered to all students grades 9-12 in February 2018, and 84 students have requested to take it during the 2018-2019 school year. AHS plans to open two sections in the fall of 2018 with a maximum of 64 students in total.

Because the content of the course now focuses less on graphic design and more directly on marketing and business operations, it is desirable to have a more comprehensive textbook. Since the course is aimed at providing students with the skills to run their own small business / be self employed, the textbooks reviewed focused on small business rather than corporate business management.

DETAILS:

A committee of three staff people with business expertise (Miriam Walden, AHS VENTURE teacher; Lourdes Sampayo, AHS culinary arts teacher; and Clell Hoffman, AUSD executive chef) reviewed possible textbooks for the course:

- A. School Store Operations written by DECA Inc. and published in 2005 by South-Western Publications a division of Thompson Corporation.
- B. Entrepreneurship: Owning Your Future 11th Edition, written by Steve Mariotti for NFTE (Network for Teaching Entrepreneurship) and published in 2010 by Prentice Hall, an imprint of Pearson

- C. Small Business Management 17th Edition, written by Justin Longenecker et al and published in 2014 by Cengage Learning.

The AHS review committee is recommending Entrepreneurship: Owning Your Future. The text reviewed was the 11th edition, and the review committee recommends purchasing the available 12th edition to ensure that the purchase has lasting value.

Entrepreneurship: Owning Your Future: This text has larger font size, more color, more pictures and more graphics than Small Business Management. This text will be easier for students to engage with, especially the large number of 9th graders signed up for next year. The text does have an accompanying workbook; however, the review committee does not recommend purchasing the workbook at this time because the current course is envisioned as experiential, and not textbook focused enough to justify the annual expense of a workbook. The case studies in the book are imaginary, but approachable -- they have an “owner” who seems very young, the reader can imagine doing what the owner does, even while they are still in high school or college. The sample business plan and the business planning process described in this book closely mirrors what students will be able to do themselves in a one year course. There is an “advanced business planning” section to give students a sense of how they could “go beyond” if they had more knowledge and experience with a business.

FINANCIAL INFORMATION: The approximate cost for purchasing two class sets of the recommended text is \$5000.

STRATEGIC OBJECTIVES ADDRESSED:



Objective #1: *Assess and Increase Academic Success. Goal: We will provide a comprehensive educational experience with expanded opportunities for engagement, assessment, and academic growth so that all students will achieve their fullest potential.*

<p>RECOMMENDATION: APPROVE THE PROPOSAL TO ADOPT BUSINESS MANAGEMENT TEXTBOOK FOR ALBANY HIGH SCHOOL</p>

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: **APPROVE OVERNIGHT FIELD TRIP:
ALBANY HIGH SCHOOL TO CHAMBER SINGERS RETREAT
IN MONTARA, CA**

PREPARED BY: **MARIE WILLIAMS, DIRECTOR III --
CURRICULUM, INSTRUCTION, AND ASSESSMENT**

TYPE OF ITEM: **CONSENT**

PURPOSE: All field trips and excursions that occur overnight require prior approval from the Board of Education. Requests shall be presented to the Board of Education at least one month in advance of departure unless the timing of the event and the Board meeting schedule do not provide sufficient time for prior approval or make prior approval impractical.

BACKGROUND INFORMATION: Albany High School Chamber Singers has been attending the Chamber Singers Retreat at Point Montara Lighthouse in Montara, CA for the past few years. Students work on team building and music/theory learning in an environment conducive to focused music learning.

DATES OF TRIP: September 7 - 8, 2018

DETAILS: Twenty-seven (27) students of the AHS Chamber Singers, along with their advisor and three (3) parent chaperones, will travel to Montara Lighthouse to participate in an annual retreat. Working in large, sectional, and individual placements allows them to better analyze, synthesize, and evaluate their own progress on the music. They will study three works in the large choir and break off into sectionals. They will stay on site for the duration of the trip. Students clean, cook, and work entirely at the lighthouse site, which will foster and build a great sense of camaraderie and team effort. Transportation to and from their destination will be by five (5) volunteer private drivers.

STRATEGIC GOALS ADDRESSED:



Objective #1: *Assess and Increase Academic Success. Goal: We will provide a comprehensive educational experience with expanded opportunities for engagement, assessment, and academic growth so that all students will achieve their fullest potential.*



Objective #2: *Support the Whole Child. Goal: We will foster the social and emotional growth of all students, implement an array of strategies to increase student engagement, identify individual socio-emotional and behavioral needs, and apply collaborative appropriate interventions.*

FINANCIAL INFORMATION:

The total field trip fee per student is **\$70.00**. Funding will come from fees from families and fundraising in any amount that they can. No student will be denied the opportunity to participate.

<p>RECOMMENDATION: APPROVE THE OVERNIGHT FIELD TRIP: ALBANY HIGH SCHOOL TO CHAMBER SINGERS RETREAT IN MONTARA, CA</p>
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**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: QUARTERLY REPORT ON WILLIAMS UNIFORM COMPLAINTS

**PREPARED BY: CARRIE NERHEIM, DIRECTOR I --
STUDENT SERVICES**

TYPE OF ITEM: CONSENT

PURPOSE:

The purpose of this item is to meet the requirements of California Education Code Section 35186 that states the Superintendent of Schools is to provide a quarterly report to the local Board of Education and to the County Superintendent of Schools summarizing the nature and resolution of complaints filed under the Williams Uniform Complaint Procedures. The report must include the number of complaints by general subject area, the number of resolved and unresolved complaints, and must be publicly presented at a regularly scheduled meeting of the Board of Education.

BACKGROUND INFORMATION:

All districts are required to send a quarterly report to the County Office of Education.

STRATEGIC OBJECTIVES ADDRESSED:



***Objective #1:** Assess and Increase Academic Success. **Goal:** We will provide a comprehensive educational experience with expanded opportunities for engagement, assessment, and academic growth so that all students will achieve their fullest potential.*

RECOMMENDATION: RECEIVE THE QUARTERLY REPORT ON WILLIAMS UNIFORM COMPLAINTS

Quarterly Report on *Williams* Uniform Complaints

[Education Code § 35186]

District: Albany Unified School District

Person completing this form: Carrie Nerheim Title: Director, Student Services

Quarterly Report Submission Date:

(*check one and include year*)

- ☐ April (for Jan-Mar)
☐ July (for Apr-June)
☐ October (for July-Sept)
☐ January (for Oct-Dec)

Date for information to be reported publicly at governing board meeting: _____

Please check the box that applies:

☐ No complaints were filed with any school in the district during the quarter indicated above.

☐ Complaints were filed with schools in the district during the quarter indicated above. The following chart summarizes the nature and resolution of these complaints.

General Subject Area	Total # of Complaints	# Resolved	# Unresolved
Textbooks and Instructional Materials			
Teacher Vacancy or Misassignment			
Facilities Conditions			
TOTALS			

Print Name of District Superintendent

Signature of District Superintendent

Date

Please return completed form to Denise Warren, Administrative Assistant
 ACOE – 313 W. Winton Ave., Hayward, CA 94544-1136
 FAX: (510) 670-3273 E-MAIL: dwarren@acoe.org

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: RECOGNITION OF ALBANY PERFORMING AND FINE ARTS BOOSTERS AS AN AUSD BOOSTER ORGANIZATION AND AUTHORIZATION TO OPERATE AT THE SCHOOL

PREPARED BY: VAL WILLIAMS, SUPERINTENDENT

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE:

Board of Trustees to recognize the Albany Performing and Fine Arts Boosters (PFAB) as an AUSD Booster Organization and authorize PFAB to operate at a school

BACKGROUND INFORMATION: On July 23, 2018, Seth Galvarro, the Incorporator of the Albany Performing and Fine Arts Boosters, formally requested recognition by the AUSD Board of Education to operate as a booster organization under AUSD Board Policy 1230 Community Relations, School Connected Organizations.

DETAILS: The Albany Performing and Fine Arts Boosters (PFAB) came into being through the AHS Theatre Ensemble, a student club that desired more fiscal stability given the higher projection costs that are not usual for most student clubs. PFAB was created as a non-profit to support all un-unrepresented performing and fine arts groups. Each art group would operate as a separate committee under PFAB. PFAB is recognized as a non-profit entity by the State of California. PFAB will be filing for tax exemption with the IRS to complete the formalities of non-profit status.

AUSD Administrative Regulation 1230 Community Relations, School Connected Organizations states that “Persons proposing to establish a school-connected organization shall submit a request to the Board of Education for authorization to operate at the school”.

KEY QUESTIONS AND ANSWERS:

Q. Why does a Booster organization need to be authorized by the School Board?

A. AUSD Administrative Regulation 1230 Community Relations states that persons proposing to establish a school-connected organization shall submit a request to the Board of Education for authorization to operate at the school.

FINANCIAL INFORMATION: N/A

STRATEGIC OBJECTIVES ADDRESSED:



Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

RECOMMENDATION: Recognize the Albany Performing and Fine Arts Boosters as an AUSD Booster organization and authorize PFAB to operate at a school

Albany USD

Administrative Regulation

School-Connected Organizations

AR 1230

Community Relations

Persons proposing to establish a school-connected organization shall submit a request to the Board of Education for authorization to operate at the school. The request for authorization shall contain:

The name and purpose of the organization

The date of application

Bylaws, rules, and procedures under which the organization will operate, including procedures for maintaining the organization's finances, membership qualifications, if any, and an agreement that the group will not engage in unlawful discrimination

The names, addresses, and phone numbers of all officers

A list of specific objectives

An agreement to grant the district the right to audit the group's financial records at any time, either by district personnel or a certified public accountant

The name of the bank where the organization's account will be located and the names of those authorized to withdraw funds

The signature of the principal of the supporting school

Planned use for any money remaining at the end of the year if the organization is not continued or authorized to continue in the future

An agreement to provide evidence of liability insurance as required by law

(cf. 1330 - Use of School Facilities)

Items purchased or monies raised on behalf of the district shall be donated to the district

Requests for subsequent authorization shall be presented to the Superintendent or designee annually, along with a financial statement showing all income and expenditures from fund-raisers. If the Superintendent or designee proposes to deny the request for reauthorization, he/she shall present his recommendation to the Board for approval.

Upon consent of the Superintendent or designee, school-connected organizations may use the school's name, school team's name, or any logo attributable to the school or district.

School-connected organizations are prohibited from hiring or directly paying district employees. Organizations may make donations to the district to cover the costs of additional employees, but only if such positions are approved in advance by the Board. At their discretion, employees may volunteer to perform activities for school-connected organizations during non-working hours.

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

Regulation ALBANY UNIFIED SCHOOL DISTRICT
approved: June 3, 2009 Albany, California

1005 Talbot Ave
Albany, CA 94706
July 23, 2018

Mr. Paul Black, President
Mr. Ross Stapleton-Gray, Vice President
Mr. Charles Blanchard, Member
Mr. Jacob Clark, Member
Ms. Kim Trutane, Member
Albany Unified School District Board of Education c/o
District Administration Offices
819 Bancroft Way
Berkeley, CA 94710

SENT VIA E-MAIL

RE: Recognition of Albany Performing and Fine Arts Boosters as an AUSD Booster Organization

Dear AUSD Board of Education:

On behalf of the Albany Performing and Fine Arts Boosters (PFAB), I formally request recognition by the Board of Education to operate as a Booster organization under Albany Unified Board Policy 1230 Community Relations, School Connected Organizations.

Albany PFAB is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public and charitable purposes. The specific purposes for which this corporation is organized are:

- (A) to promote performing and fine arts education of public school students in Albany, California;
- (B) to engage in education by teaching young people skills in performing and fine arts, teaching skills that may lead to either a career in performing and fine arts or a life-long appreciation of performing and fine arts;
- (C) to supplement the development of the whole student and the self-expression of individual character through performing and fine arts media, beyond traditional academic learning; and
- (D) to engage in any lawful activity in furtherance of the above purposes, but in no event will the corporation engage in any activity prohibited to corporations exempt from federal

taxation under Section 501(c)(3) of the Internal Revenue Code.

PFAB came into being through the Albany High School Theater Ensemble, a student club that desired more fiscal stability given higher production costs that are not usual for most student clubs. Given the District's pending budget issues and recognizing that there may be other fine arts that desire to fundraise for a specific fine art (culinary, pottery, woodworking, etc), PFAB was created as a non-profit to support all un-represented Performing and Fine Arts groups (i.e. not to duplicate efforts of the Albany Music Fund, but rather, complement). Each art group would operate as a separate committee under PFAB. Interested parents (or other persons who have reached age of majority) who choose to actively support the fine art will operate as an independent committee under the PFAB umbrella. In this manner, tax deductible donations are available to other arts, annual non-profit administrative costs are shared between different arts, and up-front incorporation costs are avoided.

PFAB has been recognized by the state of California as a non-profit entity and PFAB will be filing for tax exemption with the IRS in the next month to complete the formalities of non-profit status. The initial appointed board will be finalized too in the next month.

I will be available to discuss this matter with the Board when this matter can be scheduled for the Board's agenda.

Best Regards,



Seth Galvarro
Incorporator
Albany Performing and Fine Arts Boosters

cc: Valerie Williams, AUSD Superintendent
Julie Sen, Executive Assistant to the Superintendent
Heidi Ronfeldt, PFAB Board Candidate
Caroline Papas, PFAB Board Candidate
Seth Galvarro, PFAB Board Candidate
Elena Cole, PFAB Board Candidate

**Albany Performing and Fine Arts Boosters
By-Laws
Albany High School & Albany Middle School
Albany, CA**

Preamble

Albany Performing and Fine Arts Boosters (PFAB) is an organization of individuals dedicated to the development of the whole student and the self-expression of individual character through performing and fine arts media, beyond traditional academic learning, and teaching skills that may lead to either a career in performing and fine arts or a life-long appreciation of performing and fine arts. Albany Performing and Fine Arts Boosters will always keep in mind that successful performing and fine arts programs depend on dedicated students, staff, parents, and community.

Article I - Name

The name of the organization is Albany Performing and Fine Arts Boosters. Albany Performing and Fine Arts Boosters has been organized under the auspices and control of the Albany Unified School District Sports Booster Club guidelines, and is held accountable to all local, state and federal regulations, policies and laws.

Article II - Purpose

The purpose of PFAB is to conduct fundraising efforts to financially support performing and fine arts programs at Albany High School & Middle School through activities, hiring expert services, and the purchase of equipment, supplies, awards, and facilities upkeep & upgrades. In addition, PFAB will foster other activities that build enthusiasm and participation in performing and fine arts.

Article III - Organization

- Incorporation
 - PFAB is a non-profit corporation (501c3) chartered in accordance with its Articles of Incorporation
- Membership
 - There are no general membership fees
 - Officers of the club conduct the club's business and chair its fundraising activities
 - Members confer authority on the Officers and are ultimately responsible for actions of the Officers.
 - No member, or Officer receives pay of any kind for their activities as a Booster.
- Responsibilities
 - Any individual interested in the purposes of PFAB may become a voting member.

Members shall:

 - Attend Monthly Meetings
 - Subscribe to PFAB By-Laws
 - Support AUSD policies, AHS policies, and policies adopted by the PFAB Officers
 - Vote on an aggregate budget at the April meeting
 - Elect PFAB Executive Officers at the May meeting

Article IV - Fiscal Issues

- Fiscal Year
 - The fiscal year of PFAB will be a twelve-month period beginning July 1 and ending on June 30 of each year.
- Fundraising
 - PFAB raises funds for allowed uses after acceptance by the Officers in accordance with Federal Laws, AUSD policies, AHS/AMS policies, and policies adopted by the PFAB officers.
- Committee Specific Funds
 - PFAB provides a non-profit fundraising framework for Performing and Fine Arts at Albany Schools.
 - Individual Fine Arts (e.g. Theater, Culinary, Woodworking, Pottery, etc) will be accepted to PFAB as committees within the PFAB organization after review and acceptance by the Officers of PFAB. These committees will be known as Fine Arts Committees (FACs) and represent the individual performing or fine art.
 - FACs will fundraise for the specific committee purpose and will share the administrative costs of PFAB (thereby reducing overall administrative cost of individual 501(c)3s dedicated to individual Fine Arts).
 - All funds raised for and by individual FACs will be available for use by that committee, less PFAB administrative costs as determined in the annual budget process.
 - FACs will only be able to spend funds raised by the committee. PFAB will only fund a FAC if PFAB has General Funds available and the PFAB Executive Committee agrees to fund the FAC.
 - Upon dissolution of a FAC within PFAB, all remaining funds will become a part of the PFAB General Fund or will be donated to a 501(c)3 non-profit in line with the FAC's performing or fine art.
- Funds Distribution Process
 - PFAB and FACs generate income from fundraising efforts, donations, and corporate sponsors.
 - An FAC that has contributed funds to PFAB (or for which fundraising efforts have been explicitly made to support) will submit a budget plan to the PFAB Executive Committee and Treasurer.
 - As FAC fundraising efforts and FAC-specific funds allow, receipts may be presented for reimbursement in accordance with the FAC budget plan.
 - Non-budget items for FAC funds must be pre-approved with the FAC leadership before an expenditure is made.
 - All PFAB General Funds and FAC specific funds will be held by PFAB.
 - All expenditures from the PFAB account (that holds both PFAB & FAC funds) in excess of \$500.00 must have prior approval of FAC leadership.
- Capital Fundraising
 - On an as-needed basis (Ad Hoc), PFAB will participate in capital fundraising activities for Equipment and Facilities that promote Performing and Fine Arts and are in line with PFAB purpose and fiscal and legal responsibilities.

- PFAB will create individual Capital Fundraising (Ad Hoc) accounts to support individual committee capital fundraising efforts should that committee desire to undertake a capital fundraising campaign specific to that committee.

Article V - Officers

Duties of the Officers shall include the following:

- President
 - Prepare and post an agenda one week prior to the next scheduled meeting.
 - Preside at all meetings of PFAB and of the Executive Committee.
 - Be the principal officer of PFAB and guide its functions.
 - Serve as a liaison between PFAB, AHS & AMS Administration, school board, and community organizations.
 - Checks in excess of \$500 require the President to co-sign.
- Vice-President
 - Assist the President and act for him/her in his/her absence or by discretion.
 - Perform such duties as the President may direct.
 - Chair the Nominating Committee for the Executive Committee.
 - Chair the Communication Committee.
- Treasurer
 - Act as custodian of all funds in cooperation with the PFAB Bookkeeper
 - From the annual budget meeting, aggregate all approved FAC budget plans and prepare the annual PFAB budget.
 - Coordinate the deposit of all money received with the PFAB Bookkeeper into the PFAB account(s)
 - All checks must be signed by the Treasurer or President. Checks in excess of \$500 require both the Treasurer and President's signature.
 - File all required State and Federal documents at the end of each fiscal year.
- Secretary
 - Act as custodian of the records of PFAB, except for the accounts of the Treasurer.
 - Conduct the official correspondence of PFAB and maintain a file for all such correspondence.
 - Keep all records of all meetings of PFAB and performs such other duties as the President may direct, including written notice of meetings.
 - In absence of the Secretary, the President shall designate a member to take the minutes of the meeting.
 - Post meeting minutes to the PFAB website (when established) no later than one week after each meeting.
 - Send all updates of the PFAB website to the Vice-President and Faculty Sponsors.
- Ex-Officio Officers
 - The immediate past President, AHS / AMS Principals, and Faculty Sponsors shall act as ex-officio Officers of PFAB. Ex-officio Officers are advisory, non-voting members.

Article VI - Terms of Office

- President- Shall serve a term of two years beginning July 1 and ending on June 30 of the second year of term.

- All other Officers will serve a term of one year beginning July 1 and ending on June 30.
- A slate of Officers will be presented at the April meeting by the Executive Committee. Nominations will also be taken from the general membership.
- Officers shall be elected by a majority vote of members present at the May meeting.

Article VII - Organization and Committees

Governance

Until multiple FACs are represented by PFAB, the initial FAC will fulfill the roles of PFAB. When two or more FAC are represented by PFAB, the FAC committee will then be supported.

- **Executive Committee**
 - The Executive Committee shall consist of all Officers and shall act on procedural matters brought to its attention by the General Membership or any officer.
 - The Executive Committee will monitor fundraising efforts and provide updates to the General Membership.
 - The Executive Committee will create policies relevant to FAC and general fundraising efforts.
 - The Executive Committee will review and approve matters to be brought to a General Membership vote.
 - The President is the chairperson of the Executive Committee.
- **Nominating Committee**
 - The Nominating Committee chaired by the Vice-President helps with the recruitment of candidates for next year's Executive Committee.
- **General Membership Committee**
 - The General Membership Committee shall consist of all members in attendance at a regularly scheduled meeting of PFAB.
 - Each member of the General Membership Committee has a vote in all matters brought up for a vote at the meeting.
 - A majority vote of the General Membership Committee is necessary to pass any motion brought before the General Membership Committee.
 - The President holds the tie-breaking vote.
- **Budget Subcommittee**
 - In partnership with FAC, the March monthly meeting will be designated as the Budget and Planning Meeting. FACs will propose & present budgets, which will be approved at the April meeting.
- **Capital Fundraising Committee(s) (as needed)**
 - PFAB will create Capital Fundraising Committees and separate fundraising bank accounts for Capital Fundraising as needed and as outlined in Article IV.
- **Bylaw Review Committee**
 - Bylaws will be reviewed at a minimum every two years to ensure PFAB is operating in accordance with the Bylaws. Updates to the bylaws will be proposed and discussed, then tabled for one month before a general vote occurs.
- **Specific Fine Art Committees (FAC) - for 2+ Fine Arts (*The following roles are not required if FAC only supports one (1) Fine Art*)**
 - Fine Art Operating Committees will self-organize and petition the Executive Committee to be recognized as a PFAB Fine Art Committee (FAC)

- FACs may originate from a student club or may be sourced from a group of committed individuals willing to organize to support a Fine Art in AUSD schools.
- FACs will have the following leadership positions:
 - Committee Chair
 - Prepare and post an agenda one week prior to the next scheduled Committee meeting.
 - Preside at all Committee and FAC leadership meetings.
 - Be the principal officer of the FAC and guide its functions.
 - Serve as a liaison between PFAB, AHS & AMS Administration, school board, and community organizations.
 - Approve expenditure of Committee funds in excess of \$500.
 - FAC Controller
 - Act as custodian of FAC funds in cooperation with the PFAB Treasurer and Bookkeeper
 - Coordinate the transfer of all money received from fundraising events to the PFAB Treasurer or Bookkeeper for deposit to PFAB accounts, earmarked for the FAC.
 - Approve FAC expenditures and forward to PFAB Executive Committee.
 - Secretary
 - Act as custodian of the records of FAC, except for the operations of the Controller.
 - Conduct the official correspondence of FAC and maintain a file for all such correspondence.
 - Keep all records of all meetings of FAC and perform such other duties as the Committee Chair may direct, including written notice of meetings.
 - In absence of the Secretary, the Committee Chair shall designate a member to take the minutes of the meeting.
 - Post meeting minutes to the FAC page of the PFAB website (when established) no later than one week after each meeting.
 - Send all updates to the FAC Leadership, PFAB Executive Committee and Faculty Sponsors.
 - Other Committee Positions
 - The FAC will create other committee positions as is necessary for the operations of that committee.
- FAC Fundraising
 - FACs will create fundraising projects to support the raising of funds for their Fine Art and will work in partnership with AUSD and PFAB.
- Performances / Showcases
 - FACs will sponsor and facilitate as needed, performances and showcases for the display of students work.
- Additional Activities
 - FACs will facilitate other activities related to their Fine Art as desired and approved by the FAC Leadership.

Article VIII - Representatives

Each FAC shall appoint a representative for their Fine Art. The representative will be known as the "liaison" for _____ activity. The duties of this representative will be to:

- Attend PFAB meetings as a representative of the specific activity.
- Be a liaison between the activity and Albany Performing and Fine Arts Boosters.
- Contact other parents in the FAC activity to assist in event promotions.

Representatives are not to approach PFAB for funds. This shall be done by the FAC leadership.

Article IX - Amendments and Rules

PFAB shall be administered and regulated by these by-laws. These bylaws may be amended by a majority vote of the General Membership Committee. As organization size requires, Robert's Rules of Order shall govern the conducting of all meetings. The meetings shall focus on PFAB related fundraising activities, not school policies, or other non-PFAB related items.

- Vacancies
 - In the event of a vacancy of the President, the Vice-president shall serve the remainder of the term as acting President and, upon completion of the term, shall assume Presidency in normal order. In the event of a vacancy of the Treasurer, the duties of the Treasurer shall be assumed by the President or his/her appointee.
- Resignation
 - An officer may resign by written notice to PFAB. The resignation is effective upon receipt by PFAB or a subsequent time as set forth in the notice of resignation.

ARTICLES OF INCORPORATION
OF
ALBANY PERFORMING AND FINE ARTS BOOSTERS

41709196

FILED
Secretary of State
State of California

JUL 02 2018

- ONE:** The name of this corporation is **Albany Performing and Fine Arts Boosters**.
- TWO:** This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public and charitable purposes. The specific purposes for which this corporation is organized are:
- (A) to promote performing and fine arts education of public school students in Albany, California;
 - (B) to engage in education by teaching young people skills in performing and fine arts, teaching skills that may lead to either a career in performing and fine arts or a life-long appreciation of performing and fine arts;
 - (C) to supplement the development of the whole student and the self-expression of individual character through performing and fine arts media, beyond traditional academic learning; and
 - (D) to engage in any lawful activity in furtherance of the above purposes, but in no event will the corporation engage in any activity prohibited to corporations exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code.
- THREE:** The name and address of this corporation's initial agent of service of process is Seth Galvarro, 1005 Talbot Avenue, Albany, CA 94706.
- FOUR:** The initial street and mailing address of this corporation is 1005 Talbot Avenue, Albany, CA 94706.
- FIVE:**
- (A) This corporation is organized and operated exclusively for the promotion of performing and fine arts, and for educational and charitable purposes, with the meaning of Section 501(c)(3) of the Internal Revenue Code.
 - (B) Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on
 - (1) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code or
 - (2) by a corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

- (C) No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of, or in opposition to, any candidate for public office

SIX: The property of this corporation is irrevocably dedicated to the promotion of performance and fine arts, and to charitable and educational purposes. No part of the net income or assets of the organization shall ever inure to the benefit of any director, officer, or member thereof or to the benefit of any private person.

SEVEN: On the dissolution or winding up of the corporation, its assets remaining after payment of, or provision for payment of, all debts and liabilities of this corporation, shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for educational or charitable purposes for Albany Unified School District students, and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

Date: JUNE 11, 2018


Seth Galvarro, Incorporator



I hereby certify that the foregoing transcript of 2 page(s) is a full, true and correct copy of the original record in the custody of the California Secretary of State's office.

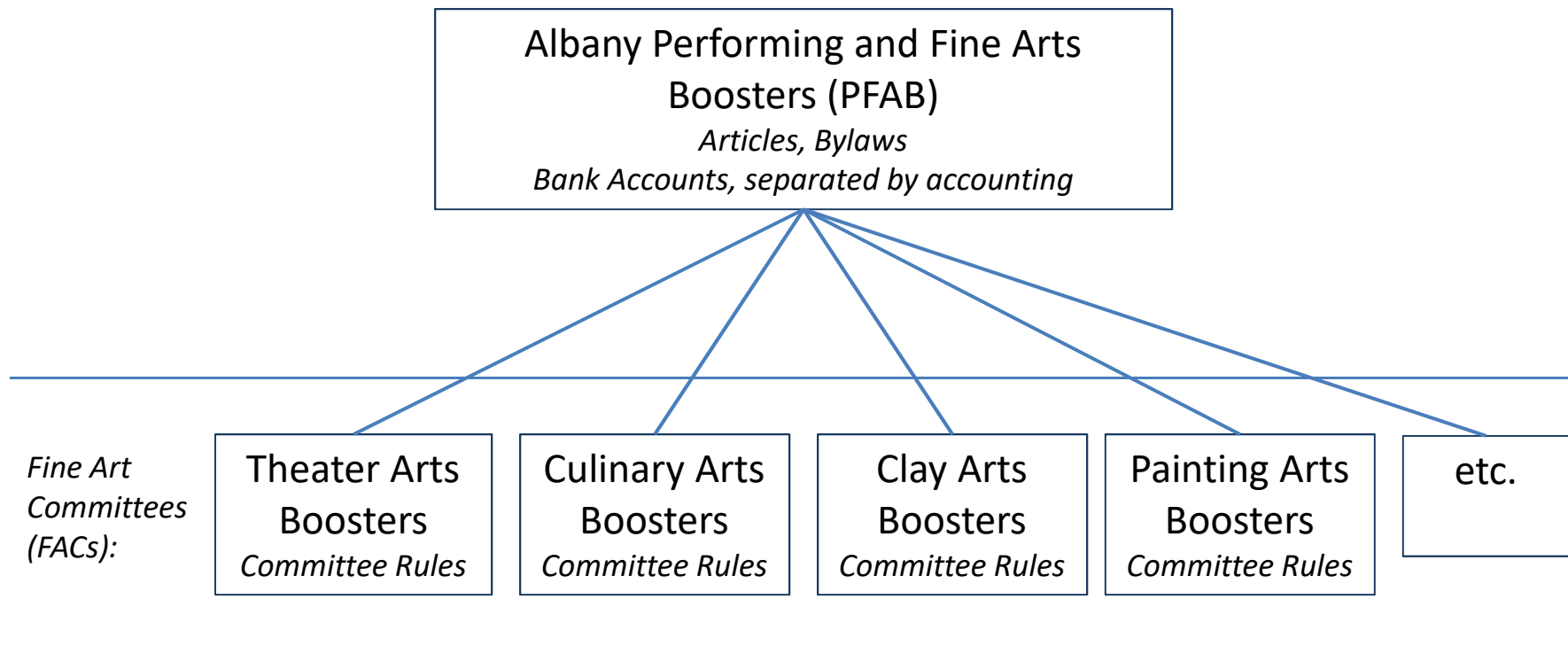
JUL 12 2018 *olo*

Date: _____

Alex Padilla

ALEX PADILLA, Secretary of State

STRUCTURE:





Seth Galvarro <pfabtreasurer@gmail.com>

Request for "signature" to support Albany Performing and Fine Arts Boosters before Aug

Alexia Ritchie <aritchie@ausdk12.org>

Fri, Aug 3, 2018 at 10:04 AM

To: pfabtreasurer@gmail.com

Cc: Deborah Brill <dbrill@ausdk12.org>

Hi Seth,

As Principal of Albany High School, please consider this as my signature in support of Albany Performing and Fine Arts Boosters in accordance with AUSD's "Administrative Regulation 1230, Community Relations, School-Connected Organizations" I wish this group much success in their efforts to support our vibrant and vital P&FA events, classes and the students who benefit from these opportunities.

Sincerely,

Alexia Ritchie, Principal

[Quoted text hidden]

--

Alexia Ritchie, Principal

Albany High School

[603 Key Route Blvd](#)[Albany, CA 94706](#)

(510) 558-2500

<http://ahs.ausdk12.org/home>



Seth Galvarro <pfabtreasurer@gmail.com>

Request for "signature" to support Albany Performing and Fine Arts Boosters before Aug

Deborah Brill <dbrill@ausdk12.org>
To: Alexia Ritchie <aritchie@ausdk12.org>
Cc: pfabtreasurer@gmail.com

Mon, Aug 6, 2018 at 11:05 AM

Dear Seth,

As Principal of AHS/AMS, please consider this as my signature in support of Albany Performing and Fine Arts Boosters in accordance with AUSD's "Administrative Regulation 1230, Community Relations, School-Connected Organizations." It is essential that we continue to provide a fine arts education for Albany's students. This organization can help ensure that this happens.

Sincerely,

Deborah Brill, AMS Principal

[Quoted text hidden]

--

Deborah Brill, Principal
Albany Middle School
[1259 Brighton Ave.](#)
[Albany, CA 94706](#)
[510-558-3612](#)

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: BUDGET ADVISORY COMMITTEE

PREPARED BY: JACKIE KIM, CHIEF BUSINESS OFFICIAL

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE:

Board of Trustees to determine the number of members of the Budget Advisory Committee, the stakeholder groups to be represented, the purpose and charge of the Committee, and the date when the Board will receive the Committee's report

BACKGROUND INFORMATION:

At the October 10, 2017 Regular Board of Education meeting, the Board agreed to the creation of an ad-hoc Budget Input Assessment Committee that would meet in November and December and not be a Board appointed committee. At the December 5, 2017 Special Board of Education meeting, the Board received an update of the Budget priorities Process and agreed to a longer time frame for the Budget Priorities Process and agreed to a longer time frame for the committee to work through data to develop recommendations. At the January 23, 2018 Regular Board of Education meeting, the Board provided direction to staff on developing a Board Appointed Budget Committee. At the February 13, 2018 Regular Board of Education meeting, the School Board discussed the appointment of a Budget Advisory Committee and tabled the item so that the Board could 1) discuss how the committee will be selected and 2) Board take action on the creation of the committee. The specific charge of the committee must also be determined.

DETAILS:

Per the Maddy Act, Board Appointed Committee positions must be posted for 10 work days. Prior to the posting per the Maddy Act, Staff needs clarification from the School Board to determine:

1. The number of committee members
2. What stakeholder groups the committee members will represent
3. The specific purpose and duties of the committee
4. The date at which the Board of Education will receive the Committee's Advisory Report
5. The term of the committee

It is the recommendation of the Superintendent and Chief Business Official that the Board:

1. Create a Budget Advisory Committee of no more than eight (8) members comprising of the following:
 - a. 2 parents (preferably one representing elementary and one representing secondary schools)
 - b. 1 Albany Teachers Association representative
 - c. 1 CSEA representative
 - d. 1 SEIU representative
 - e. 1 Site Administrator representative
 - f. Chief Business Official
 - g. Superintendent - Facilitator
2. Purpose of the committee: Advise the Board on areas of the budget to be reduced to meet the Board's goal to balance the budget.
3. Committee's Advisory Report to be made no later than the November 1, 2018 to allow the Board of Education to review and discuss the report at the November 13, 2018 Board of Education meeting and to take action at the November 27, 2018 Board of Education meeting.

KEY QUESTIONS AND ANSWERS:

Q: Do Board Appointed Committees follow the Brown Act requirements?

A: Yes, the Budget Advisory Committee is a Board Appointed Committee and will follow the Brown Act. At least 72 hours prior to a regular meeting, the body must post an agenda containing a brief general description of each item to be discussed or transacted at the meeting. The purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body.

Q: Will there be an opportunity for public comment at the advisory meetings?

A: Per the Brown Act, every agenda for a regular meeting shall provide an opportunity for members of the public to directly address the legislative body on any item under the subject matter jurisdiction of the body.

FINANCIAL INFORMATION: N/A

STRATEGIC OBJECTIVES ADDRESSED:



Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

RECOMMENDATION: Board of Trustees to determine the number of members of the Budget Advisory Committee, the stakeholder groups to be represented, the purpose and charge of the Committee, and the date when the Board will receive the Committee's report

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

**ITEM: INDEPENDENT CONTRACTOR AGREEMENT WITH CAS
INSPECTIONS INC. FOR INSPECTOR OF RECORD SERVICES FOR
THE ALBANY HIGH SCHOOL ADDITION PROJECT**

PREPARED BY: JACKIE KIM, CHIEF BUSINESS OFFICIAL

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE: To review and approve the Independent Contractor Agreement with CAS Inspections Inc. for Inspector of Record (IOR) Services for the Albany High School Addition Project as IOR services are required by the Division of the State Architect (DSA).

BACKGROUND INFORMATION/DETAILS: Public schools are a function of the State of California. The State of California has a division called the Division of the State Architect (DSA) that provides rules and regulations specific to Structural, Safety, and Accessibility for public buildings, including schools and hospitals. DSA issues licenses to certified inspectors across the State to help ensure buildings meet all the code requirements set by the State. An Inspector of Record provides the official oversight for the State.

DETAILS: DSA Inspector of Record Services for the Albany High School Addition Project.

Expected Timeframe: August 2018 to September 2019

Services include:

- Perform inspections
- Coordination:
 - To develop DSA Application materials
 - To develop Inspection schedules and documentation
 - For inspection by the Special Inspector, Geo-technical Engineer, and the Structural Engineer
 - With the District Representatives to:
 - Review Construction Progress Schedules
 - Review Contractor Invoices
 - Prepare and Maintain Inspection Documentation for the District and DSA

KEY QUESTIONS/ANSWERS:

Q: What is an Inspector of Record?

A: Public schools are a function of the State of California. The State of California has a division called the Division of the State Architect (DSA) that provides rules and regulations specific to Structural, Safety, and Accessibility for public buildings, including schools and hospitals. DSA provides licenses to inspectors across the State to help ensure buildings meet all the code requirements set by the State. An Inspector of Record provides the official oversight for the State.

FINANCIAL INFORMATION: Total Agreement: \$226,800.00 from Measure B Fund

STRATEGIC OBJECTIVES ADDRESSED:



Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

<p>RECOMMENDATION: Approve Independent Contractor Agreement with CAS Inspections Inc. for Inspector of Record (IOR) Services for the Albany High School Addition Project</p>

**ALBANY UNIFIED SCHOOL DISTRICT
INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

This agreement is hereby entered into this 15th day of August, 2018 in the County of Alameda, State of California, by and between the Albany Unified School District, hereinafter referred to as "DISTRICT," and CAS Inspection Inc.

CONTRACTOR

373 Pebble Beach Drive

MAILING ADDRESS

Rio Vista	CA	94571
CITY	STATE	ZIP

hereinafter referred to as 'CONTRACTOR.' DISTRICT and CONTRACTOR shall be collectively referred to as the Parties.

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

Provide DSA Inspector Of Record Services per DSA form IR A-8 for the Albany High School New Classroom Building at 603 Key Route, Albany.

Generally coordinate with the District and thier representatives to develop DSA application materials, develop inspection schedules and inspection documentation, perform inspections and coordinate inspections by the special inspector, the geo-technical engineer and thier lab and the structural engineer for structural observations. Coordinate with the District Represenative to review Construction Progress Schedules and Contractor Invoices, and prepare and maintain Inspection Documentation as required by DSA form IR A-8.

Pricing is based on 12 months of construction where the IOR will be full time plus an additional 240 hours to cover (3) part time months, plus an allowance for

overtime work.

2. Contractor Qualifications. Contractor represents and warrants to District that Contractor and all of Contractor's employees, agents or volunteers (the "Contracted Parties") have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. If any of the Services are performed by any of Contractor's Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor.

3. Term. CONTRACTOR shall:

☐ Provide services under this AGREEMENT on the following specific date's _____, _____, _____, _____, _____, _____, _____, and complete performance no later than _____;

OR

☒ Commence providing services under this AGREEMENT on August 15, 2018 and complete performance no later than September 6, 2019.

There shall be no extension of the Term of this Agreement without the express written consent from all parties. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contracted Parties. In the event of early termination, Contractor shall be paid for satisfactory work 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 time period for the effectiveness of such termination. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially violates any of the terms of this Agreement, any act or omission by Contractor or the Contracted 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 on account of Contractor's insolvency. Such termination shall be effective immediately upon Contractor's receipt of said notice.
5. Compensation. DISTRICT agrees to pay the CONTRACTOR for services satisfactorily rendered pursuant to this AGREEMENT. DISTRICT shall pay CONTRACTOR according to the following terms and conditions:

- a. Such compensation shall be based on:
- ☒ An hourly rate of \$ 105 for a total amount of 2,160 hours.
- ☐ A daily rate of \$ _____ for a total amount of _____ days.
- ☐ \$ _____
- b. Payment method shall be:
- ☐ Upon Completion.
- ☐ Date of Service
- ☒ **Other (Specify):** invoice monthly

Any work performed by Contractor in excess of said amount shall not be compensated.

Payment shall be made upon approval of DISTRICT and receipt of an invoice from CONTRACTOR one copy clearly marked original. CONTRACTOR's invoice shall be sent to: Albany Unified School District, Attention: Accounts Payable, 1051 Monroe Street, Albany, CA, 94706.

6. 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 of the Contracted Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contracted Parties by District. Furthermore, any Equipment or workmanship that does not conform to the regulations of this Agreement may be rejected by District and in such case must be promptly remedied or replaced by Contractor at no additional cost to District and subject to District's reasonable satisfaction.
7. California Residency. Contractor and the Contracted Parties shall be residents of the State of California.
8. Indemnity. Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Education, members of the Board of Education (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 the performance of this Agreement, including but not limited to Contractor's or the Contracted Parties' use of the site; Contractor's or the Contracted Parties' performance of the Services; Contractor's or the Contracted Parties' breach of any of the representations or warranties contained in this Agreement; injury to or death of persons or damage to property or delay or damage to District or the District Parties; or for any act, error, omission, negligence, or willful misconduct of Contractor, the Contracted Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. 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.

9. Insurance. Without in any way limiting Contractor's liability or indemnification obligations set forth in Paragraph 8 above, District reserves the right to require contractor to procure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits not less than \$1,000,000.00 each occurrence and \$1,000,000.00 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$100,000.00 each occurrence and \$100,000.00 in the aggregate; if applicable; and neither Contractor nor any of the Contracted Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insured. 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 any of the required insurance is not reinstated, District may, at its sole option, terminate this Agreement. All of the policies shall also 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.
10. Independent Contractor Status. Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that s/he and the Contracted Parties shall not be considered officers, employees, agents, partners, or joint ventures 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.
11. 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 compensation 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 Contracted Parties and otherwise in connection with this Agreement.
12. Fingerprinting/Criminal Background Investigation Certification. Contractor and the Contracted Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:

☒ Contractor and the Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted Parties have **more than limited contact** (as

determined by District) with District students during the Term of this Agreement:

[Attach and sign additional pages, as needed.]

☐ All of the Contracted Parties noted above, at no cost to District, have completed background checks and have been fingerprinted under procedures established by the California Department of Justice and the Federal Bureau of Investigation, and the results of those background checks and fingerprints reveal that none of these Contracted Parties have been arrested or convicted of a serious or violent felony, as defined by the California Penal Code.

Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information, including additional personnel, which differs in any way from the representations set forth above, Contractor shall immediately notify District and prohibit any new personnel from having any contact with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any such contact is permissible.

13. Tuberculosis Certification. Contractor and the Contracted 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:

☒ Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted 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:

Contractor shall maintain on file the certificates showing that the Contracted 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 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 such contact is permissible.

14. 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.

15. Assignment. 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.
16. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Contractor and District and their respective successors and assigns.
17. 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.
18. 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.
19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate court in Alameda County, California.
20. Non-Discrimination. Contractor shall not discriminate on the basis of a person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation in employment or operation of its programs.
21. 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 mail to the last business address known to the person who sends the notice.
22. 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.
23. Attorney Fees. If any legal action is taken to 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.

24. Liability of District. Notwithstanding anything stated herein to the contrary, District shall not be liable for any special, consequential, indirect or incident damages, including but not limited to lost profits in connection with this Agreement.
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. Subject To Approval of Board. This Agreement confers no legal or equitable rights until it is approved by the District Board of Education at a lawfully conducted public meeting.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

DISTRICT:

ALBANY UNIFIED SCHOOL DISTRICT

By: _____
 Name: Valerie Williams
 Title: Superintendent

Address for District Notices:

Albany Unified School District
 904 Talbot Ave.
 Albany, CA 94706

Date of Board Approval: August 14, 2018

CONTRACTOR: CAS Inspection, Inc

Tax Identification Number: _____

By _____
 Name: Neil Brodhead
 Title: Owner

Address for Contractor Notices:

CAS Inspection, Inc
373 Pebble Beach Drive
Rio Vista, CA 94571

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: INDEPENDENT CONTRACTOR AGREEMENT WITH NINYO & MOORE FOR GEOTECHNICAL, MATERIALS TESTING, AND SPECIAL TESTING SERVICES FOR THE ALBANY HIGH SCHOOL ADDITION PROJECT

PREPARED BY: JACKIE KIM, CHIEF BUSINESS OFFICIAL

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE: To review and approve the Independent Contractor Agreement with Ninyo & Moore for Geotechnical, Materials Testing, and Special Testing Services for the Albany High School Addition Project as these services are required by the Division of the State Architect (DSA).

BACKGROUND INFORMATION/DETAILS: Public schools are a function of the State of California. The State of California has a division called the Division of the State Architect (DSA) that provides rules and regulations specific to Structural, Safety, and Accessibility for public buildings, including schools and hospitals. The State of California issues licenses to Geotechnical Engineers and Special Inspectors to help ensure construction of buildings meet all the code requirements set by the State.

DETAILS: DSA Geotechnical Engineer and Laboratory of Record Services for the Albany Middle School Annex Project. Expected Timeframe: August 2018 to September 2019

Services include:

- Task 1 – Geotechnical Observation & Soils Testing Services
- Task 2 – Special Inspection & Materials Testing Services
- Task 3 – Laboratory Analysis
- Task 4 – Project Management

KEY QUESTIONS/ANSWERS:

Q: What is a Geotechnical Engineer and Special Inspector?

A: Public schools are a function of the State of California. The State of California has a division called the Division of the State Architect (DSA) that provides rules and regulations specific to Structural,

Safety, and Accessibility for public buildings, including schools and hospitals. The State of California issues licenses to Geotechnical Engineers and Special Inspectors to help ensure construction of buildings meet all the code requirements set by the State.

FINANCIAL INFORMATION: Total Agreement: \$70,253.00 from Measure B Fund

STRATEGIC OBJECTIVES ADDRESSED:



Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

<p>RECOMMENDATION: Approve Independent Contractor Agreement with Ninyo & Moore for Geotechnical, Materials Testing, and Special Testing Services for the Albany High School Addition Project</p>

**ALBANY UNIFIED SCHOOL DISTRICT
INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

This agreement is hereby entered into this 15th day of August, 2018 in the County of Alameda, State of California, by and between the Albany Unified School District, hereinafter referred to as "DISTRICT," and Ninyo & Moore Geotechnical and Environmental Science Consultants

CONTRACTOR

2149 O'Toole Ave, Suite 30

MAILING ADDRESS

San Jose	CA	95131
CITY	STATE	ZIP

hereinafter referred to as 'CONTRACTOR.' DISTRICT and CONTRACTOR shall be collectively referred to as the Parties.

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

Update project Geotechnical report in response to CGS comments and provide Special Inspection Services per DSA form 103 under general direction of DSA's IOR, the District and its representatives for the the Albany High School New Classroom Buiding at 603 Key Route Blvd. Generally coordinate with the IOR, the District representatives and the Contractor to establish special inspection schedules in accordance with the projects DSA form 103 inspection requirements. Perform special inspections and generate inspection reports and affidavit letters. Coordinate with the Structural Engineer of Record on required structural observations, work with the IOR to review Construction Progress Schedules maintain Inspection Documentation for the district and DSA.

2. Contractor Qualifications. Contractor represents and warrants to District that Contractor and all of Contractor's employees, agents or volunteers (the "Contracted Parties") have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. If any of the Services are performed by any of Contractor's Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor.

3. Term. CONTRACTOR shall:

☐ Provide services under this AGREEMENT on the following specific date's _____, _____, _____, _____, _____, _____, _____, and complete performance no later than _____;

OR

☒ Commence providing services under this AGREEMENT on August 15, 2018 and complete performance no later than August 6, 2019.

There shall be no extension of the Term of this Agreement without the express written consent from all parties. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contracted Parties. In the event of early termination, Contractor shall be paid for satisfactory work 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 time period for the effectiveness of such termination. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially violates any of the terms of this Agreement, any act or omission by Contractor or the Contracted 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 on account of Contractor's insolvency. Such termination shall be effective immediately upon Contractor's receipt of said notice.
5. Compensation. DISTRICT agrees to pay the CONTRACTOR for services satisfactorily rendered pursuant to this AGREEMENT. DISTRICT shall pay CONTRACTOR according to the following terms and conditions:

- a. Such compensation shall be based on:
- ☐ An hourly rate of \$ _____ for a total amount of _____ hours.
- ☐ A daily rate of \$ _____ for a total amount of _____ days.
- ☒ **\$ 70,253 (Includes Alt #1 and Alt #2)**
- b. Payment method shall be:
- ☐ Upon Completion.
- ☐ Date of Service
- ☒ **Other (Specify):** invoice monthly

Any work performed by Contractor in excess of said amount shall not be compensated.

Payment shall be made upon approval of DISTRICT and receipt of an invoice from CONTRACTOR one copy clearly marked original. CONTRACTOR's invoice shall be sent to: Albany Unified School District, Attention: Accounts Payable, 1051 Monroe Street, Albany, CA, 94706.

6. 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 of the Contracted Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contracted Parties by District. Furthermore, any Equipment or workmanship that does not conform to the regulations of this Agreement may be rejected by District and in such case must be promptly remedied or replaced by Contractor at no additional cost to District and subject to District's reasonable satisfaction.
7. California Residency. Contractor and the Contracted Parties shall be residents of the State of California.
8. Indemnity. Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Education, members of the Board of Education (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 the performance of this Agreement, including but not limited to Contractor's or the Contracted Parties' use of the site; Contractor's or the Contracted Parties' performance of the Services; Contractor's or the Contracted Parties' breach of any of the representations or warranties contained in this Agreement; injury to or death of persons or damage to property or delay or damage to District or the District Parties; or for any act, error, omission, negligence, or willful misconduct of Contractor, the Contracted Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. 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.

9. Insurance. Without in any way limiting Contractor's liability or indemnification obligations set forth in Paragraph 8 above, District reserves the right to require contractor to procure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits not less than \$1,000,000.00 each occurrence and \$1,000,000.00 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$100,000.00 each occurrence and \$100,000.00 in the aggregate; if applicable; and neither Contractor nor any of the Contracted Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insured. 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 any of the required insurance is not reinstated, District may, at its sole option, terminate this Agreement. All of the policies shall also 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.
10. Independent Contractor Status. Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that s/he and the Contracted Parties shall not be considered officers, employees, agents, partners, or joint ventures 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.
11. 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 compensation 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 Contracted Parties and otherwise in connection with this Agreement.
12. Fingerprinting/Criminal Background Investigation Certification. Contractor and the Contracted Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:

☒ Contractor and the Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted Parties have **more than limited contact** (as

determined by District) with District students during the Term of this Agreement:

[Attach and sign additional pages, as needed.]

☐ All of the Contracted Parties noted above, at no cost to District, have completed background checks and have been fingerprinted under procedures established by the California Department of Justice and the Federal Bureau of Investigation, and the results of those background checks and fingerprints reveal that none of these Contracted Parties have been arrested or convicted of a serious or violent felony, as defined by the California Penal Code.

Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information, including additional personnel, which differs in any way from the representations set forth above, Contractor shall immediately notify District and prohibit any new personnel from having any contact with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any such contact is permissible.

13. Tuberculosis Certification. Contractor and the Contracted 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:

☒ Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted 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:

Contractor shall maintain on file the certificates showing that the Contracted 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 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 such contact is permissible.

14. 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.

15. Assignment. 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.
16. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Contractor and District and their respective successors and assigns.
17. 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.
18. 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.
19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate court in Alameda County, California.
20. Non-Discrimination. Contractor shall not discriminate on the basis of a person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation in employment or operation of its programs.
21. 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 mail to the last business address known to the person who sends the notice.
22. 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.
23. Attorney Fees. If any legal action is taken to 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.

24. Liability of District. Notwithstanding anything stated herein to the contrary, District shall not be liable for any special, consequential, indirect or incident damages, including but not limited to lost profits in connection with this Agreement.
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. Subject To Approval of Board. This Agreement confers no legal or equitable rights until it is approved by the District Board of Education at a lawfully conducted public meeting.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

DISTRICT:

ALBANY UNIFIED SCHOOL DISTRICT

By: _____
 Name: Valerie Williams
 Title: Superintendent

Address for District Notices:

Albany Unified School District
 904 Talbot Ave.
 Albany, CA 94706

Date of Board Approval: August 15, 2018

CONTRACTOR: David Seymour

Ninyo & Moore

Tax Identification Number: _____

By _____

Name: David Seymour
 Title: Principal Engineering Geologist

Address for Contractor Notices:

David Seymour - Ninyo & Moore

2149 O'Toole Ave, Suite 30

San Jose, CA 95131

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: PURCHASE OF EQUIPMENT AND PROGRAMMING SERVICES FROM OJO TECHNOLOGY FOR A SECURITY CAMERA SYSTEM AND ACCESS CONTROL SYSTEM FOR THE ALBANY MIDDLE SCHOOL ANNEX PROJECT

PREPARED BY: JACKIE KIM, CHIEF BUSINESS OFFICIAL

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE: To review and approve the purchase of equipment and programming services from Ojo Technology for a security camera system and access control system for the Albany Middle School Annex project

BACKGROUND INFORMATION/DETAILS: The California Multiple Award Schedules (CMAS) is available to state and local government agencies, and offers a wide variety of commodities, non-IT services and information technology products and services at prices which have been assessed to be fair, reasonable and competitive. By utilizing CMAS pricing schedules, the District can procure the equipment and services required for the security camera system and the access control system for the Albany Middle School Annex project from Ojo Technology, a CMAS listed vendor. In addition to the equipment and programming provided by Ojo Technology, the raceways, wiring and mounting will be completed by Rodan Builders.

DETAILS: As described in the attached Proposals, the District will purchase equipment and programming services for a security camera system and an access control system from Ojo Technology utilizing CMAS pricing.

- Sub-total for video camera equipment and services (Exhibit A): \$43,946.10
 - Sub-total for access control equipment and services (Exhibit B): \$42,403.02
- Total Purchase Order Amount: \$86,349.12

FINANCIAL INFORMATION: Total Agreement: \$86,349.12 from Measure E Fund.

STRATEGIC OBJECTIVES ADDRESSED:

Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

RECOMMENDATION: Approve the purchase of equipment and programming services from Ojo Technology for a security camera system and access control system for the Albany Middle School Annex project.

2018

EXHIBIT A



Milestone Video – Repair, Moves, Additions & Changes

PREPARED FOR:

Albany Unified School District
1051 Monroe St.
Albany, CA 94706



Ojo Technology Do not copy (physically, electronically or in any other media)
Without the express written permission of Ojo Technology.

Ojo Technology
103 Hammond Ave
Fremont, CA 94539
(510) 249-9540

June 15, 2018

Dax Kajiware, Technology Director
Albany Unified School District
1051 Monroe St.
Albany, CA 94706
(510) 558-8195

Project: **Middle School Annex Video Surveillance**

Thank you for the opportunity to meet your building service needs and for the confidence you have placed in us. Our goal is your complete satisfaction. Please call on us whenever we can be of further assistance.

Per our recent conversation/job walk in which we discussed the scope of work incorporated within this project, I am respectfully enclosing the following proposal.

California Multiple Award Schedules (CMAS)

- Milestone
- Hanwha (Samsung)
- Professional Labor Services (as specified in the scope of work) CMAS CONTRACT: Equipment: 3-16-84-0022K / Software: 3-17-84-0022S / Labor: 3-17-84-0022P
- SBE Certification #: 1064041 exp. 1/31/2019
- DBE Certification #: 39125
- DIR #: 1000001115
- C-7 CA Contractors License #: 891252

Project Summary:

- Eighteen (18) camera licenses
- Seven (7) 180° cameras
- Four (4) 360° cameras – 8MP
- Seven (7) 2.0 megapixel dome camera



Equipment and Materials (TAXABLE)							
ITEM	QTY	UNIT	Camera	PART No.	DESCRIPTION	UNIT SELL	EXT. SELL
1	7	ea	180	PNM-9020V/KUS	Network IR vandal outdoor Multi-sensor dome camera, Panoramic 180° view, (2MP X 4 sensors) 7.3MP @ 30fps, triple codec H.265/H.264/MJPEG with WiseStream technology, defocus detection, PTZ hand over and built in analytics, Heatmap, IP66/IK10	\$ 1,178.84	\$ 8,251.88
2	7	ea	180	SBP-201HM/KUS	Cap Adapter for the PNM-9020V, HCM-9020VQ Multi-Sensor.	\$ 32.09	\$ 224.63
3	7	ea	180	SBP-300WM/KUS	Wall Mount Accessory, (SCP-3430H/2430H, SCP-3370TH/3370H, SCP-2370TH/2370H, SCP-3250H/2250H, SCP-	\$ 51.74	\$ 362.18
4	7	ea	180	SBP-300B/KUS	Wall Mount Base, Works with Mounts (SBP-300WM/300WM1), Ivory	\$ 58.29	\$ 408.03
5	4	ea	360	PNM-9080VQ/KUS	Network vandal outdoor Multi-sensor Multi-Directional dome camera, (2MP X 4 sensors) 8MP @ 60fps, motorized vari focal	\$ 1,604.53	\$ 6,418.12
6	4	ea	360	SBP-300WM/KUS	Wall Mount Accessory, (SCP-3430H/2430H, SCP-3370TH/3370H, SCP-2370TH/2370H, SCP-3250H/2250H, SCP-	\$ 51.74	\$ 206.96
7	4	ea	360	SBP-300KM/KUS	Corner Mount Adapter Accessory, use with SBP-300WM, Ivory	\$ 51.74	\$ 206.96
8	4	ea	360	SBP-300NB/KUS	Installation Back box compatible with (SBP-300WM, SBP-300WM1, SBP-300KM, SBP-300PM)	\$ 196.47	\$ 785.88
9	4	ea	360	SBP-329HM/KUS	Large Cap adaptor (outdoor) for the Multi-Directional cameras PNM-9080VQ and PNM-9081VQ (Will fit the following	\$ 49.12	\$ 196.48
10	7	ea	Dome Fixed	XNV-6080N/US	WiseNet X powered by WiseNet 5 network outdoor vandal dome camera, 2MP, Full HD(1080p) @60fps WDR off or @30fps	\$ 687.66	\$ 4,813.62
11	7	ea	Dome Fixed	SBP-300HM6	Medium Cap Adapter (Aluminum) Accessory, (SCV-6081R, SNV-8081R, SNV-8080, SNV-7084/R, SNV-6084/R, SNV-5084/R, PNV-	\$ 32.09	\$ 224.63
12	7	ea	Dome Fixed	SBP-300WM1/KUS	Hanwha Security Wall Mount Bracket	\$ 51.74	\$ 362.18
13	7	ea	Dome Fixed	SBP-300B/KUS	Wall Mount Base, Works with Mounts (SBP-300WM/300WM1), Ivory	\$ 58.29	\$ 408.03
Software							
ITEM	QTY	UNIT	Vendor	PART No.	DESCRIPTION	UNIT SELL	EXT. SELL
1	18	ea	Milestone	XPECL	XP Enterprise Camera License, Add-On to SLC: 7A6-163C-C7C3	\$ 185.53	\$ 3,339.54
2	18	ea	Milestone	Y3XPPCL	Three years Care Plus for XProtect Professional Device License	\$ 55.01	\$ 990.18

Scope of Work:

- Parts, Smarts & Professional Services for the video surveillance system.
- Ojo Technology will aim and focus all cameras after installation and termination by the electrical contractor.
 - Electrical shall provide test documents of the cable installed.
- Install and test the Milestone Professional VMS on a server provided by the District.
 - IP addressing scheme provided to Ojo Technology by the District.
 - Ojo Technology will provide the minimum specifications for the server
- Rack and stack the server. Rack provided and identified by others.
- Coordinate with the District the IP addressing scheme for the cameras.
- Program all cameras to view and record.
- Install client software for viewing the cameras.
 - Workstations are District provided and identified.
 - Ojo Technology will provide the minimum specifications for the workstations.
- The District will identify viewing workstations and their respective users to create User accounts.



Exclusions & Clarifications:

Clarifications:

- Tax Included.
- Shipping Included.
- The Scope of Work is limited to the aforementioned items ONLY.
- There are no provisions in the Scope of Work for the configuration / re-configuration of existing active component equipment including, but not limited to, switches, routers, servers, firewalls, etc.
- Access to all working areas will be provided.
- Working hours shall be Monday - Friday, 8AM - 5PM Pacific Time.
- Electrical circuits, if required, shall be provided by others.
- Conduit/cabling will shall be provided by others.
- Existing PoE network switch port shall be provided by others
- Existing patch panels shall be provided by others
- Servers/storage shall be provided by others
- Workstations viewing clients shall be provided by others.
- UPS exists at all MDF / IDF locations, or shall be provided by others.
- Buildings are connected on the same LAN.
- This proposal is valid for thirty (30) calendar days from the date above.
- Working hours shall be Monday - Friday, 8AM - 5PM Pacific Time.

Exclusions:

- Holiday or Sunday labor
- Removal or re-installation of any drywall or other building materials necessary for the installation of our scope of work.
- Providing any access panels or installing access panels.
- Bond is not included.

CMAS Materials Total: (Taxable)	\$24,155.32
CMAS Software Total: (Non Taxable)	\$4,329.72
Labor Total: CMAS CONTRACT: 3-17-84-0022P	\$12,622.81
Sales Tax 9.75%:	\$2,355.14
Shipping & Handling	\$483.11
Grand Total:	<u>\$43,946.10</u>



Authorization to Proceed

Ojo Technology
103 Hammond Ave.
Fremont, CA. 94539

Albany Unified School District
1051 Monroe St
Albany, CA 94706

Seller	<u>Ojo Technology</u>	Buyer	<u></u>
By	<u>Ted Barstad</u>	Lot Sum	<u>\$43,946.10</u>
Title	<u>Sales</u>	Title	<u></u>
Date	<u>June 15, 2018</u>	Date	<u></u>

Our goal is to be your partner through the process and allocate the necessary resources and coordinate with you to insure that we are in compliance with all your needs, including schedule requirements.

We look forward to continuing our partnership.

Sincerely,



Ted Barstad
Territory Account Manager

Ojo Technology
Territory | East Bay Area
Mobile : 510-673-3527
Email: ted.barstad@ojotech.com



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OJO TECHNOLOGY, INC.

SALES TERMS & CONDITIONS

1. THESE SALES TERMS AND CONDITIONS (these "Terms and Conditions") apply to any proposal or quotation rendered to a current or prospective customer ("Customer") by Ojo Technology, Inc. ("Ojo") and any order or sale of "Systems" (as defined below) by Ojo to Customer, unless the parties expressly agree in writing that these Terms and Conditions do not apply or have entered into a separate, signed agreement covering the purchase of the Systems. "System" or "Systems" means an Ojo-supplied IP Video Surveillance (IPVS) system as described in a purchase order (a "P.O.") accepted by Ojo as specified below.
2. Orders. Subject to the following sentence, these Terms and Conditions and each P.O. accepted by Ojo will constitute the entire agreement between Customer and Ojo with respect to the purchase, sale and delivery of the Systems described in such P.O. Any terms or conditions stated by Customer in any order or other document that are different from, or in addition to, these Terms and Conditions, will be of no force and effect and are expressly rejected, and no course of dealing, usage of trade, or course of performance will be relevant to explain or modify any term expressed in these Terms and Conditions. Ojo is not obligated to accept any P.O. from Customer. Once a P.O. is accepted in writing by Ojo, Customer's order cannot be canceled without the written consent of Ojo. Ojo will have the right to cancel and/or hold any and/or all P.O.s placed by Customer and any and/or all shipments of Systems, regardless of any prior confirmation or acceptance by Ojo.
3. Delivery. Shipping and installation dates provided by Ojo are estimates only. Delivery terms for all Systems will be FOB Ojo's facility unless installation services are included. If Customer fails to take delivery of any Systems delivered to the delivery point at the designated delivery time, Customer will bear all subsequent storage related costs of holding such Systems until Customer takes delivery. Ojo may invoice Customer for such Systems on the date when Ojo attempts delivery to the delivery point.
4. Title and Risk of Loss. Notwithstanding any shipping terms to the contrary, title and risk of loss or damage to the Systems will pass from Ojo to Customer when the Systems are (a) for orders placed by Ojo on behalf of a Customer directly with a manufacturer or vendor, at the manufacturer's or vendor's facility; (b) for Systems with multiple components aggregated by Ojo (e.g., collections of hardware) which are purchased by a Customer without installation or other services from Ojo, at Ojo's facility; and (c) for Systems purchased with installation services from Ojo, at the installation location. Notwithstanding the above, Customer receives a license only to any software included in the Systems, and ownership of the software source code, intellectual property rights associated therewith and similar rights will remain with Ojo or its licensors, as applicable, and will not transfer to Customer.
5. Inspection; Acceptance. Customer and Ojo will perform a walk-through and System check following the installation of the Systems. This procedure will include a written "Acceptance Test" prepared by Ojo that is unique to each installation, with check-boxes for each item reviewed. Customer will be deemed conclusively to have accepted such Systems on the earlier of (a) Customer's acknowledgment and acceptance of the applicable Acceptance Test, or (b) 15 days following Customer's receipt of the Acceptance Test unless before such time Customer has notified Ojo in writing of any specific defects in the Systems. If the Customer notifies Ojo within such 15 day period and identifies specific defects in the Systems, Ojo will have the opportunity to confirm and to fix such defects. Ojo reserves the right to inspect and test the Systems and to make the final determination if any component thereof is defective or not. If any defect cannot be fixed, Customer may return defective hardware to Ojo subject to any return limitations imposed on such hardware in warranties provided with respect to such hardware by the manufacturer, vendor or Ojo. If Ojo has not installed the Systems, Customer may return non-defective hardware to Ojo provided such hardware is in the original shipping and packing material, in original factory configuration and condition, and is fully resalable. Any such returns are subject to shipping, return and/or restocking fees and to any other return limitations imposed on such hardware in warranties provided with respect to such hardware by the manufacturer, vendor or Ojo.
6. Installation Services; Customer Responsibilities. If ordered by Customer and agreed to by Ojo, Ojo will provide one or more service specialist(s) at Customer's site to perform the installation of the System(s). Ojo will (a) provide Customer with a completed installation record that identifies the installed Systems and the date of installation; (b) obtain an Acceptance Test from the Customer that the service delivery by Ojo has been completed; (c) remove all packaging for the Systems for disposal; and (d) switch on and power up each System to verify correct operation. Ojo's responsibilities for installation are complete when Ojo has confirmed that the Systems are installed and operational and has delivered one copy of the installation record to Customer. Customer, at its expense and prior to delivery and installation of the Systems at Customer's address, will prepare the installation site in an appropriate manner and will cause the installation site to conform to any utility, climate control, and communication interface specifications that Ojo or the manufacturers or vendors of the Systems may require. Customer and Ojo will jointly select the installation locations for the cameras and other hardware prior to installation. Customer will (i) follow any special pre-installation instructions provided by Ojo; (ii) provide suitable workspace for Ojo's services specialist(s) while working on Customer's premises; (iii) have the Systems at Customer's installation site and the prerequisites specified in the System specification list completed prior to the installation; (iv) confirm to the installation personnel the precise location for the installation of the Systems previously jointly determined by Ojo and Customer; (v) provide appropriate power and network connectivity at the precise location of installation, unless such provisioning is included in Ojo's scope of work; (vi) provide appropriate lifts and other "location access" equipment (or reimburse Ojo for rental of the same if set forth on the P.O.); (vii) provide appropriate lighting for the Systems, unless such



provisioning is included in Ojo's scope of work; and (viii) ensure that Customer's customer representative will be on-site and available to answer any Customer specific questions pertaining to the installation, including System connectivity settings (if required). If Customer requires additional installation support outside the scope of the foregoing Ojo installation services, such additional services may be available to Customer from Ojo upon written agreement at additional cost.

7. **Training.** Customer will select personnel suitable to operate and use the System and confirm that such personnel demonstrate the competence necessary to manage and operate the Systems. Ojo will provide such personnel with reasonable and appropriate training and instruction concerning the operation and use of the Systems by conducting a training session (not to exceed the number of hours specified in the P.O.) at a mutually convenient time at Customer's facility. Upon request from a Customer, additional training may be provided by Ojo for additional cost. Customers who waive training, or permit untrained personnel to access to the Systems, will be solely responsible for damages caused by such personnel to the Systems and will be required to pay for support or repair services above and beyond what is covered in any Ojo warranty.
8. **Prices.** The prices of Systems delivered will be as set forth in the P.O. If the P.O. provides that Ojo will supply appropriate lifts and other location access equipment, Customer will be responsible for Ojo's lift equipment rental fees, including if such fees exceed any estimate set forth in the P.O. Customer will also be responsible for any additional labor, rental or similar expenses incurred by Ojo in the installation process as a result of Customer's breach of any of its obligations pursuant to Section 5, including without limitation problems affecting facility access during installation.
9. **Taxes.** Ojo's prices and fees do not include any applicable sales, use, value-added, excise and/or withholding taxes, customs duties or fees, or import fees other than California sales tax. Any such taxes, import fees and other charges imposed in connection with the sale and delivery of the System, except income taxes imposed upon Ojo, will be paid directly by Customer. In the event Ojo pays any such fees, taxes, or charges, Customer will promptly reimburse Ojo therefore.
10. **Payment Terms.** Ojo will invoice Customer for Systems purchased upon attempted delivery of Systems or when installed, if applicable, whether a whole or partial order. Upon order, Customer will pay a down payment of 50% and remit balance of payment no later than 30 days after the date of invoice. Furthermore, Customer will pay to Ojo a late charge on any past due amounts at the rate of one and 1.5% per month or part thereof or the maximum amount permitted by law, whichever is less.
11. **Security Interest.** Customer hereby grants Ojo, and Ojo hereby retains, a purchase money security interest and lien on the Systems, wherever located, and all replacements or proceeds of the Systems, until the invoice for the applicable Systems is paid in full, including any late charges and costs of collection. Customer consents to Ojo's use of these Terms and Conditions, as well as System invoices, as financing statements for protecting this security interest and appoint Ojo as Customer's agent for service of process in connection therewith.
12. **Software.** Certain items of Systems may contain software or firmware ("Software"). Customer will acquire directly or through Ojo as a licensed dealer or distributor any third party Software necessary for the Systems. With respect to any Software owned or created by or otherwise licensed to Ojo, Ojo hereby grants to Customer a non-exclusive license to use the Software solely in conjunction with the Systems sold by Ojo for which Ojo intends it to be used, for the duration of the useful life of such Systems and subject to the terms and conditions of these Terms and Conditions. Customer will not, without the prior written consent of Ojo, (i) alter, modify, translate, or adapt any Software or create any derivative works based thereon; (ii) copy any Software; (iii) assign, sublicense or otherwise transfer the Software in whole or in part except in conjunction with the Systems; (iv) use the Software except with the Systems; or (v) use the Software in violation of the terms of any Ojo or third party license.
13. **Marketing.** Upon Ojo's request, Customer will provide a reasonably clear and evident statement on its web site to the effect that the Customer's IPVS Video Surveillance System is designed, installed and maintained, as appropriate, by Ojo. Ojo will provide the text of the statement. The statement will also include a link to Ojo's website and Ojo's logo. Customer will have a limited right to use the trademark(s) of Ojo supplied by Ojo for the specific purpose provided in this provision only. All rights and goodwill associated with any trademark(s) provided by Ojo shall remain the sole and exclusive property of Ojo. Ojo shall also have the right to identify Customer by name as a client of Ojo in Ojo's print, online and other marketing materials. Customer acknowledges that the pricing of the Systems is based on, among other matters, the marketing rights granted to Ojo pursuant to this provision.
14. **Indemnification.** Customer will indemnify, defend, and hold harmless Ojo and its affiliates partners, officers, directors, agents, employees, subsidiaries, parents, successors and assigns, against any and all losses, claims, damages and expenses (including attorneys' fees) arising out of or related to (a) Customer's modifications of, additions to and/or failure to maintain Systems; (b) Customer's breach of these Terms and Conditions; (c) Customer's omissions, misrepresentations, or negligence; or (d) any claim brought by a third party against Ojo relating to Customer's use and operation of the Systems, including without limitation any claim brought in connection with any activity, criminal or otherwise, that was or should have been monitored by the Systems or any violation of privacy.
15. **Independent Contractors.** No provision of these Terms and Conditions will, or will be deemed to, create a partnership, joint venture or other combination between Ojo and Customer. Customer and Ojo are independent contractors. Neither party will make any warranties or representations or assume any obligations on the other party's behalf. Neither party is, nor will claim to be, a legal representative, partner, franchisee, agent or employee of the other party.



16. No Licenses Granted. Except for any Software included as part of the Systems, the sale of Systems to Customer does not convey to Customer any license or any other intellectual property rights in such Systems, including but not limited to any rights under any patent, trademark, copyright, or trade secret of Ojo or any third party.
17. Restrictions on Use and Advisories. Customer will use the Systems furnished by Ojo solely in accordance with the supplied documentation, and Customer will not, directly or indirectly, disassemble, decompile, reverse engineer, or analyze the physical construction of, any of the Systems for any purpose. Changes to Customer's facilities or operations may affect the operation and performance of the Systems. Hours of operation, lighting, wind and motion, building vibration, unusual sources of heat or moisture, and personnel access may affect event recording time and other operating parameters. Ojo cannot and does not guarantee any level of criminal or inappropriate activity, either by the public, employees or any other party. Ojo is not responsible for damages caused by theft, vandalism, computer hacking or other criminal acts. Customer, and not Ojo, has sole responsibility for operating the Systems following installation. Certain operational features and certain support and maintenance features require continuous Internet access. Lack of Internet connectivity may affect System operation and support. Shared network operation and/or network bandwidth limitations may affect system performance. Customer is responsible for proper Internet connectivity. Alteration or removal of camera settings, physical masking, or software masking may cause portions of the System to be in violation of privacy or other applicable laws.
18. Limited Warranty. The procedures set forth in Section 4 shall be Customer's sole remedy against defects in the Systems. Without limiting the foregoing, Ojo provides no warranty for third party hardware or Software. Following the earlier of (a) Customer's acknowledgment and acceptance of the applicable Acceptance Test, or (b) 15 days following Customer's receipt of the Acceptance Test unless before such time Customer has notified Ojo in writing of any specific defects in the Systems, all Customer inquiries to Ojo will be billed at Ojo's then-effective standard billing rates, unless Customer has purchased from Ojo a contract for maintenance services, in which case such responses to such inquiries will be provided as described in Ojo's Maintenance Services Terms and Conditions.
19. Remedies. If Ojo receives written notice from the Customer describing specific defects in the Systems prior to the end of the period set forth in Section 17, Ojo will, at its option, repair or replace the specific portion(s) of the Systems that are defective. If any defect cannot be fixed or Ojo otherwise elects not to repair or replace such defect, Ojo will refund to Customer a portion of the price of the entire System appropriately reflecting the portion of the System that is inoperable as a result of such defect.
20. NO OTHER WARRANTIES. THE FOREGOING REPRESENTS CUSTOMER'S EXCLUSIVE REMEDY, AND OJO'S EXCLUSIVE LIABILITY, FOR ANY BREACH OF WARRANTY OR OTHER DUTY RELATED TO THE QUALITY OF SYSTEMS. OJO MAKES NO OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE COVERED SYSTEM OR THE DOCUMENTATION, OR ANY SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS POLICY, INCLUDING MAINTENANCE AND SUPPORT. OJO SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
21. EXCLUSIONS OF LIABILITY. IN NO EVENT WILL OJO BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF THE COVERED SYSTEM OR SERVICES PERFORMED HEREUNDER, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF OJO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
22. LIMITATIONS OF LIABILITY. THE ENTIRE LIABILITY OF OJO FOR ANY CLAIM OR CAUSE OF ACTION ARISING HEREUNDER (WHETHER IN CONTRACT, TORT, OR OTHERWISE) WILL NOT EXCEED THE PURCHASE PRICE PAID FOR THE SYSTEM WHICH IS THE SUBJECT OF SUCH CLAIM OR CAUSE OF ACTION.
23. ALLOCATION OF RISKS. THE PROVISIONS OF THESE TERMS AND CONDITIONS ALLOCATE RISKS BETWEEN THE PARTIES. CUSTOMER AND OJO AGREE THAT OJO'S PRICING REFLECTS THIS ALLOCATION OF RISKS AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN.
24. Excusable Delays. Neither Ojo nor Customer will be held responsible for delays in performance or failures of performance when caused by fires, strikes, epidemics, embargoes, directions of government, or other conditions of whatsoever nature or description beyond their respective control which may delay performance or render performance commercially impracticable; provided, however, that the affected party will immediately notify the other of the condition and the expected duration thereof.
25. Notices. All notices pursuant to these Terms and Conditions will be in writing and will be deemed to have been duly given upon being delivered personally, or upon receipt if mailed by certified mail, return receipt requested, or sent by telegraphic communication to the other party.
26. Entire Terms and Conditions. These Terms and Conditions, together with the P.O. and any written schedules or attachments hereto or thereto, constitute the entire agreement between the parties with respect to the subject matter of these Terms and Conditions and supersede all prior and collateral agreements, representations, negotiations, and writings. No representation, warranty, course of dealing, trade usage, term or condition not contained or referenced in these Terms and Conditions will be binding on either party.
27. Order of Precedence. These Terms and Conditions will control and have precedence over the provisions of any P.O. or other document from Customer.
28. Modification. These Terms and Conditions may not be modified except by a writing executed by Ojo.



29. Assignment. Customer will not assign these Terms and Conditions, or any rights hereunder, without the prior express written approval of Ojo. Any purported assignment without such approval will be null and void.
30. Severability. The invalidity, in whole or in part, of any provision of these Terms and Conditions will not affect the validity or enforceability of any other provision of these Terms and Conditions.
31. Governing Law. Any dispute arising in connection with these Terms and Conditions will be governed by the laws of the State of California, excluding those laws that direct the application of the laws of another jurisdiction.
32. Venue. Customer consents to the exclusive jurisdiction of the courts of the State of California and the United States sitting in Alameda County, California, in respect of any legal action or proceeding related to these Terms and Conditions.
33. Attorney's Fees. In any litigation, arbitration or court proceeding between the parties, the prevailing party will be entitled to recover, in addition to any other amounts awarded, actual attorneys' fees and all costs of proceedings incurred in enforcing these Terms and Conditions.
34. Faxes. Signatures delivered via facsimile will be as binding as original signatures.



2018

EXHIBIT B



Quote – Middle School Annex Access Control

PREPARED FOR:

Albany Unified School District
1051 Monroe St.
Albany, CA 94706



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Ojo Technology
103 Hammond Ave
Fremont, CA 94539
(510) 249-9540

June 15, 2018

Dax Kajiware, Technology Director
Albany Unified School District
1051 Monroe St.
Albany, CA 94706
(510) 558-8195

Project: **Middle School Annex Access Control**

Thank you for the opportunity to meet your building service needs and for the confidence you have placed in us. Our goal is your complete satisfaction. Please call on us whenever we can be of further assistance.

Per our recent conversation/job walk in which we discussed the scope of work incorporated within this project, I am respectfully enclosing the following proposal.

California Multiple Award Schedules (CMAS)

- Lenel Systems International, Inc.
- Professional Labor Services (as specified in the scope of work) CMAS CONTRACT: 3-17-84-0022Q / Software: 3-17-84-0022S / Labor: 3-17-84-0022P
- SBE Certification #: 1064041 exp. 1/31/2019
- DBE Certification #: 39125
- DIR #: 1000001115
- C-7 CA Contractors License #: 891252

Project Summary:

- Three (3) card reader doors
 - Room 101, 112, 211
- One (1) Roll Up Door Contact (DC on drawings)
- Electrified locks on Boys, Girls and All Gender restroom doors. To be controlled by a schedule through the Lenel software (EL on drawings)
 - Lock/unlock schedule will be determined
- 22 Lenel / Allegion AD 300 Locksets to be installed on all other doors (Noted on Drawings)



Equipment and Materials (TAXABLE)							
ITEM	QTY	UNIT	Location	PART No.	DESCRIPTION	UNIT SELL	EXT. SELL
1	2	ea	LENEL	LNL-3300	Intelligent System Controller – 12 or 24 VDC @300mA, size (5 in.(127mm) Wx6 in.(152.4mm) L x1 in.(25mm) H), (5 yr lithium	\$ 1,605.29	\$ 3,210.58
2	2	ea	LENEL	LNL-1320	Dual Reader Interface Module (Series 2 – Supports OSDP Readers) – 12/24 VDC, 2 Reader interface, W/M, 8 inputs, 6	\$ 507.78	\$ 1,015.56
3	1	ea	LENEL	LNL-1200	Output Control Module (Series two) – 12/24 VDC, 16 relay output control module, RoHS, CE, C-Tick and UL294 certified	\$ 585.39	\$ 585.39
4	3	ea	LENEL	920PMNTEKMA003-L01	Model RP40 Reader, MULTICLASS, SE E, LF STD, HF STD/SIO/SEOS/MA, WIEG, TERM, BLK, LED RED, FLSH GRN, BZR ON, OPT TAMP, OPEN COLL, CSN 32-BIT MSB, EM4102 32-BIT, IPM OFF, MOBILE-READY, LENEL	\$ 271.36	\$ 814.08
5	1	ea	LENEL		Lenel UL listed hardware enclosure (24" x 18" x 4.5"), only with lock and tamper switch. (UL Approved) (can house up to 6 boards)	\$ 161.20	\$ 161.20
6	4	ea	LENEL		Lenel UL Listed Power Supply – 12VDC 6A output, 115VAC (1.6 amps) input, continuous supply current with enclosure (24" x 18" x 4.5"), lock, tamper switch, power distribution module, UPS capable (Battery Optional) UL & CUL Approved	\$ 604.50	\$ 2,418.00
7	6	ea	Yuasa	NP7-12	12VDC-7AH Battery	\$ 20.93	\$ 125.58
8	3	ea	Interlogix	1076D-N	Door Position Switch	\$ 23.57	\$ 70.71
9	0	ea	BOSCH	DS160I	Request to Exit	\$ 88.56	\$ -
10	200	ea	LENEL	5006PGGMN	COMPOSITE ICLASS SEOS CONTACTLESS SMART CARD 8 KB MEMORY, PROG., FGLOSS, B-GLOSS, MATCH. ICLASS #, NO SLOT,	\$ 3.69	\$ 738.00
11	3	ea	MISC	MISC	MISC	\$ 53.85	\$ 161.55

Software							
ITEM	QTY	UNIT	Vendor	PART No.	DESCRIPTION	UNIT SELL	EXT. SELL
1	1	ea	LENEL	SWS_ADV	OnGuard ADV Server Software License – OnGuard Server software license includes; System Administration; Alarm Monitoring; Map Designer; License Server; Comm. Server; Video Verify Support; E-mail Support; Guard Tour; Login Driver; Account Linkage; support for up to 64 card access readers and first year support plan for new systems. (SOFTWARE IS SUPPORTED ON PC CONFIGURATION #3D1)	\$ 2,814.55	\$ 2,814.55
2	1	ea	LENEL	SWC-ADV	OnGuard ADV Client Software License – OnGuard Client software license includes; System Administration; Alarm Monitoring; Map Designer and Login Driver. (SOFTWARE IS SUPPORTED ON CONFIGURATION #6F)	\$ 2,256.80	\$ 2,256.80
3	1	ea	LENEL	ML-XPABL-01	MILESTONE XPROTECT ACCESS BASE LICENSE TOP TIER	\$ 117.39	\$ 117.39
4	18	ea	LENEL	ML-XPADL-01	MILESTONE XPROTECT ACCESS DOOR LICENSE TOP TIER	\$ 35.49	\$ 638.82
5	1	ea	LENEL	ML-OGINT-ADV	INTEGRATION OF MILESTONE XPROTECT PLATFORM INTO ONGUARD ADV SYSTEMS[INCLUDES DATACONDUIT- SWG-1140	\$ -	\$ -

Scope of Work:

1. Parts, Smarts & Professional Services for the access control system.
2. Electrical contractor will wire and terminate cabling to the hinge and the door. Electrical will also provide and install any electrified door hardware and AD-300 Locksets.
 - a. Electrical contractor shall leave additional cable (+5ft – 6ft) coiled above the ceiling.
3. Ojo Technology will terminate all cables at the jam side of the doors and panel location,
 - a. Panel installed by the electrical contractor.
 - b. Electrical contractor shall leave additional cable (+5ft – 6ft) coiled above the panel.
 - c. Electrical contractor shall provide test documents of the cable installed
4. This quote does not include any door hardware. Door hardware provided by others.
5. This quote does not include conduit or cable pulling of any kind.
6. Ojo Technology will install and test the Lenel access control software on a server provided by the District.
 - a. Test all field devices controlled by the Lenel access control software.
 - b. IP addressing scheme provided to Ojo Technology by the District.
 - c. Ojo Technology will provide the minimum specifications for the server
7. Rack and stack the server. Rack provided and identified by others.



8. Coordinate with the District the IP addressing scheme for the card readers and AD-300 locksets.
9. Program all doors as directed by the District.
10. The District will identify other users to create User accounts.

Exclusions & Clarifications:

Clarifications:

- Tax Included.
- Shipping Included.
- The Scope of Work is limited to the aforementioned items ONLY.
- There are no provisions in the Scope of Work for the configuration / re-configuration of existing active component equipment including, but not limited to, switches, routers, servers, firewalls, etc.
- Access to all working areas will be provided.
- Working hours shall be Monday - Friday, 8AM - 5PM Pacific Time.
- Electrical circuits, if required, shall be provided by others.
- Conduit/cabling will shall be provided by others.
- Existing PoE network switch port shall be provided by others
- Existing patch panels shall be provided by others
- Servers/storage provided by others
- Workstations viewing clients shall be provided by others.
- UPS exists at all MDF / IDF locations, or shall be provided by others.
- Buildings are connected on the same LAN.
- This proposal is valid for thirty (30) calendar days from the date above.

Exclusions:

- Holiday or Sunday labor
- Removal or re-installation of any drywall or other building materials necessary for the installation of our scope of work.
- Providing any access panels or installing access panels.
- Bond is not included.

Materials Total: (Taxable)	\$9,328.39
Software Total: (Non Taxable)	\$5,827.56
Labor Total: CMAS CONTRACT: 3-17-84-0022P	\$26,150.98
Sales Tax 9.75%:	\$909.52
Shipping & Handling	\$186.57
Grand Total:	<u>\$42,403.02</u>



Authorization to Proceed

Ojo Technology
103 Hammond Ave.
Fremont, CA. 94539

Albany Unified School District
1051 Monroe St
Albany, CA 94706

Seller	<u>Ojo Technology</u>	Buyer	<u></u>
By	<u>Ted Barstad</u>	Lot Sum	<u>\$42,403.02</u>
Title	<u>Territory Account Manager</u>	Title	<u></u>
Date	<u>June 15, 2018</u>	Date	<u></u>

Our goal is to be your partner through the process and allocate the necessary resources and coordinate with you to insure that we are in compliance with all your needs, including schedule requirements.

We look forward to continuing our partnership.

Sincerely,



Ted Barstad
Territory Account Manager

Ojo Technology
Territory | East Bay Area
Mobile : 510-673-3527
Email: ted.barstad@ojotech.com



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OJO TECHNOLOGY, INC.

SALES TERMS & CONDITIONS

1. THESE SALES TERMS AND CONDITIONS (these "Terms and Conditions") apply to any proposal or quotation rendered to a current or prospective customer ("Customer") by Ojo Technology, Inc. ("Ojo") and any order or sale of "Systems" (as defined below) by Ojo to Customer, unless the parties expressly agree in writing that these Terms and Conditions do not apply or have entered into a separate, signed agreement covering the purchase of the Systems. "System" or "Systems" means an Ojo-supplied IP Video Surveillance (IPVS) system as described in a purchase order (a "P.O.") accepted by Ojo as specified below.
2. Orders. Subject to the following sentence, these Terms and Conditions and each P.O. accepted by Ojo will constitute the entire agreement between Customer and Ojo with respect to the purchase, sale and delivery of the Systems described in such P.O. Any terms or conditions stated by Customer in any order or other document that are different from, or in addition to, these Terms and Conditions, will be of no force and effect and are expressly rejected, and no course of dealing, usage of trade, or course of performance will be relevant to explain or modify any term expressed in these Terms and Conditions. Ojo is not obligated to accept any P.O. from Customer. Once a P.O. is accepted in writing by Ojo, Customer's order cannot be canceled without the written consent of Ojo. Ojo will have the right to cancel and/or hold any and/or all P.O.s placed by Customer and any and/or all shipments of Systems, regardless of any prior confirmation or acceptance by Ojo.
3. Delivery. Shipping and installation dates provided by Ojo are estimates only. Delivery terms for all Systems will be FOB Ojo's facility unless installation services are included. If Customer fails to take delivery of any Systems delivered to the delivery point at the designated delivery time, Customer will bear all subsequent storage related costs of holding such Systems until Customer takes delivery. Ojo may invoice Customer for such Systems on the date when Ojo attempts delivery to the delivery point.
4. Title and Risk of Loss. Notwithstanding any shipping terms to the contrary, title and risk of loss or damage to the Systems will pass from Ojo to Customer when the Systems are (a) for orders placed by Ojo on behalf of a Customer directly with a manufacturer or vendor, at the manufacturer's or vendor's facility; (b) for Systems with multiple components aggregated by Ojo (e.g., collections of hardware) which are purchased by a Customer without installation or other services from Ojo, at Ojo's facility; and (c) for Systems purchased with installation services from Ojo, at the installation location. Notwithstanding the above, Customer receives a license only to any software included in the Systems, and ownership of the software source code, intellectual property rights associated therewith and similar rights will remain with Ojo or its licensors, as applicable, and will not transfer to Customer.
5. Inspection; Acceptance. Customer and Ojo will perform a walk-through and System check following the installation of the Systems. This procedure will include a written "Acceptance Test" prepared by Ojo that is unique to each installation, with check-boxes for each item reviewed. Customer will be deemed conclusively to have accepted such Systems on the earlier of (a) Customer's acknowledgment and acceptance of the applicable Acceptance Test, or (b) 15 days following Customer's receipt of the Acceptance Test unless before such time Customer has notified Ojo in writing of any specific defects in the Systems. If the Customer notifies Ojo within such 15 day period and identifies specific defects in the Systems, Ojo will have the opportunity to confirm and to fix such defects. Ojo reserves the right to inspect and test the Systems and to make the final determination if any component thereof is defective or not. If any defect cannot be fixed, Customer may return defective hardware to Ojo subject to any return limitations imposed on such hardware in warranties provided with respect to such hardware by the manufacturer, vendor or Ojo. If Ojo has not installed the Systems, Customer may return non-defective hardware to Ojo provided such hardware is in the original shipping and packing material, in original factory configuration and condition, and is fully resalable. Any such returns are subject to shipping, return and/or restocking fees and to any other return limitations imposed on such hardware in warranties provided with respect to such hardware by the manufacturer, vendor or Ojo.
6. Installation Services; Customer Responsibilities. If ordered by Customer and agreed to by Ojo, Ojo will provide one or more service specialist(s) at Customer's site to perform the installation of the System(s). Ojo will (a) provide Customer with a completed installation record that identifies the installed Systems and the date of installation; (b) obtain an Acceptance Test from the Customer that the service delivery by Ojo has been completed; (c) remove all packaging for the Systems for disposal; and (d) switch on and power up each System to verify correct operation. Ojo's responsibilities for installation are complete when Ojo has confirmed that the Systems are installed and operational and has delivered one copy of the installation record to Customer. Customer, at its expense and prior to delivery and installation of the Systems at Customer's address, will prepare the installation site in an appropriate manner and will cause the installation site to conform to any utility, climate control, and communication interface specifications that Ojo or the manufacturers or vendors of the Systems may require. Customer and Ojo will jointly select the installation locations for the cameras and other hardware prior to installation. Customer will (i) follow any special pre-installation instructions provided by Ojo; (ii) provide suitable workspace for Ojo's services specialist(s) while working on Customer's premises; (iii) have the Systems at Customer's installation site and the prerequisites specified in the System specification list completed prior to the installation; (iv) confirm to the installation personnel the precise location for the installation of the Systems previously jointly determined by Ojo and Customer; (v) provide appropriate power and network connectivity at the precise location of installation,



unless such provisioning is included in Ojo's scope of work; (vi) provide appropriate lifts and other "location access" equipment (or reimburse Ojo for rental of the same if set forth on the P.O.); (vii) provide appropriate lighting for the Systems, unless such provisioning is included in Ojo's scope of work; and (viii) ensure that Customer's customer representative will be on-site and available to answer any Customer specific questions pertaining to the installation, including System connectivity settings (if required). If Customer requires additional installation support outside the scope of the foregoing Ojo installation services, such additional services may be available to Customer from Ojo upon written agreement at additional cost.

7. **Training.** Customer will select personnel suitable to operate and use the System and confirm that such personnel demonstrate the competence necessary to manage and operate the Systems. Ojo will provide such personnel with reasonable and appropriate training and instruction concerning the operation and use of the Systems by conducting a training session (not to exceed the number of hours specified in the P.O.) at a mutually convenient time at Customer's facility. Upon request from a Customer, additional training may be provided by Ojo for additional cost. Customers who waive training, or permit untrained personnel to access to the Systems, will be solely responsible for damages caused by such personnel to the Systems and will be required to pay for support or repair services above and beyond what is covered in any Ojo warranty.
8. **Prices.** The prices of Systems delivered will be as set forth in the P.O. If the P.O. provides that Ojo will supply appropriate lifts and other location access equipment, Customer will be responsible for Ojo's lift equipment rental fees, including if such fees exceed any estimate set forth in the P.O. Customer will also be responsible for any additional labor, rental or similar expenses incurred by Ojo in the installation process as a result of Customer's breach of any of its obligations pursuant to Section 5, including without limitation problems affecting facility access during installation.
9. **Taxes.** Ojo's prices and fees do not include any applicable sales, use, value-added, excise and/or withholding taxes, customs duties or fees, or import fees other than California sales tax. Any such taxes, import fees and other charges imposed in connection with the sale and delivery of the System, except income taxes imposed upon Ojo, will be paid directly by Customer. In the event Ojo pays any such fees, taxes, or charges, Customer will promptly reimburse Ojo therefore.
10. **Payment Terms.** Ojo will invoice Customer for Systems purchased upon attempted delivery of Systems or when installed, if applicable, whether a whole or partial order. Upon order, Customer will pay a down payment of 50% and remit balance of payment no later than 30 days after the date of invoice. Furthermore, Customer will pay to Ojo a late charge on any past due amounts at the rate of one and 1.5% per month or part thereof or the maximum amount permitted by law, whichever is less.
11. **Security Interest.** Customer hereby grants Ojo, and Ojo hereby retains, a purchase money security interest and lien on the Systems, wherever located, and all replacements or proceeds of the Systems, until the invoice for the applicable Systems is paid in full, including any late charges and costs of collection. Customer consents to Ojo's use of these Terms and Conditions, as well as System invoices, as financing statements for protecting this security interest and appoint Ojo as Customer's agent for service of process in connection therewith.
12. **Software.** Certain items of Systems may contain software or firmware ("Software"). Customer will acquire directly or through Ojo as a licensed dealer or distributor any third party Software necessary for the Systems. With respect to any Software owned or created by or otherwise licensed to Ojo, Ojo hereby grants to Customer a non-exclusive license to use the Software solely in conjunction with the Systems sold by Ojo for which Ojo intends it to be used, for the duration of the useful life of such Systems and subject to the terms and conditions of these Terms and Conditions. Customer will not, without the prior written consent of Ojo, (i) alter, modify, translate, or adapt any Software or create any derivative works based thereon; (ii) copy any Software; (iii) assign, sublicense or otherwise transfer the Software in whole or in part except in conjunction with the Systems; (iv) use the Software except with the Systems; or (v) use the Software in violation of the terms of any Ojo or third party license.
13. **Marketing.** Upon Ojo's request, Customer will provide a reasonably clear and evident statement on its web site to the effect that the Customer's IPVS Video Surveillance System is designed, installed and maintained, as appropriate, by Ojo. Ojo will provide the text of the statement. The statement will also include a link to Ojo's website and Ojo's logo. Customer will have a limited right to use the trademark(s) of Ojo supplied by Ojo for the specific purpose provided in this provision only. All rights and goodwill associated with any trademark(s) provided by Ojo shall remain the sole and exclusive property of Ojo. Ojo shall also have the right to identify Customer by name as a client of Ojo in Ojo's print, online and other marketing materials. Customer acknowledges that the pricing of the Systems is based on, among other matters, the marketing rights granted to Ojo pursuant to this provision.
14. **Indemnification.** Customer will indemnify, defend, and hold harmless Ojo and its affiliates partners, officers, directors, agents, employees, subsidiaries, parents, successors and assigns, against any and all losses, claims, damages and expenses (including attorneys' fees) arising out of or related to (a) Customer's modifications of, additions to and/or failure to maintain Systems; (b) Customer's breach of these Terms and Conditions; (c) Customer's omissions, misrepresentations, or negligence; or (d) any claim brought by a third party against Ojo relating to Customer's use and operation of the Systems, including without limitation any claim brought in connection with any activity, criminal or otherwise, that was or should have been monitored by the Systems or any violation of privacy.
15. **Independent Contractors.** No provision of these Terms and Conditions will, or will be deemed to, create a partnership, joint venture or other combination between Ojo and Customer. Customer and Ojo are independent contractors. Neither party will



make any warranties or representations or assume any obligations on the other party's behalf. Neither party is, nor will claim to be, a legal representative, partner, franchisee, agent or employee of the other party.

16. No Licenses Granted. Except for any Software included as part of the Systems, the sale of Systems to Customer does not convey to Customer any license or any other intellectual property rights in such Systems, including but not limited to any rights under any patent, trademark, copyright, or trade secret of Ojo or any third party.
17. Restrictions on Use and Advisories. Customer will use the Systems furnished by Ojo solely in accordance with the supplied documentation, and Customer will not, directly or indirectly, disassemble, decompile, reverse engineer, or analyze the physical construction of, any of the Systems for any purpose. Changes to Customer's facilities or operations may affect the operation and performance of the Systems. Hours of operation, lighting, wind and motion, building vibration, unusual sources of heat or moisture, and personnel access may affect event recording time and other operating parameters. Ojo cannot and does not guarantee any level of criminal or inappropriate activity, either by the public, employees or any other party. Ojo is not responsible for damages caused by theft, vandalism, computer hacking or other criminal acts. Customer, and not Ojo, has sole responsibility for operating the Systems following installation. Certain operational features and certain support and maintenance features require continuous Internet access. Lack of Internet connectivity may affect System operation and support. Shared network operation and/or network bandwidth limitations may affect system performance. Customer is responsible for proper Internet connectivity. Alteration or removal of camera settings, physical masking, or software masking may cause portions of the System to be in violation of privacy or other applicable laws.
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21. EXCLUSIONS OF LIABILITY. IN NO EVENT WILL OJO BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF THE COVERED SYSTEM OR SERVICES PERFORMED HEREUNDER, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF OJO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
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25. Notices. All notices pursuant to these Terms and Conditions will be in writing and will be deemed to have been duly given upon being delivered personally, or upon receipt if mailed by certified mail, return receipt requested, or sent by telegraphic communication to the other party.
26. Entire Terms and Conditions. These Terms and Conditions, together with the P.O. and any written schedules or attachments hereto or thereto, constitute the entire agreement between the parties with respect to the subject matter of these Terms and Conditions and supersede all prior and collateral agreements, representations, negotiations, and writings. No representation, warranty, course of dealing, trade usage, term or condition not contained or referenced in these Terms and Conditions will be binding on either party.
27. Order of Precedence. These Terms and Conditions will control and have precedence over the provisions of any P.O. or other document from Customer.



28. **Modification.** These Terms and Conditions may not be modified except by a writing executed by Ojo.
29. **Assignment.** Customer will not assign these Terms and Conditions, or any rights hereunder, without the prior express written approval of Ojo. Any purported assignment without such approval will be null and void.
30. **Severability.** The invalidity, in whole or in part, of any provision of these Terms and Conditions will not affect the validity or enforceability of any other provision of these Terms and Conditions.
31. **Governing Law.** Any dispute arising in connection with these Terms and Conditions will be governed by the laws of the State of California, excluding those laws that direct the application of the laws of another jurisdiction.
32. **Venue.** Customer consents to the exclusive jurisdiction of the courts of the State of California and the United States sitting in Alameda County, California, in respect of any legal action or proceeding related to these Terms and Conditions.
33. **Attorney's Fees.** In any litigation, arbitration or court proceeding between the parties, the prevailing party will be entitled to recover, in addition to any other amounts awarded, actual attorneys' fees and all costs of proceedings incurred in enforcing these Terms and Conditions.
34. **Faxes.** Signatures delivered via facsimile will be as binding as original signatures.



**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: INDEPENDENT CONTRACTOR AGREEMENT WITH RINCON CONSULTANTS, INC. FOR ENVIRONMENTAL REVIEW SERVICES FOR THE OCEAN VIEW SCHOOL CONSTRUCTION PROJECT

PREPARED BY: JACKIE KIM, CHIEF BUSINESS OFFICIAL

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE: To review and approve the Independent Contractor Agreement with Rincon Consultants, Inc. for environmental review services for the Ocean View School Construction Project as these services are required to comply with California Department of Education requirements.

BACKGROUND INFORMATION/DETAILS: An Environmental Review of the proposed Ocean View Construction Project is required to comply with California Department of Education requirements. It is expected the project will qualify for a Categorical Exemption under the California Environmental Quality Act (CEQA) as follows:

15302. REPLACEMENT OR RECONSTRUCTION - Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to: a) replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structure which do not increase capacity more than 50 percent.

DETAILS: Environmental Review Services for the Ocean View School Construction project.
Expected Timeframe: August 2018 to August 2019

Services will be provided on a Fixed Fee basis and shall include:

- Technical Studies
- Draft Categorical Exemption Documentation
- Final Categorical Exemption Documentation and Filing

FINANCIAL INFORMATION: Total Agreement: \$18,808.00 from Measure B Fund

STRATEGIC OBJECTIVES ADDRESSED:

Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

RECOMMENDATION: Approve Independent Contractor Agreement with Rincon Consultants, Inc. for environmental review services for the Ocean View School Construction Project

**ALBANY UNIFIED SCHOOL DISTRICT
INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

This agreement is hereby entered into this 15th day of August, 2018 in the County of Alameda, State of California, by and between the Albany Unified School District, hereinafter referred to as "DISTRICT," and Rincon Consultants, Inc.

CONTRACTOR

449 15th Street, Suite 303

MAILING ADDRESS

Oakland	CA	94612
CITY	STATE	ZIP

hereinafter referred to as 'CONTRACTOR.' DISTRICT and CONTRACTOR shall be collectively referred to as the Parties.

1. Contractor Services. Contractor agrees to provide the following services to District (collectively, the "Services"):
 Prepare CEQA Documentation for the Ocean View Elementary School
 Construction Project.

2. Contractor Qualifications. Contractor represents and warrants to District that Contractor and all of Contractor's employees, agents or volunteers (the "Contracted Parties") have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. If any of the Services are performed by any of Contractor's Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor.

3. Term. CONTRACTOR shall:

☐

Provide services under this AGREEMENT on the following specific date's

_____, _____, _____, _____, _____, _____, _____, and

complete performance no later than _____;

OR

☒

Commence providing services under this AGREEMENT on August 15, 2018 and

complete performance no later than August 14, 2019.

There shall be no extension of the Term of this Agreement without the express written consent from all parties. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contracted Parties. In the event of early termination, Contractor shall be paid for satisfactory work 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 time period for the effectiveness of such termination. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially violates any of the terms of this Agreement, any act or omission by Contractor or the Contracted 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 on account of Contractor's insolvency. Such termination shall be effective immediately upon Contractor's receipt of said notice.
5. Compensation. DISTRICT agrees to pay the CONTRACTOR for services satisfactorily rendered pursuant to this AGREEMENT. DISTRICT shall pay CONTRACTOR according to the following terms and conditions:

- a. Such compensation shall be based on:
- ☐ An hourly rate of \$ _____ for a total amount of _____ hours.
- ☐ A daily rate of \$ _____ for a total amount of _____ days.
- ☒ \$ 18,808
- b. Payment method shall be:
- ☐ Upon Completion.
- ☐ Date of Service
- ☒ **Other (Specify):** Monthly

Any work performed by Contractor in excess of said amount shall not be compensated.

Payment shall be made upon approval of DISTRICT and receipt of an invoice from CONTRACTOR one copy clearly marked original. CONTRACTOR's invoice shall be sent to: Albany Unified School District, Attention: Accounts Payable, 1051 Monroe Street, Albany, CA, 94706.

6. 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 of the Contracted Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contracted Parties by District. Furthermore, any Equipment or workmanship that does not conform to the regulations of this Agreement may be rejected by District and in such case must be promptly remedied or replaced by Contractor at no additional cost to District and subject to District's reasonable satisfaction.
7. California Residency. Contractor and the Contracted Parties shall be residents of the State of California.
8. Indemnity. Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Education, members of the Board of Education (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 the performance of this Agreement, including but not limited to Contractor's or the Contracted Parties' use of the site; Contractor's or the Contracted Parties' performance of the Services; Contractor's or the Contracted Parties' breach of any of the representations or warranties contained in this Agreement; injury to or death of persons or damage to property or delay or damage to District or the District Parties; or for any act, error, omission, negligence, or willful misconduct of Contractor, the Contracted Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. 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.

9. Insurance. Without in any way limiting Contractor's liability or indemnification obligations set forth in Paragraph 8 above, District reserves the right to require contractor to procure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits not less than \$1,000,000.00 each occurrence and \$1,000,000.00 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$100,000.00 each occurrence and \$100,000.00 in the aggregate; if applicable; and neither Contractor nor any of the Contracted Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insured. 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 any of the required insurance is not reinstated, District may, at its sole option, terminate this Agreement. All of the policies shall also 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.
10. Independent Contractor Status. Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that s/he and the Contracted Parties shall not be considered officers, employees, agents, partners, or joint ventures 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.
11. 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 compensation 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 Contracted Parties and otherwise in connection with this Agreement.
12. Fingerprinting/Criminal Background Investigation Certification. Contractor and the Contracted Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:

☒ Contractor and the Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted Parties have **more than limited contact** (as

determined by District) with District students during the Term of this Agreement:

[Attach and sign additional pages, as needed.]

☐ All of the Contracted Parties noted above, at no cost to District, have completed background checks and have been fingerprinted under procedures established by the California Department of Justice and the Federal Bureau of Investigation, and the results of those background checks and fingerprints reveal that none of these Contracted Parties have been arrested or convicted of a serious or violent felony, as defined by the California Penal Code.

Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information, including additional personnel, which differs in any way from the representations set forth above, Contractor shall immediately notify District and prohibit any new personnel from having any contact with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any such contact is permissible.

13. Tuberculosis Certification. Contractor and the Contracted 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:

☒ Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted 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:

Contractor shall maintain on file the certificates showing that the Contracted 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 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 such contact is permissible.

14. 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.

15. Assignment. 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.
16. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Contractor and District and their respective successors and assigns.
17. 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.
18. 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.
19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate court in Alameda County, California.
20. Non-Discrimination. Contractor shall not discriminate on the basis of a person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation in employment or operation of its programs.
21. 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 mail to the last business address known to the person who sends the notice.
22. 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.
23. Attorney Fees. If any legal action is taken to 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.

24. Liability of District. Notwithstanding anything stated herein to the contrary, District shall not be liable for any special, consequential, indirect or incident damages, including but not limited to lost profits in connection with this Agreement.
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. Subject To Approval of Board. This Agreement confers no legal or equitable rights until it is approved by the District Board of Education at a lawfully conducted public meeting.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

DISTRICT:

ALBANY UNIFIED SCHOOL DISTRICT

By: _____
 Name: Valerie Williams
 Title: Superintendent

Address for District Notices:

Albany Unified School District
 904 Talbot Avenue
 Albany, CA 94706

Date of Board Approval: August 15, 2018

CONTRACTOR: Rincon Consultants, Inc.
Patrick Rei

Tax Identification Number: _____

By _____
 Name: Abe Leider
 Title: Principal

Address for Contractor Notices:

Rincon Consultants, Inc.
449 15th Street, Suite 303
Oakland, CA 94612



Rincon Consultants, Inc.

449 15th Street, Suite 303
Oakland, California 94612

510 834 4455 OFFICE AND FAX

info@rinconconsultants.com
www.rinconconsultants.com

August 2, 2018
Project Number 18-06208

Valerie Williams, Superintendent
Albany Unified School District
1051 Monroe Street
Albany, California 94706
Via email: superintendent@ausdk12.org; jbarroso@dcaia.com

Subject: Proposal to Prepare CEQA Documentation for the Ocean View Elementary School Rehabilitation Project

Dear Ms. Williams:

Rincon Consultants, Inc. is pleased to submit this proposal to prepare California Environmental Quality Act (CEQA) documentation for Ocean View Elementary school rehabilitation project for the Albany Unified School District (District). Our team has a proven track record on school improvement projects throughout the greater Bay Area and the state. Currently, Rincon provides CEQA compliance services for the Livermore Valley Joint Unified School District Measure J Bond Program and for the Santa Clara Unified School District. We prepared three Categorical Exemption (CE) reports for new construction and modernization projects at three campuses in the Chico Unified School District and a CE report for new classroom construction at Central Valley High School in the Ceres Unified School District, among other K-12 projects statewide.

We pride ourselves on our ability to work effectively with District staff, decision-makers, and the community to prepare clear and thorough environmental documents. We are expert at developing and implementing innovative approaches and solutions to planning and environmental issues. We have the technical capabilities and professional staff to complete all of the analysis in-house for these assignments; therefore, no subconsultants have been identified in this proposal, making this proposal an efficient and cost-effective approach to the CEQA process.

This proposal includes (1) our project understanding, (2) our proposed work scope, (3) a schedule for completion of the work program, (4) our cost estimate to complete the proposed work program, and (5) brief company qualifications.

Project Understanding

The District plans to completely or partially demolish Ocean View Elementary (depending on funding), a facility that was built in the 1970s, and to construct a replacement elementary school with 34 classrooms on the same site. The reconstructed school would not increase capacity more than 20 percent, but the classroom sizes would increase to meet current standards, and the overall building footprint would expand. The project includes improvements on Jackson Street to alleviate student drop-off and pick-up issues.

Based on our project understanding, the appropriate CEQA documentation is anticipated to be a Class 2 CE. The following section of the CEQA *Guidelines* is expected to be applicable:



15302. REPLACEMENT OR RECONSTRUCTION - Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

- a) replacement or reconstruction of existing schools and hospitals to provide earthquake resistant structure which do not increase capacity more than 50 percent

Scope of Work

The following scope of work details the tasks required for preparation of the CE.

Task 1 – Technical Studies

Rincon's project manager will compile relevant project information, including site plan and project description, and review readily available environmental data regarding the project sites from state databases, the City's General Plan, and other sources. Rincon environmental planning staff will then visit the project site to confirm existing conditions. We anticipate that we will conduct the site visit when school is not in session, ideally before August 28. We will supplement the site visits with review of aerial mapping and imagery. The purpose of the site visit and review of aerial imagery is collect photographs and document unusual circumstances that may cause significant impacts and that would otherwise exclude applicability of an exemption. Rincon will prepare the following technical studies for the project:

Air Quality/Greenhouse Gas Emissions/Energy

Rincon will estimate temporary construction criteria air pollutant emissions from the project using the most recent version of the California Emissions Estimator Model. Rincon will also estimate increased criteria air pollutant emissions from the increased enrollment. In addition, we will estimate the project's greenhouse gas emissions and compare them to the City's Climate Action Plan, as a show of good-faith even though the District is not required to comply with the City's plan. We will estimate the project's energy consumption based on Title 24 and CalGreen requirements to demonstrate that the project would not waste energy resources. Rincon will provide a brief summary of the methodology and results, with the modeling data included an appendix.

Biological Resources

Rincon will conduct a reconnaissance-level survey of the site to search for special status species. We will query of the California Natural Diversity Database and U.S. Fish and Wildlife Service Information for Planning and Consultation. Biological impacts associated with the project will be assessed and disclosed.

Cultural Resources

Rincon will conduct a California Historical Resources Information System records search of the project site and a 0.5-mile radius at the Northwest Information Center at Sonoma State University. The records search will reveal the nature and extent of any cultural resources work previously conducted in the study area. Rincon will also contact the California Native American Heritage Commission (NAHC) for a review of their Sacred Lands File (SLF). The NAHC will determine if any NAHC-listed Native American sacred lands are located in or adjacent to the study area. Upon completion of the records search, Rincon will conduct a cultural resources survey of the site. No archaeological testing or excavation will be conducted as part of the survey, nor will any artifacts, samples, or specimens be collected. The survey will be completed in one day by one cultural resources specialist. Should any additional resources be identified during the survey, Rincon will prepare a separate cost and scope to address those needs (e.g., site recording, site evaluation). Any



resources identified during the survey will require evaluation prior to preparation of the environmental document.

Rincon will prepare a draft cultural resources study that describes the methodologies used and summarizes the results of the records search, SLF findings, field survey, and resource evaluations.

Based on the age of the school, we have not proposed a historic resources evaluation to determine if the structures would be eligible for the National Register of Historic Places or the California Register of Historical Resources. Our proposed scope does not include a traffic impact or traffic safety assessment or a Phase I Environmental Site Assessment. If available, the results can be included in the CEQA documentation.

Task 2 - Draft Categorical Exemption Documentation

Rincon will prepare a draft CE for the project. The CE documentation will consist of a completed Notice of Exemption form based on CEQA Guidelines Appendix E, and the technical studies (Task 1) as appendices. The form will include a project description, a discussion supporting the applicability of the Class 2 exemption, and a discussion demonstrating that none of the following exceptions to an exemption as defined in CEQA Guidelines Section 15300.2 would occur:

- a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. This exception does not apply to the project.
- b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This exception does not apply to the project.
- e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Task 3 - Final Categorical Exemption Documentation and Filing

Rincon will revise the CE documentation after receipt of District comments to create a final document suitable for filing with the County Clerk and, if necessary, the State Clearinghouse. Rincon will file the Notice of Exemption with the Alameda County Clerk, including the required cover forms and \$50 filing fee.

Optional Task 4 – District School Board Hearings or Meetings

Rincon senior staff can attend District School Board meetings or public hearings on the project to answer Board member or public questions on the environmental analysis and conclusions and/or to make a



presentation on the CEQA analysis or process, if desired. The cost for meeting or hearing attendance, including preparation is typically approximately \$1,000 per meeting or hearing.

Schedule of Deliverables

Rincon Consultants has an excellent reputation for adhering to schedules and meeting milestones. Based on our understanding of the project and the required CEQA analysis, Rincon proposes a schedule that allows for completion of the CE for filing within three weeks of receipt of complete and stable project descriptions and plans. This schedule assumes that District review of the draft document will take one week or less.

- **Technical Studies.** One electronic copy in Microsoft Word will be provided within three weeks of the notice to proceed and receipt of all relevant and necessary project information.
- **Draft CE Documentation.** One electronic copy in Microsoft Word and PDF formats will be provided within one week of receipt of District comments on the draft technical studies.
- **Final CE Documentation and Filing.** A digital copy of the document will be provided to the District for its files and Rincon will file the Notice of Exemption with the Alameda County Clerk within one week of receipt of District comments on the draft.

Meetings and optional public hearings will be scheduled as needed during the process.

Cost

Our proposed cost for this work program is **\$18,808**. The following shows a breakdown of costs by task.

CEQA for Ocean View Elementary

Cost Estimate									
Tasks	Team Totals		Principal I	Sr. Supervisor II	Professional III	Professional II	GIS I	Technical Editor	Clerical II
	Cost	Hours							
1. Technical Studies	\$8,822	64	2	4	24	24	8	8	2
2. Administrative Draft CE Documentation	\$5,029	33	1	4	6	16	4	8	2
3. Final CE Documentation	\$2,387	19	1	2	4	8	2	2	2
Project Management	\$1,120	8		4					4
Subtotal Labor:	\$17,358	124	4	14	34	48	14	18	10

Additional Costs	
Cultural Records Search	\$1,000
Printing	\$150
Supplies and Miscellaneous Expenses	\$300
Total Additional Costs	\$1,450
TOTAL LABOR + ADDITIONAL COSTS	\$18,808



Company Qualifications

Rincon is a multi-disciplinary environmental sciences, planning, and engineering consulting firm that provides quality professional services to government and industry. Founded in 1994, Rincon has grown to a firm of over 230 professionals in 11 California offices (Oakland, Sacramento, Monterey, Santa Cruz, Fresno, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Redlands, and Carlsbad). Our professionals are experienced in urban, land use, and environmental planning; regulatory compliance; biological resource evaluation and habitat enhancement; cultural resources evaluation and planning; soil evaluation and remediation; and related studies including problem-solving services in geology, hydrology, and waste management. Our approach focuses on well-designed solutions that respond to our clients' specific needs in a cost-effective manner.

Rincon has been preparing CEQA-required documentation for clients since 1994, including for numerous school districts throughout California. Educational facilities form a core business area for Rincon, and our firm has provided environmental consulting services for projects like the one proposed here for more than 23 years. During this time, we have developed a reputation for successfully completing the environmental analysis and permitting processes for a number of master plans, campus enhancement, land acquisition, and expansion projects throughout California. In addition to our K-12 experience, we have experience preparing CEQA, the California Department of Toxic Substances Control, and the California Department of Education documentation for K-8 school districts, private institutions, and colleges and universities. This experience provides us with a unique perspective on the CEQA process and we are able to apply that knowledge and experience to every project we undertake. We are capable of meeting all of the District's needs for this project and will be able to offer these services on-budget and within specified time frames.

With extensive school district experience, including CEQA review of new construction and improvements to existing facilities, Rincon can provide a high-quality work product and responsive service. Rincon maintains the highest commitment to client satisfaction and understands that good communication is the keystone to a successful client partnership and ultimately providing excellent service. Please visit our website at www.rinconconsultants.com for a detailed description of our experience and capabilities.

Lead and Support Personnel

Our team of highly qualified professionals includes a talented management team with extensive experience managing and preparing environmental documentation as well as key technical experts with a high level of experience managing and executing projects within the greater Bay Area and throughout California.

Abe Leider, AICP CEP, will serve as Principal in Charge. Abe is a Principal in Rincon's Environmental Sciences and Planning group and is responsible for management and preparation of planning and environmental documents and specialized technical studies. He has over 19 years of experience in the planning field and has managed or primarily authored successful planning and environmental documents on subjects ranging from regional resource management and land use regulation to complex public and private development projects.

Darcy Kremin, AICP, will be Project Manager under this contract and the main project contact. She is a senior environmental planner with 20 years of planning and CEQA and NEPA experience for numerous environmental documents. She has managed large projects for public utilities, including water and energy transmission, and dozens of development projects for cities and counties. She also has experience with various public and charter school projects. She is well-known for managing budgets on-time and within budget. Her recent project experience includes the Albany Middle School annex project.



This proposal is valid for a period of 30 days and is fully negotiable to meet the District's needs. We can proceed with our proposed work program upon receipt of written authorization.

We appreciate the opportunity to assist with this project. Please let us know if you have any questions about this proposal or need additional information.

Sincerely,

RINCON CONSULTANTS, INC.

Darcy Kremin, AICP
Project Manager

Abe Leider, AICP CEP
Principal

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

**ITEM: INDEPENDENT CONTRACTOR AGREEMENT WITH A3GEO FOR
GEOTECHNICAL ENGINEERING SERVICES FOR THE OCEAN VIEW
SCHOOL CONSTRUCTION PROJECT**

PREPARED BY: JACKIE KIM, CHIEF BUSINESS OFFICIAL

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE: To review and approve the Independent Contractor Agreement with A3GEO for Geotechnical Engineering services for the Ocean View School Construction Project as these services are required by the Division of the State Architect (DSA).

BACKGROUND INFORMATION/DETAILS: Public schools are a function of the State of California. The State of California has a division called the Division of the State Architect that provides rules and regulations specific to Structural, Safety, and Accessibility for public buildings, including schools and hospitals. The State of California issues licenses to Geotechnical Engineers to help ensure buildings meet all the code requirements set by the State. A3GEO has previously completed a Geotechnical Report for the project. As the District is now moving forward with the Design/Build process, the original report will have to be updated to support the final design of the school.

DETAILS: DSA Geotechnical Engineer of Record Services for the Ocean View School Construction project. Expected Timeframe: August 2018 to June 2021

Services will be provided on a Time-and-Materials basis and shall include:

- Update the original Geotechnical Report
- Review and Comment on Plans and Specifications prepared by the Design/Build team
- Review and Comment on Submittals and Requests for Information (RFIs)
- Geotechnical Observation and Laboratory Testing
- Meetings, Senior Oversight, Project Management, and Reporting

KEY QUESTIONS/ANSWERS:

Q: What is a Geotechnical Engineer?

A: Public schools are a function of the State of California. The State of California has a division called the Division of the State Architect that provides rules and regulations specific to Structural, Safety, and Accessibility for public buildings, including schools and hospitals. The State of California issues

licenses to Geotechnical Engineers to help ensure buildings meet all the code requirements set by the State.

FINANCIAL INFORMATION: Total Agreement (Time-and Materials, Not-to-Exceed): \$15,000.00 from Measure B

STRATEGIC OBJECTIVES ADDRESSED:



Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

RECOMMENDATION: Approve Independent Contractor Agreement with A3GEO for Geotechnical Engineering services for the Ocean View School Construction Project

**ALBANY UNIFIED SCHOOL DISTRICT
INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

This agreement is hereby entered into this 15th day of August, 2018 in the County of Alameda, State of California, by and between the Albany Unified School District, hereinafter referred to as "DISTRICT," and A3GEO, Inc

CONTRACTOR

1331 Seventh Street, Unit E

MAILING ADDRESS

Berkeley	CA	94710
CITY	STATE	ZIP

hereinafter referred to as 'CONTRACTOR.' DISTRICT and CONTRACTOR shall be collectively referred to as the Parties.

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

Provide periodic consultation on the Design Level Geotechnical Investigation and Geologic Hazard Study dated 2/4/2016 for the Ocean View Elementry School reconstruction.

Services to include revisions to the geotech report to update for submittal to CGS and responding to questions from Design Build Teams in the course of selecting the builder of the project.

2. Contractor Qualifications. Contractor represents and warrants to District that Contractor and all of Contractor's employees, agents or volunteers (the "Contracted Parties") have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. If any of the Services are performed by any of Contractor's Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor.

3. Term. CONTRACTOR shall:

☐

Provide services under this AGREEMENT on the following specific date's

_____, _____, _____, _____, _____, _____, _____, and

complete performance no later than _____;

OR

☒

Commence providing services under this AGREEMENT on August 15, 2018 and

complete performance no later than June 30, 2021.

There shall be no extension of the Term of this Agreement without the express written consent from all parties. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contracted Parties. In the event of early termination, Contractor shall be paid for satisfactory work 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 time period for the effectiveness of such termination. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially violates any of the terms of this Agreement, any act or omission by Contractor or the Contracted 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 on account of Contractor's insolvency. Such termination shall be effective immediately upon Contractor's receipt of said notice.
5. Compensation. DISTRICT agrees to pay the CONTRACTOR for services satisfactorily rendered pursuant to this AGREEMENT. DISTRICT shall pay CONTRACTOR according to the following terms and conditions:

- a. Such compensation shall be based on:
- ☐ An hourly rate of \$ _____ for a total amount of _____ hours.
- ☐ A daily rate of \$ _____ for a total amount of _____ days.
- ☒ \$ Time-and-Materials, Not-to-Exceed \$15,000
- b. Payment method shall be:
- ☐ Upon Completion.
- ☐ Date of Service
- ☒ **Other (Specify):** Monthly

Any work performed by Contractor in excess of said amount shall not be compensated.

Payment shall be made upon approval of DISTRICT and receipt of an invoice from CONTRACTOR one copy clearly marked original. CONTRACTOR's invoice shall be sent to: Albany Unified School District, Attention: Accounts Payable, 1051 Monroe Street, Albany, CA, 94706.

6. 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 of the Contracted Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contracted Parties by District. Furthermore, any Equipment or workmanship that does not conform to the regulations of this Agreement may be rejected by District and in such case must be promptly remedied or replaced by Contractor at no additional cost to District and subject to District's reasonable satisfaction.
7. California Residency. Contractor and the Contracted Parties shall be residents of the State of California.
8. Indemnity. Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Education, members of the Board of Education (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 the performance of this Agreement, including but not limited to Contractor's or the Contracted Parties' use of the site; Contractor's or the Contracted Parties' performance of the Services; Contractor's or the Contracted Parties' breach of any of the representations or warranties contained in this Agreement; injury to or death of persons or damage to property or delay or damage to District or the District Parties; or for any act, error, omission, negligence, or willful misconduct of Contractor, the Contracted Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. 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.

9. Insurance. Without in any way limiting Contractor's liability or indemnification obligations set forth in Paragraph 8 above, District reserves the right to require contractor to procure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits not less than \$1,000,000.00 each occurrence and \$1,000,000.00 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$100,000.00 each occurrence and \$100,000.00 in the aggregate; if applicable; and neither Contractor nor any of the Contracted Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insured. 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 any of the required insurance is not reinstated, District may, at its sole option, terminate this Agreement. All of the policies shall also 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.
10. Independent Contractor Status. Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that s/he and the Contracted Parties shall not be considered officers, employees, agents, partners, or joint ventures 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.
11. 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 compensation 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 Contracted Parties and otherwise in connection with this Agreement.
12. Fingerprinting/Criminal Background Investigation Certification. Contractor and the Contracted Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:

☒ Contractor and the Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted Parties have **more than limited contact** (as

determined by District) with District students during the Term of this Agreement:

[Attach and sign additional pages, as needed.]

☐ All of the Contracted Parties noted above, at no cost to District, have completed background checks and have been fingerprinted under procedures established by the California Department of Justice and the Federal Bureau of Investigation, and the results of those background checks and fingerprints reveal that none of these Contracted Parties have been arrested or convicted of a serious or violent felony, as defined by the California Penal Code.

Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information, including additional personnel, which differs in any way from the representations set forth above, Contractor shall immediately notify District and prohibit any new personnel from having any contact with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any such contact is permissible.

13. Tuberculosis Certification. Contractor and the Contracted 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:

☒ Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted 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:

Contractor shall maintain on file the certificates showing that the Contracted 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 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 such contact is permissible.

14. 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.

15. Assignment. 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.
16. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Contractor and District and their respective successors and assigns.
17. 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.
18. 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.
19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate court in Alameda County, California.
20. Non-Discrimination. Contractor shall not discriminate on the basis of a person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation in employment or operation of its programs.
21. 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 mail to the last business address known to the person who sends the notice.
22. 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.
23. Attorney Fees. If any legal action is taken to 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.

24. Liability of District. Notwithstanding anything stated herein to the contrary, District shall not be liable for any special, consequential, indirect or incident damages, including but not limited to lost profits in connection with this Agreement.
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. Subject To Approval of Board. This Agreement confers no legal or equitable rights until it is approved by the District Board of Education at a lawfully conducted public meeting.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

DISTRICT:

ALBANY UNIFIED SCHOOL DISTRICT

By: _____
 Name: Valerie Williams
 Title: Superintendent

Address for District Notices:

Albany Unified School District
 904 Talbot Ave.
 Albany, CA 94706

Date of Board Approval: August 14, 2018

CONTRACTOR: A3Geo, Inc

Dona Mann

Tax Identification Number: _____

By _____

Name: Dona Mann
 Title: Principal Engineer

Address for Contractor Notices:

A3GEO Inc
1331 Seventh Street, Unit E
Berkeley CA 94710



A3GEO, INC.
2018 SCHEDULE OF CHARGES
(Effective May 1, 2018)

Lump Sum Agreement: If services are performed for a lump sum fee, Client agrees to pay A3GEO the lump sum fee stated in the proposal letter.

Time and Materials Agreement: If services are performed on a time-and-materials basis, Client agrees to pay A3GEO in accordance with the following schedule of charges:

<u>Personnel (Engineer/Geologist)</u>	<u>Hourly Rate</u>
Senior Technical Consultant.....	\$285
Principal.....	\$215
Associate.....	\$205
Senior.....	\$195
Project.....	\$175
Staff.....	\$155
Technician.....	\$120
Graphics.....	\$115
Administrative Support.....	\$105
<u>Equipment*</u>	<u>Rate</u>
Field Truck and Equipment	\$15/hr
Hand Auger Drilling and Sampling Equipment.....	\$500/full day
Slope Inclinometer Probe.....	\$150/½-day
	\$200/full day
Zip Level	\$100/½-day
	\$150/full day
Plotter.....	\$100/sheet
<u>Laboratory Testing</u>	<u>Rate</u>
Moisture Content (ASTM D 2216).....	\$15.00
Moisture and Density (ASTM D 2937)	
2.5-inch Diameter.....	\$25.00
3.0-inch Diameter.....	\$35.00
#200 Sieve Wash (ASTM D 1140).....	\$80.00
Sieve w/Percent Passing #200 (ASTM D 422).....	\$110.00
Sieve w/Hydrometer (ASTM D 422).....	\$180.00
Plastic and Liquid (Atterberg) Limits (ASTM D 4318).....	\$230.00
Modified Proctor Compaction – 4" Mold (ASTM D 1557).....	\$260.00
Modified Proctor Compaction – 6" Mold (ASTM D 1557).....	\$310.00
Modified Proctor Compaction Check Point (ASTM D 1557).....	\$105.00

* Charges for other equipment can be quoted at time of usage.

These rates will be charged for work performed during the specified year. Work continuing into the following year or years will be charged at the new rates. Work required on Saturdays will be billed at 1.5 times the rates shown above; work required on Sundays or holidays will be billed at 2.0 times the rates shown above. On our invoice, this will be accommodated by increasing the amount of hours worked by 50% and 100%, respectively. Services will be charged in ¼-hour increments, with time rounded upward to the nearest ¼ hour. Any time spent out of the office is charged on a portal-to-portal basis, including field truck and equipment hourly charges or mileage at the Internal Revenue Service rates.

Miscellaneous Charges: Sub-consultants, equipment rentals, and reimbursables (including outside laboratory) are billed at cost plus 15 percent.

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

ITEM: INDEPENDENT CONTRACTOR AGREEMENT WITH KISTER, SAVIO & REI, INC. FOR TOPOGRAPHIC AND UNDERGROUND UTILITY SURVEY SERVICES FOR THE OCEAN VIEW SCHOOL CONSTRUCTION PROJECT

PREPARED BY: JACKIE KIM, CHIEF BUSINESS OFFICIAL

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE: To review and approve the Independent Contractor Agreement with Kister, Savio & Rei, Inc. (KSR) for Topographic and Underground Utility Survey Services for the Ocean View School Construction Project as these services are required to support the final design of the school.

BACKGROUND INFORMATION/DETAILS: Public schools are a function of the State of California. The State of California has a division called the Division of the State Architect that provides rules and regulations specific to Structural, Safety, and Accessibility for public buildings, including schools and hospitals. The State of California issues licenses to Surveyors to help ensure buildings meet all the code requirements set by the State. KSR has previously completed an initial topographic and underground utility survey for the project. As the District is now moving forward with the Design/Build process, the original survey will have to be updated to support the final design of the school.

DETAILS: Topographic and Underground Utility Survey Services for the Ocean View School Construction project. Expected Timeframe: August 2018 to June 2021

Services will be provided on a Time-and-Materials basis and shall include:

- Provide supplemental survey support to identify and mark boundaries and utilities
- Update previously completed Topographic Survey as needed to support the new school design
- Update previously completed Underground Utility Survey as needed to support the new school design

FINANCIAL INFORMATION: Total Agreement (Time-and Materials, Not-to-Exceed): \$15,000.00 from Measure B Fund.

STRATEGIC OBJECTIVES ADDRESSED:

Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

RECOMMENDATION: Approve the Independent Contractor Agreement with Kister, Savio & Rei, Inc. for Topographic and Underground Utility Survey Services for the Ocean View School Construction Project

**ALBANY UNIFIED SCHOOL DISTRICT
INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

This agreement is hereby entered into this 15th day of August, 2018 in the County of Alameda, State of California, by and between the Albany Unified School District, hereinafter referred to as "DISTRICT," and Kister, Savio & Rei Inc

CONTRACTOR

825 San Pablo Ave

MAILING ADDRESS

Pinole	CA	94564
CITY	STATE	ZIP

hereinafter referred to as 'CONTRACTOR.' DISTRICT and CONTRACTOR shall be collectively referred to as the Parties.

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

Provide supplemental survey support to identify and mark boundaries and utilities based on Kister, Savio & Rei Inc surveys completed in 2015.

2. Contractor Qualifications. Contractor represents and warrants to District that Contractor and all of Contractor's employees, agents or volunteers (the "Contracted Parties") have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other legal qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. If any of the Services are performed by any of Contractor's Parties, such work shall only be performed by competent personnel under the supervision of and in the employment of Contractor.

3. Term. CONTRACTOR shall:

☐

Provide services under this AGREEMENT on the following specific date's

_____, _____, _____, _____, _____, _____, _____, and

complete performance no later than _____;

OR

☒

Commence providing services under this AGREEMENT on August 15, 2018 and

complete performance no later than June 30, 2021.

There shall be no extension of the Term of this Agreement without the express written consent from all parties. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contracted Parties. In the event of early termination, Contractor shall be paid for satisfactory work 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 time period for the effectiveness of such termination. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially violates any of the terms of this Agreement, any act or omission by Contractor or the Contracted 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 on account of Contractor's insolvency. Such termination shall be effective immediately upon Contractor's receipt of said notice.
5. Compensation. DISTRICT agrees to pay the CONTRACTOR for services satisfactorily rendered pursuant to this AGREEMENT. DISTRICT shall pay CONTRACTOR according to the following terms and conditions:

- a. Such compensation shall be based on:
- ☐ An hourly rate of \$ _____ for a total amount of _____ hours.
- ☐ A daily rate of \$ _____ for a total amount of _____ days.
- ☒ \$ Time-and-Materials, Not-to-Exceed \$15,000
- b. Payment method shall be:
- ☐ Upon Completion.
- ☐ Date of Service
- ☒ **Other (Specify):** Monthly

Any work performed by Contractor in excess of said amount shall not be compensated.

Payment shall be made upon approval of DISTRICT and receipt of an invoice from CONTRACTOR one copy clearly marked original. CONTRACTOR's invoice shall be sent to: Albany Unified School District, Attention: Accounts Payable, 1051 Monroe Street, Albany, CA, 94706.

6. 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 of the Contracted Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contracted Parties by District. Furthermore, any Equipment or workmanship that does not conform to the regulations of this Agreement may be rejected by District and in such case must be promptly remedied or replaced by Contractor at no additional cost to District and subject to District's reasonable satisfaction.
7. California Residency. Contractor and the Contracted Parties shall be residents of the State of California.
8. Indemnity. Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Education, members of the Board of Education (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 the performance of this Agreement, including but not limited to Contractor's or the Contracted Parties' use of the site; Contractor's or the Contracted Parties' performance of the Services; Contractor's or the Contracted Parties' breach of any of the representations or warranties contained in this Agreement; injury to or death of persons or damage to property or delay or damage to District or the District Parties; or for any act, error, omission, negligence, or willful misconduct of Contractor, the Contracted Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. 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.

9. Insurance. Without in any way limiting Contractor's liability or indemnification obligations set forth in Paragraph 8 above, District reserves the right to require contractor to procure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits not less than \$1,000,000.00 each occurrence and \$1,000,000.00 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$100,000.00 each occurrence and \$100,000.00 in the aggregate; if applicable; and neither Contractor nor any of the Contracted Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insured. 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 any of the required insurance is not reinstated, District may, at its sole option, terminate this Agreement. All of the policies shall also 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.
10. Independent Contractor Status. Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that s/he and the Contracted Parties shall not be considered officers, employees, agents, partners, or joint ventures 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.
11. 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 compensation 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 Contracted Parties and otherwise in connection with this Agreement.
12. Fingerprinting/Criminal Background Investigation Certification. Contractor and the Contracted Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:

☒ Contractor and the Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted Parties have **more than limited contact** (as

determined by District) with District students during the Term of this Agreement:

[Attach and sign additional pages, as needed.]

☐ All of the Contracted Parties noted above, at no cost to District, have completed background checks and have been fingerprinted under procedures established by the California Department of Justice and the Federal Bureau of Investigation, and the results of those background checks and fingerprints reveal that none of these Contracted Parties have been arrested or convicted of a serious or violent felony, as defined by the California Penal Code.

Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information, including additional personnel, which differs in any way from the representations set forth above, Contractor shall immediately notify District and prohibit any new personnel from having any contact with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any such contact is permissible.

13. Tuberculosis Certification. Contractor and the Contracted 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:

☒ Contracted Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

☐ The following Contracted 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:

Contractor shall maintain on file the certificates showing that the Contracted 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 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 such contact is permissible.

14. 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.

15. Assignment. 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.
16. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Contractor and District and their respective successors and assigns.
17. 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.
18. 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.
19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate court in Alameda County, California.
20. Non-Discrimination. Contractor shall not discriminate on the basis of a person's actual or perceived race, religious creed, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation in employment or operation of its programs.
21. 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 mail to the last business address known to the person who sends the notice.
22. 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.
23. Attorney Fees. If any legal action is taken to 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.

24. Liability of District. Notwithstanding anything stated herein to the contrary, District shall not be liable for any special, consequential, indirect or incident damages, including but not limited to lost profits in connection with this Agreement.
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. Subject To Approval of Board. This Agreement confers no legal or equitable rights until it is approved by the District Board of Education at a lawfully conducted public meeting.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

DISTRICT:

ALBANY UNIFIED SCHOOL DISTRICT

By: _____
 Name: Valerie Williams
 Title: Superintendent

Address for District Notices:

Albany Unified School District
 904 Talbot Ave.
 Albany, CA 94706

Date of Board Approval: August 15, 2018

CONTRACTOR: Kister, Savio & Rei Inc
Patrick Rei

Tax Identification Number: _____

By _____
 Name: Patrick Rei
 Title: President

Address for Contractor Notices:

Kister, Savio & Rei Inc
825 San Pablo Ave
Pinole, CA 94564

KISTER, SAVIO & REI INC.

LAND SURVEYORS & CIVIL ENGINEERS



MATTHEW L. REI
RCE 39863, LLS 7115
PRES - ENGINEERING

PATRICK M. REI
LLS 8178
PRES - SURVEYING

825 SAN PABLO AVENUE
PINOLE, CA 94564
PHONE (510) 222 - 4020
FAX (510) 222 - 3718
E-MAIL info@ksrinc.net

DONALD E. KISTER (1905 - 1969) CHARLES J. SAVIO (1921 - 2006) MICHAEL P. REI (1934 - 2015)

March 1, 2018

FEE SCHEDULE

NORMAL HOURLY CHARGES FOR PROFESSIONAL SERVICES CIVIL ENGINEERING AND LAND SURVEYING

A. OFFICE AND PROFESSIONAL

Principal; Consultation, Court Appearances; etc.	\$ 210.00
Registered Engineer	\$ 160.00
Licensed Land Surveyor	\$ 160.00
Assistant Engineer	\$ 130.00
Survey Technician	\$130.00
CADD Drafter	\$ 95.00
Stenographic - Secretarial	\$ 55.00

B. FIELD WORK

One Man Survey Crew	\$180.00
Two Man Survey Crew	\$235.00

C. EXPENSES

Consultants: Subcontractors, Special Equipment, Fees Advanced	Cost Plus 15%
Blueprinting, Reproduction, Duplicating Postage, etc.	Normal Commercial Rates
Filing Fees, Checking Fees, Special Permits, etc.	Client to Pay Directly

D. OVERTIME WORK

Hourly charges for office, professional and field work personnel for authorized work in excess of 8 hours per day or 40 hours per week will be computed at 1.35 times the normal charges listed above for time and one-half. Work on Sundays and Holidays will be computed at 1.65 the normal charges for double time.

E. EFFECTIVE DATES

The rates listed in this Fee Schedule are effective through February 28, 2019, and subject to adjustment thereafter.

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

**ITEM: AMENDMENT TO AGREEMENT WITH DERIVI CASTELLANOS
ARCHITECTS TO PROVIDE PROGRAM MANAGEMENT SERVICES
FOR THE OCEAN VIEW ELEMENTARY SCHOOL
RENOVATION/REBUILD**

PREPARED BY: JACKIE KIM, CHIEF BUSINESS OFFICIAL

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE: Board of Trustees to review and approve the Amendment to Agreement with Derivi Castellanos Architects to provide program management services for the Ocean View Elementary School Renovation/Rebuild

BACKGROUND INFORMATION:

At the March 25, 2014 Regular Board Meeting, the Board approved the Facilities Master Plan. One of the projects included the architectural development of Ocean View Elementary. At the August 26, 2014 Regular Board Meeting, the Board directed staff to move forward with the selection of an architect for the Ocean View School Construction Project. At the September 23, 2015 Regular Board Meeting, the Board directed staff to pursue a set of projects based on our current funding constraints. A public bid and follow-up interviews were conducted in September and October 2014. At the October 28, 2014 Regular Board Meeting, the Board approved the Program Management Services Agreement with Derivi Castellanos Architects (DCA).

At the March 22, 2016 Regular Board Meeting, the Board approved an amendment to the Derivi Castellanos Architects Program Management Services Agreement to the bid package development of removing the Albany High School Amphitheater. At the November 8, 2018 Regular Board Meeting, the Board approved the Amendment to Derivi Castellanos Architects Agreement to Provide Program Management Services for the Albany Middle School Annex on San Gabriel. At the Regular Board Meeting of January 23, 2018, the Board approved the Amendment Agreement with Derivi Castellanos Architects (DCA) to Provide Program Management Services for the Albany High School Addition.

DETAILS:

This proposal is for DCA to provide project management services for the Ocean View Elementary School Renovation/Rebuild. The Scope of Services is below.

Scope of Services through August, 2021:

1. Facilitate the Schematic Design Refinement Phase
2. Prepare a Request for Proposal (RFP) Package for Design/Build Teams, which will include Bridging Documents and Criteria prepared by HY Architects
3. Facilitate Prequalification of Design/Build Teams in order to establish a shortlist of three Teams that will participate in the RFP Phase
4. Facilitate Design/Build RFP Phase (Confidential Meetings with Stakeholder Committee), leading to selection of a Design/Build Team
5. Facilitate the completion of Design and Construction Documents for submittal to DSA
6. Facilitate budget updates (by Design/Builder) through the Design process
7. Facilitate Value Engineering
8. Facilitate the DSA submittal and review process
9. Assist District with coordination of funding strategies (CDE, OPSC)
10. Coordination of District consultants (CEQA, Geotech, Surveyor, Hazmat, Acoustic, IOR, Testing Lab, Technology, State Funding, CHPS, Commissioning)
11. Assist with jurisdictional reviews (UC Berkeley, City of Albany, PG&E, EBMUD)
12. Facilitate implementation of District Policy requiring Collaborative for High Performing Schools (CHPS) verification
13. Facilitate the construction process
14. Assist District with cost, schedule and quality control during construction
15. Assist District with Contract Administration and Applications for Payment
16. Facilitate punch list, closeout, DSA certification and final acceptance of the project
17. Advise District on warranty issues
18. Assist District with evaluation and resolution of technical issues that may arise during design, construction and closeout

KEY QUESTIONS AND ANSWERS:

Q. DCA will be managing several AUSD construction projects at the same time. How will they be able to manage these projects to fidelity?

A. With a staff of 30 facilities professionals, DCA is well-positioned to meet AUSD's anticipated project needs. Juan Barroso oversees all projects and reports directly to Val Williams and Jackie Kim on all matters. Adam Bayer serves in the role of Project Director, on a full-time basis, for AMS Annex and AHS Addition. Adam's support team includes Rick Bir (Sr. Project Manager), Alice Cheng (Project Manager), Antonio Perez (Sr. Project Coordinator) and Rozina Jiva (Project Coordinator). DCA monitors project workflow and requirements closely and will add or reduce staffing as needed to ensure efficient and successful execution of all Albany projects.

FINANCIAL INFORMATION:

- | | |
|---|----------|
| 1. Schematic Design Refinement (10 weeks) | \$28,950 |
|---|----------|

2. Prequalification of Design/Build Teams	\$14,270
3. RFP/Procurement Process (14 weeks)	\$72,870
4. Completion of Design & Construction Docs (28 weeks)	\$163,800
5. DSA Review/Approval & Preconstruction (26 weeks)	\$147,100
6. Construction Phase (70 weeks)	\$773,850
7. Coordination of District Scopes of Work (Technology, Security, Furniture, Utilities)	\$184,450
8. Closeout & DSA Certification (12 weeks)	\$54,420

Total Fee Authorization \$1,439,710

Funding Source: Measure B

STRATEGIC OBJECTIVES ADDRESSED:



Objective #1: *Assess and Increase Academic Success. Goal: We will provide a comprehensive educational experience with expanded opportunities for engagement, assessment, and academic growth so that all students will achieve their fullest potential.*



Objective #2: *Support the Whole Child. Goal: We will foster the social and emotional growth of all students, implement an array of strategies to increase student engagement, identify individual socio-emotional and behavioral needs, and apply collaborative appropriate interventions.*



Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

RECOMMENDATION: Board of Trustees to review and approve the Amendment to Agreement with Derivi Castellanos Architects to provide program management services for the Ocean View Elementary School Renovation/Rebuild



Silicon Valley
95 S Market St, Suite 480
San Jose, CA 95113

Central Valley
3031 W March Ln, Suite 334
Stockton, CA 95219

dcaia.com

August 2, 2018

Ms. Valerie Williams
Superintendent
ALBANY UNIFIED SCHOOL DISTRICT
819 Bancroft Way
Berkeley, CA 94710

Re: **PROPOSAL FOR PROJECT MANAGEMENT SERVICES**
Ocean View Elementary School Re-construction
1000 Jackson Street, Albany, CA 94706

Dear Ms. Williams:

Thank you for inviting Derivi Castellanos Architects (DCA) to provide a Proposal for Project Management Services related to your Ocean View Elementary School Re-construction project.

PROJECT BACKGROUND

In order to provide optimal 21st Century educational environments for students and teachers, address concerns for seismic safety and maximize energy efficiency and sustainability, the Albany Unified School District began a design process in January 2015, which considered multiple scenarios for the re-construction of Ocean View Elementary School. This process included numerous meetings with a Design Committee consisting of Teachers, Administrators, Board Members, Sustainability Advocates and Community Members, who have collectively given the bridging architect (HY Architects) guidance on the layout and design of the new school. Presently, the District wishes to go through a Schematic Design Refinement phase, which will again consider multiple scenarios for the new school. In response to budget constraints, consideration will be given to maintaining and modernizing portions of the existing school. This phase will lead to a Design/Build procurement process. A selected Design/Builder will ultimately complete the design and construction documents for submittal to the Division of State Architect (DSA) and will follow through with construction of the project. DCA is proposing comprehensive Project Management/Owner Representation services for this project as outlined below.

SCOPE OF SERVICES TO BE PROVIDED BY DCA

1. Facilitate the Schematic Design Refinement Phase
2. Prepare a Request for Proposal (RFP) Package for Design/Build Teams, which will include Bridging Documents and Criteria prepared by HY Architects
3. Facilitate Prequalification of Design/Build Teams in order to establish a shortlist of three Teams that will participate in the RFP Phase
4. Facilitate Design/Build RFP Phase (Confidential Meetings with Stakeholder Committee), leading to selection of a Design/Build Team
5. Facilitate the completion of Design and Construction Documents for submittal to DSA

6. Facilitate budget updates (by Design/Builder) through the Design process
7. Facilitate Value Engineering
8. Facilitate the DSA submittal and review process
9. Assist District with coordination of funding strategies (CDE, OPSC)
10. Coordination of District consultants (CEQA, Geotech, Surveyor, Hazmat, Acoustic, IOR, Testing Lab, Technology, State Funding, CHPS, Commissioning)
11. Assist with jurisdictional reviews (UC Berkeley, City of Albany, PG&E, EBMUD)
12. Facilitate implementation of District Policy requiring Collaborative for High Performing Schools (CHPS) verification
13. Facilitate the construction process
14. Assist District with cost, schedule and quality control during construction
15. Assist District with Contract Administration and Applications for Payment
16. Facilitate punchlist, closeout, DSA certification and final acceptance of the project
17. Advise District on warranty issues
18. Assist District with evaluation and resolution of technical issues that may arise during design, construction and closeout

TIMELINE

This Proposal is based on the following approximate durations:

• Schematic Design Refinement, Prequalification of Design/Build Teams	10 weeks
• RFP/Procurement Process	14 weeks
• Completion of Design & Construction Docs	28 weeks
• DSA Review/Approval & Preconstruction	26 weeks
• Construction Phase Coordination of District Scopes of Work Substantial Completion anticipated June 2021	70 weeks
• Closeout, DSA Certification	12 weeks
Total Anticipated Project Duration	160 weeks (37 months)

FEE AND COMPENSATION SCHEDULE

The basis of Client payments to DCA shall be Lump Sum by Percent Complete as set forth below:

1. Schematic Design Refinement	\$28,950
2. Prequalification of Design/Build Teams	\$14,270
3. RFP/Procurement Process	\$72,870
4. Completion of Design & Construction Docs	\$163,800
5. DSA Review/Approval & Preconstruction	\$147,100
6. Construction Phase	\$773,850
7. Coordination of District Scopes of Work (Technology, Security, Furniture, Utilities)	\$184,450
8. Closeout & DSA Certification	\$54,420
Total Fee	\$1,439,710

Notes:

- a. Typical reimbursables (mileage, printing for our use only, site investigation) are included in the above figures
- b. Additional Services shall be provided upon request at T&M rates
- c. Fee Estimate Worksheet attached

Client will be billed monthly. Invoiced amounts are payable and due within thirty (30) days from receipt of invoice. DCA Hourly Rate Schedule dated January 1, 2018 is attached.

PROPOSED TEAM

DCA Staff	Position	Responsibilities on Project
Juan Barroso	Project Executive	Executive oversight and support, strategy, negotiations, advocacy with agencies, coordination of state funding efforts, District's primary executive contact.
Adam Bayer, P.E.	Project Director	Overall responsibility for project execution, primary contact for Design/Builder and Inspector of Record, coordination with agencies, utilities and District vendors, schedule and budget control, District's primary project contact.
Rick Bir	Sr. Project Manager (Preconstruction)	Coordination of D/B Pre-qualification and Request for Proposal process, outreach to contractors, communication and feedback to D/B teams during confidential meeting phase.
Alice Cheng	Sr. Project Manager (Construction)	Routine project management duties, including weekly meetings, site reviews, coordination with OVES Staff, schedule and budget updates, coordination of CHPS process, punchlist, project and DSA closeout.
Jeff Threet, P.E.	Cost Estimator	Validation of proposed costs and change orders, value engineering, procurement assistance.
Antonio Perez	Sr. Project Coordinator	Project documentation, processing of Submittals, Requests for Information, Potential Change Orders, coordination with utilities and agencies.
Rozina Jiva	Project Coordinator	Project documentation, processing of Submittals, Requests for Information, Potential Change Orders, coordination with utilities and agencies.

EXCLUSIONS & CLARIFICATIONS

1. Architectural, Engineering, Design Services
2. Detailed cost estimates (to be prepared by Design/Builder)
3. Services typically provided by specialty consultants (Geotech, Hazmat, IOR, Testing Lab, Technology, Security, Furniture, Environmental/CEQA, Funding, CHPS, Commissioning)
4. Any guarantees of project schedules or budgets
5. Performance of District consultants, contractors or vendors
6. Responsibility for existing site conditions, deficiencies, violations, hazardous materials, contamination, uncertified projects that may exist on the site
7. DCA will not work with hazardous or contaminated materials
8. Any additional services requested by District and not specifically included above will incur additional costs at T&M Rates

NON-DISCRIMINATION

DCA, its employees and consultants do not discriminate against any person on account of race, color, religion, creed, sex, sexual orientation, age, marital status, national origin, ancestry, disability or upon any other unlawful basis.

TERMINATION OF AGREEMENT

This agreement may be terminated by either party upon not less than twenty one days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

THIS PROPOSAL IS RESPECTFULLY SUBMITTED

DERIVI CASTELLANOS ARCHITECTS



Juan G. Barroso
 Managing Partner

THIS PROPOSAL IS ACCEPTED AS PRESENTED

ALBANY UNIFIED SCHOOL DISTRICT

 Signature of Authorized Representative

 Printed Name and Title

 Date

FEE ESTIMATE WORKSHEET

CLIENT: ALBANY UNIFIED SCHOOL DISTRICT

PROJECT: Ocean View Elementary School Re-construction
Project Management/Owner Representative Services

DELIVERABLES: Project Management/Owner Rep services to facilitate Schematic Design Refinement, selection of Design/Build team, completion of design and construction documents for submittal to DSA leading to construction, oversight of the construction, District Scopes and closeout phases.



PREPARED BY: JUAN BARROSO

DATE: 8/2/18

REVISION: 0

DCA PROPOSAL NO.: P18.035

TASK 1: PROJECT MANAGEMENT/OWNER REP SERVICES															
Scope of Work Items	Duration (Weeks)	Estimated Staff Hours									Staff		Consult	Expenses	Total Cost
		Project Executive	Project Director	Senior Proj Mgr	Proj Mgr	Cost Estimator	Senior Proj Coord	Proj Coord	Drafter	Clerical	Hours	Cost			
Schematic Design Refinement	10	60	60				20			10	150	\$ 27,950		\$ 1,000	\$ 28,950
Prequalification of D/B Teams	6	12		48			12			6	78	\$ 13,770		\$ 500	\$ 14,270
RFP/Procurement Process	14	28	140	168			28			14	378	\$ 69,370		\$ 3,500	\$ 72,870
Completion of Design, Constr Docs	28	28	448	112		28	280			28	924	\$ 156,800		\$ 7,000	\$ 163,800
DSA Review/Approval & Precon	26	26	260	260		26	260			26	858	\$ 145,600		\$ 1,500	\$ 147,100
Construction Phase	70	70	700	1,120		70	1,400	1,400		140	4,900	\$ 738,850		\$ 35,000	\$ 773,850
Coordination of District Scopes of Work	70	70	70	560			280			70	1,050	\$ 177,450		\$ 7,000	\$ 184,450
Closeout, DSA Certification	12	12	24	24			288			12	360	\$ 51,420		\$ 3,000	\$ 54,420
											-	\$ -			\$ -
											-	\$ -			\$ -
Additional services not included above - T&M Upon Request.											-	\$ -			\$ -
											-	\$ -			\$ -
Subtotals:		306	1,702	2,292	-	124	2,568	1,400	-	306	8,698				
Rate (\$/hr):		220	190	190	165	165	135	120	100	65					
Totals:		\$ 67,320	\$ 323,380	\$ 435,480	\$ -	\$ 20,460	\$ 346,680	\$ 168,000	\$ -	\$ 19,890	\$ 1,381,210	\$ -	\$ 58,500	\$ 1,439,710	

HOURLY RATE SCHEDULE
Effective January 1, 2018

The following rate schedule shall be used as a basis for establishing "time and materials" compensation:

Partner	\$220.00
---------	----------

ARCHITECTURAL SERVICES

Principal Architect	\$190.00
Director of Engineering	\$190.00
Architect	\$165.00
Sr. Designer	\$135.00
Sr. Project Coordinator	\$135.00
Designer	\$120.00
Project Coordinator	\$120.00
Drafter	\$100.00
Intern	\$80.00
Clerical Assistant	\$65.00
Consultants	actual cost +10%

PROJECT MANAGEMENT/CONSULTING SERVICES:

Funding Advisor	\$220.00
Director of Engineering	\$190.00
Sr. Project Manager	\$190.00
Project Manager	\$165.00
Cost Estimator	\$165.00
Sr. Project Coordinator	\$135.00
Project Coordinator	\$120.00
Intern	\$80.00
Clerical Assistant	\$65.00
Consultants	actual cost +10%

Reimbursable costs shall be billed at actual cost plus 10% and include reproduction, office consumables, mileage, shipping, telephone, software services, meeting costs, travel time, lodging, other miscellaneous services and expenses required to accomplish the work. Mileage will be reimbursed at the IRS standard mileage rate. These expenses shall not be considered a part of the overall maximum fee. All invoices are due and payable within 30 days of invoice date. All invoices for which payment is not received within 45 days will be assessed a 1.5% per month late charge (18% Annual Percentage Rate). This schedule is subject to adjustment every January 1st.

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of August 14, 2018

**ITEM: AMENDMENT TO AGREEMENT WITH HY ARCHITECTS, INC.
TO PROVIDE ARCHITECTURAL SERVICES FOR THE OCEAN VIEW
SCHOOL CONSTRUCTION PROJECT**

PREPARED BY: JACKIE KIM, CHIEF BUSINESS OFFICIAL

TYPE OF ITEM: REVIEW AND ACTION

PURPOSE: To review and approve the amendment to the agreement with Hibser Yamauchi Architects, Inc. (“HY”) to add schematic design refinement, bridging documents and consulting during the Request for Proposal process and to delete the Design Development phase, which will not proceed, for the Ocean View Elementary School construction project.

BACKGROUND INFORMATION/DETAILS: As part of Measures B & E approved by voters on November 8, 2016, the District intends to improve Ocean View Elementary School by rebuilding and possibly renovating certain portions of the school. This project will provide 21st century learning environments for students and teachers, and it will address seismic safety concerns as well as deliver a highly sustainable and energy efficient facility. Via this Amendment, HY will provide services to refine the current schematic design, prepare a set of bridging documents and consulting during the RFP process.

KEY QUESTIONS/ANSWERS:

Q: Where can I find the original contract approved by the Board?

A: The original contract can be found in Exhibit “A”

Q: What is the reason for the amendment?

A: The Amended Agreement will reflect additional services and consulting fees. However, it will also reflect the deletion of the Design Development Scope of Services in the original Agreement with HY Architects because this phase of work was not initiated by the District to proceed.

FINANCIAL INFORMATION: An additional \$51,000 will be allocated for this project from the bond funds. While the total project scope amounts to \$216,000, there is a net reduction to the project scope in the amount of \$182,750 [\$398,750 (*original estimate*) - \$216,000 (*revised estimate*)].

STRATEGIC OBJECTIVES ADDRESSED:

Objective #3: *Communicate and Lead Together. Goal: All stakeholders will collaborate and communicate about decisions that guide the sites and district.*

RECOMMENDATION: Approve amendment to HY Architects, Inc. Agreement to provide Architectural Services for the Ocean View School Construction Project

**AMENDMENT TO HY ARCHITECTS, INC. AGREEMENT TO PROVIDE
ARCHITECTURAL SERVICES FOR THE OCEAN VIEW SCHOOL CONSTRUCTION
PROJECT**

The Architectural Services Agreement between Albany Unified School District (“District”) and Hibser Yamauchi Architects, Inc. (“Architect”) shall be amended as follows:

- Exhibit “A” – Original Contract
 - Exhibit “B” – Amended Contract on January 15, 2015
 - Exhibit “C” – OVES Ongoing Consulting Fee Proposal
1. Additional Services: Fixed Fee: \$36,000.00
 - a. Schematic Design Refinement
 - b. Preparation of Bridging Documents
 - c. Consulting during the Request for Proposals phase
 2. Additional consulting services as requested by District: Fees not to exceed \$15,000
 - a. Time-and-Materials Fee for above (item iv): \$15,000.00
 3. Delete Design Development Scope of Services in original Agreement (this phase was not initiated by District to proceed)
 - a. Fixed Fee deduction: -\$233,750.00

Total Fee of Amended Agreement: \$216,000.00

- Schematic Design Phase from Amended Agreement Dated January 27, 2015 (completed in June, 2015) = \$165,000
- Additional Service (#1 & #2 above: \$36,000 + \$15,000) = \$51,000

ARCHITECT:

DISTRICT:

Hibser Yamauchi Architects, Inc.

Albany Unified School District

By:

By:

Its: _____

Its: _____

Date: _____

Date: _____

EXHIBIT A

ALBANY UNIFIED SCHOOL DISTRICT BOARD AGENDA BACKUP

Regular Meeting of October 14, 2014

ITEM: **APPROVE THE SELECTION OF HY ARCHITECTS, INC. TO
PROVIDE ARCHITECTURAL SERVICES FOR THE OCEAN
VIEW SCHOOL CONSTRUCTION PROJECT.**

PREPARED BY: **ALLAN GARDE, CHIEF BUSINESS OFFICIAL**

TYPE OF ITEM: **REVIEW AND ACTION**

BACKGROUND INFORMATION:

At the March 25th, 2014 Board meeting, the Board approved the Facilities Master Plan. One of the projects included the architectural development of Ocean View Elementary.

At the August 26th, 2014 Board meeting, the Board directed staff to move forward with the selection of an architect for the Ocean View School Construction Project.

A Notice to Bidders was published in a local newspaper on September 5th, 2014 and again on September 12th, 2014. This notice and applicable documentation were also posted on the www.ausdk12.org website and five local regional builder exchanges.

All bids were to be submitted by 12:00p.m. on September 15th, 2014
Staff received a total of four bids for the San Gabriel Site project; and three were invited to be interviewed on September 17th, 2014 by the panel. (Allan Maris, Board Trustee; Allan Garde, CBO; Don Albright, Facilities Supervisor; External Guests: Bond Director, Architect, and Construction Manager)

At the September 23rd Board Meeting, the Board directed staff of the priorities for the Ocean View Elementary School Construction Project.

A follow-up meeting was scheduled with the architectural firm finalists on September 30th.

Staff recommends the selection of HY Architects, Inc. to provide architectural services for the Ocean View School Construction Project.

The agreement and approval have been reviewed and recommended by legal counsel.

FINANCIAL INFORMATION:

Phase One (Refine Scope) – Not-to-Exceed \$21,580 – Fund 35 (State-Matching Funds)

Phase Two – To be negotiated after Phase One – Fund 35 (State-Matching Funds)

RECOMMENDATION: Approve the selection of HY Architects, Inc. to provide architectural services for the Ocean View School Construction Project.

ARCHITECTURAL SERVICES AGREEMENT
BETWEEN
ALBANY UNIFIED SCHOOL DISTRICT (“DISTRICT”)
AND
HIBSER-YAMAUCHI ARCHITECTS, INC.
FOR
PERFORMANCE OF ARCHITECTURAL SERVICES
(Ocean View Site
Lease-Leaseback Project)

ARCHITECTURAL SERVICES AGREEMENT

This AGREEMENT is made and entered into this _____ day of _____, in the year 2014, between ALBANY UNIFIED SCHOOL DISTRICT, hereinafter referred to as "DISTRICT," and _____, hereinafter referred to as "ARCHITECT". This AGREEMENT shall include all terms and conditions set forth herein.

WHEREAS, DISTRICT intends to retain Architect for a series of Projects ("PROJECT" or "PROJECTS"), located in Albany Unified School District, in Albany, California; and seeks assistance with preliminary architectural services for the construction of a classroom building.

WHEREAS, DISTRICT may elect to complete the PROJECT in phases due to considerations of funding for the PROJECT, and in the event that phased development materially impacts the schedule or funding for the PROJECT, the parties will amend this Agreement accordingly.

WHEREAS, the ARCHITECT is fully licensed to provide architectural services in conformity with the laws of the State of California.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I ARCHITECT'S SERVICES AND RESPONSIBILITIES

A. This AGREEMENT shall contain the general duties and responsibilities of the parties.

B. The ARCHITECT's basic services shall consist of those services performed by the ARCHITECT, ARCHITECT's employees, and ARCHITECT's consultants, as enumerated in Articles II, III, and IV of this AGREEMENT.

C. The ARCHITECT's services shall be performed in a manner which is consistent with professional skill and care and the orderly progress of the Work. ARCHITECT represents that it and its employees, agents, and subcontractors will follow the standards of their profession in performing all services under this AGREEMENT. The design schedule prepared during the schematic and programming phases may be adjusted as the PROJECT proceeds by mutual written agreement of the parties and shall include allowances for time required for DISTRICT's review and for approval by authorities having jurisdiction over the PROJECT. The time limits established by this schedule shall not, except for reasonable cause, be exceeded by the ARCHITECT.

D. The Architect will implement and maintain a Building Information Modeling System ("BIM"), which will store enumerated Project documents, including the drawings. The construction documents shall be submitted to the Division of the State Architect ("DSA") for review and approval.

E. The Term of this AGREEMENT shall be for (3) three years from the date of execution, unless otherwise extended by the agreement by the parties or by Termination by either party, according to the terms of this AGREEMENT.

ARTICLE II SCOPE OF ARCHITECT'S SERVICES

A. Description of Basic Services: The ARCHITECT's basic services include those services, as needed and described in this Article, and include structural, mechanical, electrical engineering, (including low voltage), civil engineering services, and such other services as necessary to produce a complete and accurate set of Construction Documents defined as including, but not limited to, the following: review of the agreement between DISTRICT and Contractor awarded the PROJECT, review of the general and supplementary conditions of the Contract between DISTRICT and Contractor, and preparation of drawings, specifications, addenda, and other documents listed in the AGREEMENT, and modifications issued after execution of the DISTRICT and Contractor Contract.

B. Required Approvals: The ARCHITECT shall assist the DISTRICT in obtaining required approvals from governmental agencies responsible for electrical, gas, water, sanitary or storm sewer, telephone, as well as the Office of Public School Construction ("OPSC"), California Department of Education ("CDE") and Division of State Architect ("DSA").

C. Lease-Leaseback Contractor: The DISTRICT may employ a lease-leaseback contractor ("Contractor") for the PROJECT who will perform a constructability review of drawings prepared by ARCHITECT. In such an event, the ARCHITECT shall fully cooperate with the lease-leaseback contractor and revise drawings appropriately.

D. Utility Review: The ARCHITECT, based on available documents from the DISTRICT and/or public agencies, shall be responsible for determining the capacity of existing utilities, or for any design or documentation required to make points of connection to existing utility services required for the PROJECT. If, in the ARCHITECT's professional opinion, there are questions or concerns regarding the reliability or accuracy of the available documents, the ARCHITECT shall notify the DISTRICT in writing.

E. Planning Surveys: The ARCHITECT shall provide planning surveys, site evaluations and comparative studies of prospective sites, buildings or locations, as needed.

F. Coordination Meetings: The ARCHITECT shall attend regular PROJECT coordination meetings between the ARCHITECT, its consultants, the DISTRICT's representative(s), the Contractor, and other consultants of the DISTRICT during PROJECT development.

G. Drawing Revisions: The ARCHITECT shall make revisions in Drawings, Specifications, the PROJECT Manual or other documents when such revisions are inconsistent with approvals or instructions previously given by DISTRICT, including revisions made necessary by adjustments in the DISTRICT's program or PROJECT Budget prior to completion of a phase.

H. Schedule Revisions: Upon request from DISTRICT, the ARCHITECT shall prepare an expedited schedule for the work and services to be performed pursuant to the PROJECT.

I. Programmatic Changes: The ARCHITECT shall provide services required due to programmatic changes in the PROJECT, including but not limited to size, quality, complexity, method of bidding, or negotiating the Contract for construction.

J. Cost Estimates: The ARCHITECT shall prepare detailed estimates of construction cost for review and comment by the Contractor and the DISTRICT.

K. Interior Design: The ARCHITECT shall provide interior design and other services required for, or in connection with, graphics and signage.

L. Material Quality: To the extent the ARCHITECT is not familiar with suppliers, fabricators or manufacturers specified in the Construction Documents, the ARCHITECT shall, in its professional discretion, visit suppliers, fabricators, and manufacturers' facilities such as for carpet, stone, wood veneers, standard or custom furniture, to review the quality or status of items being produced for the PROJECT to ensure that they meet the design intent and specifications.

M. Material Consistency: The ARCHITECT shall cooperate and consult with DISTRICT in the use and selection of manufactured items on the PROJECT, including but not limited to paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials, and floor coverings. All such manufactured items shall be standardized to DISTRICT's criteria to the extent such criteria do not interfere with PROJECT design and are in compliance with the requirements of Public Contract Code section 3400.

N. No Asbestos: The ARCHITECT shall certify to the best of its information pursuant to 40 Code of Federal Regulations section 763.99(a) (7), that no asbestos-containing material was specified as a building material in any construction document for the PROJECT and will require that Contractors provide DISTRICT with certification that all materials used in the construction of any school building are free from any asbestos-containing building materials ("ACBMs"). ARCHITECT shall include statements in specifications that materials containing asbestos are not to be included. This certification shall be part of the final PROJECT submittal.

O. Maintenance Costs: The ARCHITECT shall consider operating or maintenance costs when selecting systems for the DISTRICT.

P. Public Presentations: The ARCHITECT shall prepare for and make formal presentations to the Governing Board of DISTRICT, the Bond Oversight Committee, and attend public hearings, and other public meetings. In addition, ARCHITECT shall attend and assist in legal proceedings that arise from errors or omissions of the ARCHITECT.

Q. User Group Meetings: The ARCHITECT shall hold and conduct user group meetings, which shall include the site administrator, teachers, and maintenance staff.

R. Written Modifications: The duties, responsibilities and limitations of authority of the ARCHITECT shall not be restricted, modified or extended without written agreement between the DISTRICT and ARCHITECT.

S. Legal Compliance: The ARCHITECT shall comply with all federal, state and local laws, rules, regulations, and ordinances that are applicable to the PROJECT.

T. Access to Work: The ARCHITECT shall have access to the Work at all times.

U. Scope of Services: The ARCHITECT's Basic Services include all services needed for the scope of work, including structural, mechanical and electrical engineering (including low voltage), architecture, civil site engineering services, interior design, lighting, waterproofing and such other services as necessary for design of the Work. This PROJECT will be completed in phases. This Agreement pertains to the first phase, Architectural Services associated with construction of the first floor of the building.

ARTICLE III DESIGN AND ADMINISTRATIVE PHASES

DISTRICT may elect to complete the PROJECT in phases. If the DISTRICT so elects, Phase I shall consist of requirements detailed in A-C, below, and Phase II shall consist of requirements detailed in D, below. Services performed in Phase II shall not be considered Additional Services. Rather, in the event that phased development materially impacts the schedule or funding for the PROJECT, the parties will amend this agreement accordingly.

A. Planning And Schematic Design Phase

1. Review of PROJECT Requirements

The ARCHITECT shall review the program, schedule, and construction budget furnished by DISTRICT to ascertain the requirements of the PROJECT and shall arrive at a mutual understanding of such requirements with DISTRICT, and at the request of the DISTRICT, shall meet with education stakeholders as necessary to discuss and determine programmatic requirements. ARCHITECT shall take meeting minutes of all Design Phase meetings. The ARCHITECT shall provide to the DISTRICT minutes of any such meetings within three (3) business days of the meeting.

2. Methods of PROJECT Delivery: Lease-Leaseback

The ARCHITECT shall review with DISTRICT proposed site use and improvements, selection of materials, and methods of PROJECT delivery. Architect acknowledges that the DISTRICT may construct the Project using the Lease-Leaseback method of project delivery. In such an event the ARCHITECT agrees to modify its duties under this contract to accommodate this method of construction.

3. Specific Considerations

The ARCHITECT shall review with the DISTRICT the following specific considerations to be taken into account in the design of the PROJECT:

a. Information Technology Systems: ARCHITECT shall discuss with DISTRICT representatives the manner in which the PROJECT may be designed to include information technology systems, .

b. Sustainability/CHPS Analysis: ARCHITECT shall implement the Collaborative for High Performance School (CHPS) criteria and ensure that the facility is CHPS certified. ARCHITECT shall incorporate energy efficiency and green building practices to provide more healthful and comfortable classrooms that enrich academics and stimulate learning while providing greater energy efficiency and environmental responsibility. Building to this standard is for construction only and contains no allowance for certifications.

c. Building Maintenance: ARCHITECT shall discuss with DISTRICT representatives the ways in which the PROJECT may be designed so that it is compatible with DISTRICT maintenance resources. As discussed in Article III, Section C, subsection 9, below, the ARCHITECT shall utilize grants and outside funding services and work with DISTRICT to utilize and consider funding from grants and alternative funding services.

d. Modular Projects: For those PROJECTS which may involve the installation of modular buildings, ARCHITECT shall prepare, as soon as practicable, the following: (1) An Analysis as to whether the District should construct the Project involved using stick built construction or modular, taking into account, among other things, budget, functionality and schedule. If modular construction is chosen the ARCHITECT shall assist the DISTRICT in contacting and obtaining proposals from modular manufacturers and contractors.

4. Alternative Design and Construction

The ARCHITECT shall review with DISTRICT with any appropriate alternative approaches to design and construction of the PROJECT.

5. Updating Schematic Documents

At intervals appropriate to the progress of the Schematic Design Phase and mutually agreeable to DISTRICT and ARCHITECT, the ARCHITECT shall provide schematic design studies for DISTRICT's review and information.

6. Schematic Design Submittal

Upon completion of the Schematic Design Phase, the ARCHITECT shall provide Schematic Design Documents consisting of drawings, specifications, descriptions of building systems and other documents illustrating the scale and relationship of PROJECT components and descriptions of building systems for DISTRICT's review. These documents shall comply with all applicable laws, statutes, ordinances, codes, rules, and regulations which are applicable to those documents and shall be sufficient for the Contractor and DISTRICT to prepare PROJECT cost estimates.

7. Budget Requirements

The ARCHITECT shall perform Schematic Design Services to keep the PROJECT within all budget and scope constraints set by DISTRICT, unless otherwise modified by written authorization by DISTRICT. The ARCHITECT shall prepare a schematic design cost estimate for review by the DISTRICT.

8. Site Conditions and PROJECT Requirements

The ARCHITECT shall be entitled to rely on the accuracy and completeness of the information, surveys, and reports issued by the DISTRICT or the DISTRICT's consultants.

9. Investigation

The ARCHITECT shall investigate existing conditions or facilities and verify drawings of such conditions or facilities.

10. PROJECT Schedule

Architect shall prepare a Project Design Schedule for review and approval by the DISTRICT. The Design Schedule shall be periodically updated by the Architect. Architect shall update the Design Schedule during each Phase of Design Development (i.e. Schematic, Design Development and Construction Drawing Phases)

B. Design Development Phase

1. Design Development Documents

Based on the approved Schematic Design Documents and any adjustments authorized by the DISTRICT in the program, schedule or construction budget, the ARCHITECT shall prepare Design Development Documents for DISTRICT's approval. Such documents shall consist of site and floor plans, elevations, cross-sections, outline specifications, and other documents necessary to depict the Design of the PROJECT, and shall outline specifications to fix and illustrate the size, character, and quality of the entire PROJECT as to the Program requirements, civil, structural, mechanical and electrical systems, materials, and such other essentials as may be appropriate.

2. Updating Drawings

At intervals mutually agreeable to DISTRICT and ARCHITECT, the ARCHITECT shall provide drawings and other documents that depict the current status of design development for DISTRICT's review.

3. Design Development Submittal

Upon completion of the Design Development Phase, the ARCHITECT shall provide drawings, outline specifications, and other documents for DISTRICT's review and approval and for the DISTRICT's review and preparation of the cost estimate. The ARCHITECT shall review with DISTRICT the selection of building systems and equipment.

4. Cost/Budget

a. The ARCHITECT shall make any needed updates to Construction Cost estimate, for review and comment by the DISTRICT.

b. The ARCHITECT shall perform Design Development Services to keep the PROJECT within all budget and scope constraints set by the DISTRICT, unless otherwise modified by written authorization by the DISTRICT.

C. Construction Documents Phase

1. Building Information Modeling

a. The ARCHITECT shall provide the drawings in a digital format ("Digital Drawings") and provide access to those drawings as part of a Building Information Modeling ("BIM") System. BIM shall also provide an accessible repository for such Project documents as submittals and progress payments. The development of the Digital Drawings shall be an ongoing process, and reflect any collaboration between ARCHITECT and the Lease-Leaseback Contractor. The Schematic, Design Development and Construction Documents Milestone in this agreement may be supplemented or modified to account for agreed upon Level of Development for Model Elements, as agreed in the Planning Phase (Article III A) of the Project.

b. The BIM protocols and planning process shall be guided by the principles found in AIA section E203-2013, the contents of which are incorporated herein by

reference and which shall be attached hereto as Exhibit "C", once the parties have reached a detailed understanding of the procedures to follow for the particular circumstances of this PROJECT. Exhibit "C" shall govern in the event of any conflict between Exhibit "C" and the text of this agreement. Exhibit "C" protocols may be further set out in either AIA Form G201-2013 or G202-2013.

2. Construction Document Requirements

The Construction Documents shall set forth, in detail, the requirements for the construction of the entire PROJECT in conformity with all applicable governmental and code requirements and requirements of all governmental agencies having jurisdiction over the PROJECT including OPSC and DSA. This requirement shall be excused when the particular PROJECT includes modernization or re-use of existing designs, when portions of the documents may not be computer generated. In such case, that portion of the PROJECT employing existing drawings need not be reduced to CAD. The Construction Documents shall show all the Work to be done, the materials, workmanship, and finishes required for the PROJECT. The Construction Documents shall be stamped and signed by licensed professionals for the ARCHITECT and relevant engineers contracted by the ARCHITECT.

3. Design Elements to Prevent Water Intrusion

The parties to this Agreement recognize that the failure of trade contractors to properly seal buildings against water intrusion is a significant and growing problem in public construction. Notwithstanding the Contractor's responsibility, the ARCHITECT shall include specific details in the Construction Documents regarding window, door, roof and any other elements of construction to protect the PROJECT from water intrusion, and shall endeavor to fully illustrate and describe all aspects of such construction to include all design components that prevent water intrusion into the completed structure.

4. Fees

The DISTRICT shall pay all fees required by such governmental authority as mentioned in Article II, Section C, above. ARCHITECT shall, whenever feasible, establish beforehand the exact costs due to governmental agencies and submit this cost information to DISTRICT so payments may be prepared. ARCHITECT shall not charge a mark-up on costs associated with governmental agency fees when the ARCHITECT pays such fees for the DISTRICT.

5. Construction Documents Submittals

Upon 90% completion of the Construction Documents Phase, the ARCHITECT shall provide updated Construction Documents for DISTRICT's review and an updated Construction Cost estimate for review and comment by the DISTRICT. The Architect shall also supply the DISTRICT and the Contractor updated copies of the construction documents when they are 100% complete. The Architect shall also supply the DISTRICT and the Contractor copies of all documents submitted to DSA.

6. Ownership of Documents and BIM Data

a. Although the official copyright in all Project Documents shall remain with the ARCHITECT or other applicable Consultants, the plans, specifications, and estimates for the PROJECT shall be and remain the property of DISTRICT, pursuant to section 17316 of the Education Code.

b. In the event the DISTRICT completes, modifies, or uses the plans, specifications, studies, drawings, estimates, other documents, or any other works of authorship prepared by the ARCHITECT following conclusion of this PROJECT or at such other time or circumstance where the ARCHITECT is not directly supervising the completion, modification, utilization, and/or application of the aforementioned documents and/or Work, the DISTRICT acknowledges that such use shall be at the DISTRICT's sole risk and without liability to the ARCHITECT, its employees, and its consultants. The DISTRICT agrees to indemnify, defend, and hold harmless the ARCHITECT, its employees and consultants, from and against any and all damage, liability or cost, included but not limited to attorney's fees, litigation costs, claims, suits, or any other costs associated with such use. The DISTRICT further agrees to remove the names and seals of the ARCHITECT and the ARCHITECT's Consultants from the title block and signature pages. Prior to re-use of the ARCHITECT's documents, the DISTRICT agrees to notify the ARCHITECT in writing of such re-use.

7. Re-Use of Documents and Data

a. In the event DISTRICT ever desires, and it is mutually considered feasible, to erect all or part of another project which would be essentially identical to the PROJECT which is the subject of this AGREEMENT, the ARCHITECT agrees to:

- (i) Re-use as a separate project its design and the corresponding Contract documents;
- (ii) Prepare with appropriate compensation such modifications as may be dictated by current codes, topography, soils conditions, utility services, existing construction, and similar conditions;
- (iii) Perform with appropriate compensation as far as applicable all of the services provided by this AGREEMENT;
- (iv) In the event the DISTRICT re-uses drawings, the ARCHITECT's fees will take into account that no royalty will be paid for the re-used documents.

b. The ARCHITECT will retain the right to use the design, plans, drawings, and specifications prepared or provided by the ARCHITECT, its consultants, or sub-consultants for re-use on other projects for other districts or owners. Such re-use shall not entitle the DISTRICT to any notification, payment of any royalty, license fee, or other consideration.

8. PROJECT Cost Estimates

The DISTRICT shall establish an estimated PROJECT Construction Cost. The ARCHITECT shall prepare the Construction Cost for review and comment by the DISTRICT. The Construction Cost shall be periodically updated by the ARCHITECT, as stated in the preceding sections.

a. “PROJECT Construction Cost” shall mean the estimate of construction costs to the DISTRICT as designed or specified by the ARCHITECT and accepted by the DISTRICT until such time as bids have been received, whereupon it shall be the accepted Construction Contract amount including alternates designed when accepted, increased by the dollar amounts of all approved additive Contract change order items. The ARCHITECT shall perform Design Development Services to keep the PROJECT within all budget and scope constraints set by DISTRICT, unless otherwise modified by written authorization by DISTRICT.

b. When labor or material is furnished by DISTRICT below its market cost, the construction cost shall be based upon current market cost of labor and new material for the purpose of the ARCHITECT’s fee calculation.

9. Survey Work

All survey and geo-technical studies will be provided by DISTRICT. Notwithstanding the provisions set forth in Article III, Section A, Subsection 8, above, ARCHITECT shall review the completed survey prior to the preparation of construction. Foundation, drainage and compacting requirements shall reflect the analysis provided in the geo-technical reports.

10. Maintenance Costs

The ARCHITECT shall consider operating or maintenance costs when selecting systems for DISTRICT. The ARCHITECT shall utilize grants and outside funding services and work with DISTRICT to utilize and consider funding from grants and alternative funding services.

11. Modification to Building Design Plans

Following DSA approval of PROJECT documents, ARCHITECT shall modify building designs to incorporate DSA-required revisions.

D. Construction Phase—Administration of The Construction Contract

1. Start of Services

The ARCHITECT’s responsibility to provide Basic Services for the Construction Phase under this AGREEMENT commences with the award of the Contract for construction and terminates at the receipt of DSA Closeout.

2. Quality Control Coordination

Prior to commencement of Work on the PROJECT, representatives from the ARCHITECT, the Inspector of Record, the Contractor, and the DISTRICT shall meet to discuss and agree to a written plan for monitoring quality control of construction on the PROJECT. The Plan shall discuss the quality control and monitoring duties of each member of the PROJECT team and the methods to be used by each member to ensure quality control of the construction on the PROJECT. The same PROJECT team member representatives shall meet periodically, no less than once a month, throughout the duration of the PROJECT to specifically discuss quality control issues and monitoring activities. Written documentation of the meetings shall be provided to the DISTRICT within thirty (30) days of such meetings.

3. Administration of Contract

The ARCHITECT shall provide administration of the Contract for construction as set forth below and in conformance with General Conditions of the Contract for Construction. It is understood that any document outlining General Conditions and Supplementary Conditions of the Contract for Construction supplied by parties other than the ARCHITECT will be reviewed with the ARCHITECT within a reasonable period of time, but no later than submission of construction documents to agencies having jurisdiction over the PROJECT.

4. Modification of Duties

Duties, responsibilities, and limitations of authority of the ARCHITECT shall not be restricted, modified, or extended without written agreement of DISTRICT and ARCHITECT with consent of the Contractors, which consent shall not be unreasonably withheld.

5. Technical Assistance to PROJECT Inspector

The ARCHITECT shall provide technical direction to a PROJECT Inspector employed by and responsible to DISTRICT as required by applicable law. The ARCHITECT shall advise the Inspector and/or Contractor in the preparation of a marked set of prints to be prepared by the Contractor, indicating dimensioned location of buried utility lines (record drawings) which shall be forwarded to DISTRICT upon completion of the PROJECT.

6. Site Visits

The ARCHITECT shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by DISTRICT and ARCHITECT in writing to become generally familiar with the progress and quality of the Work completed and to determine in general if the Work is being performed in a manner indicating that the Work when completed will be in accordance with the Contract Documents. In no event shall the site visits be less than once a week unless agreed to by the DISTRICT. However, the ARCHITECT shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

7. Work Quality

On the basis of on-site observations as an architect, the ARCHITECT shall keep DISTRICT informed in writing of the progress and quality of the Work and shall endeavor to guard the DISTRICT against defects and deficiencies in the Work, including Work on the punchlist. The ARCHITECT will issue deficient Work notices where appropriate. (More extensive site representation may be agreed to as an Additional Service, as described in Article IV.)

8. Not Responsible for Means of Construction

a. The ARCHITECT shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are the Contractors' responsibility under the Contracts for Construction. The ARCHITECT shall not be responsible for the Contractors' schedules or failure to carry out the Work in accordance with the Contract Documents. The ARCHITECT shall not have control over or charge of acts or omissions of the Contractors, subcontractors, or their agents or employees, or of any other persons performing services or portions of the Work.

b. The ARCHITECT, as part of its basic services, shall advise the DISTRICT in writing of any deficiencies in construction as they are observed and following the acceptance of the Work and prior to the expiration of the guarantee period of the PROJECT.

9. Access to Work

The ARCHITECT shall at all times have access to the Work wherever it is in preparation or progress.

10. Coordination Meetings

The ARCHITECT shall attend regular PROJECT coordination meetings between the ARCHITECT, its consultants, the Contractor, any DISTRICT's representative(s), and other consultants of DISTRICT. The weekly construction meetings may serve as coordination meetings.

11. Review and Certification of Applications for Payment

a. Based on the ARCHITECT's observations and evaluations of each Contractor's Application for Payment, the ARCHITECT shall review and certify the amounts due the respective Contractors. The ARCHITECT's certification for payment shall constitute a representation to DISTRICT, based on the ARCHITECT's observations at the site, and on the data comprising the Contractors' Applications for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents.

b. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the ARCHITECT. The issuance of a Certificate for Payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the ARCHITECT has: (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences or procedures; (3) reviewed copies of requisitions received from subcontractors and materials suppliers and other data requested by the owner to substantiate the Contractor's right to payment; or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract sum.

12. Rejection of Work

The ARCHITECT shall have authority to reject Work which does not conform to the Contract Documents. Whenever the ARCHITECT considers it necessary or advisable for implementation of the intent of the Contract Documents, the ARCHITECT will have authority, upon written authorization from DISTRICT, to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed, or completed. However, neither this authority of the ARCHITECT nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the ARCHITECT to the Contractors, subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

13. Submittals

The ARCHITECT shall review and approve or take other appropriate action upon Contractor's submittals, such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract documents. The ARCHITECT's action shall be taken with such reasonable promptness as to cause no delay in the Contractor's Work or in construction by DISTRICT's own forces, while allowing sufficient time in the ARCHITECT's professional judgment to permit adequate review, but in no case, no longer than seven (7) business days. Review of such submittals is not conducted for the purpose of on-site safety or for construction means, methods, techniques, sequences, or procedures, nor will ARCHITECT check for proper numbers or dimensions of the submittal. When professional certification of performance characteristics of materials or equipment is required by the Contract Documents, the ARCHITECT shall be entitled to rely upon such certification to establish that the materials, systems, or equipment is required by the Contract Documents. Further, review of such submittals is not conducted for substantiating instructions for installation or performance of equipment or systems designed by the Contractor. The ARCHITECT shall be entitled to rely upon such certification to establish that the materials, systems, or equipment will meet the performance criteria required by the Contract Documents.

14. Change Orders and Record Drawings

a. Change Orders: The ARCHITECT shall prepare and sign or take other appropriate action on Change Orders, Change Order Request, and Construction Change Directives prepared for DISTRICT's approval and execution in accordance with the Contract Documents. When the parties have agreed to the Change Order, the DISTRICT and ARCHITECT shall sign said Change Order. The ARCHITECT shall work to provide an expedited resolution of all Change Order requests.

b. Record Drawings: ARCHITECT shall cause the Contractor to prepare a set of reproducible record drawings showing significant changes in the Work made during construction, based on marked-up prints, drawings, and other data. If the Contractor fails to maintain current record or as-built documents during construction, the ARCHITECT shall notify the DISTRICT in writing and recommend withholding of contract payments owed to the Contractor until all record or as-built documents have been fully updated. The cost of revising the drawings or specifications, or for the act of preparing change orders resulting from errors or omissions in the drawings shall not be charged to DISTRICT.

15. Review of Record Documents

ARCHITECT shall, at ARCHITECT's expense, review the Contractor's record drawings showing significant changes in the Work made during construction.

16. Request for Information Processing

The ARCHITECT shall review and respond to all Requests for Information ("RFI") in a timely manner, including the preparation of drawings or revisions to drawings as necessary to respond to said requests. The ARCHITECT shall work to provide an expedited review of RFIs, with the goal of providing responses within five (5) days of submission, but in no instances shall such response be furnished more than fifteen (15) days from submission without good cause.

The ARCHITECT shall maintain an RFI log, which shall identify the RFI by number, the date the request was received, and the date the response was given.

17. Claim Review

The ARCHITECT shall evaluate and render written recommendations, within a reasonable time on all claims, disputes, or other matters at issue between the DISTRICT and Contractor relating to the execution or progress of the Work as provided in the Construction Contract. Any claim involving more than twenty (20) hours of ARCHITECT's services where such claim does not arise out of the ARCHITECT's error and omissions, shall be considered an additional service pursuant to Article IV. Under no circumstances shall this evaluation take longer than twenty (20) calendar days from the date the claim is received by ARCHITECT.

18. Punchlist

ARCHITECT shall prepare the punchlist and, consistent with Article III, Section E, Subsection 6, above, concerning site visits, determine that the punchlist Work performed is in accordance with the Contract requirements. The ARCHITECT will further review the punchlist for completion.

19. Review of Substitutions

The ARCHITECT shall evaluate substitutions proposed by the Contractor, with the goal of providing responses to substitution requests within seven (7) days of their submission, but in no instances shall such response be furnished more than fifteen (15) days from submission without good cause.

20. Substantial Completion and Final Certificate of Payment

The ARCHITECT shall observe the PROJECT site to determine the date or dates of Substantial Completion and the date of final completion. The ARCHITECT shall receive and forward to the DISTRICT warranties and similar submittals provided by the Contractor required by the Contract Documents. The ARCHITECT shall review the Contractor's final Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

21. Testing of Equipment

The ARCHITECT shall require the Contractor to provide assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.

22. Interpreting the AGREEMENT

The ARCHITECT shall interpret and decide matters concerning performance of DISTRICT and Contractor under the requirements of the Contract Documents on written request of either DISTRICT or Contractor. The ARCHITECT's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

23. Requirements for Interpretation and Decisions

Interpretations and decisions of the ARCHITECT shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the ARCHITECT shall endeavor to secure faithful performance by both DISTRICT and Contractors, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.

24. Decisions on Aesthetic Effect

The ARCHITECT's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

25. Decisions in Writing

The ARCHITECT shall render written decisions within a reasonable time on all claims, disputes, or other matters in question between the DISTRICT and Contractors relating to the execution or progress of the Work as provided in the Contract Documents.

26. PROJECT Closeout

The ARCHITECT shall be responsible for gathering information and assisting DISTRICT in processing forms required by applicable governing authorities, such as OPSC and DSA, in a timely manner and to confirm proper and final DSA closeout.

27. Delivery of Final Documents

Upon completion of the PROJECT, ARCHITECT shall deliver to the DISTRICT one (1) set of the Contractor's reproducible drawings, showing the PROJECT record upon issuance of the ARCHITECT's certificate of completion, with the location of underground sewer water and all utility connections and services specially noted.

ARTICLE IV ADDITIONAL ARCHITECT'S SERVICES

A. Duty to Notify DISTRICT of Additional Services

ARCHITECT shall notify DISTRICT in writing of the need for additional services required due to circumstances beyond the control of the ARCHITECT. ARCHITECT shall obtain written authorization from DISTRICT before rendering such services. Compensation for such services shall be negotiated and subject to DISTRICT approval. Additional services shall be compensated at an hourly rate as set forth in Attachment "B". Such services shall include:

1. Making material revisions in drawings, specifications, or other documents when such revisions are required by the enactment or revision of laws, rules, or regulations subsequent to the preparation and completion of such documents.
2. Providing consultation concerning replacement of Work damaged by fire or flood and furnishing services required in connection with the replacement of such Work.
3. Providing services made necessary by the default of the Contractor, which does not arise directly from negligent, errors, or omissions of ARCHITECT or by major defect

or deficiencies in the Work of the Contractor or by significant failure of performance by the Contract.

4. If DISTRICT requests the PROJECT be let as a multiple prime contractor project after the completion of Design Development, where segregation does not arise from ARCHITECT exceeding the estimated budget constraint, then plan preparation and/or Contract administration Work to prepare the segregated plans is an extra service subject to prior negotiation and DISTRICT approval.

5. Providing Contract administration services after the Construction Contract time has been materially exceeded through no fault of the ARCHITECT.

6. In the event the DISTRICT elects to re-use designs, plans, specifications, estimates, or other documents prepared for another district, the services in connection with making significant revisions or changes to aforementioned materials to suit DISTRICT.

7. Preparing drawings and specifications associated with bid alternates, where the bid alternates are of an unusual number or amount, given the size of the PROJECT.

8. Providing services relative to future facilities, systems, and equipment.

9. Providing services required for or in connection with the selection, procurement, or installation of furniture, furnishings, and related equipment not included in the Construction Contract.

10. Providing any other services not otherwise included in this AGREEMENT or not customarily furnished in accordance with generally accepted architectural practice.

B. Provision of PROJECT Representatives, Etc.

If authorized in writing by DISTRICT, ARCHITECT shall, as an additional service, provide one or more PROJECT Representatives to assist in carrying out more extensive representation at the site than is described in Article II and III. The PROJECT Representative(s) shall be selected, employed, and directed by the ARCHITECT, and the ARCHITECT shall be compensated, therefore, as agreed by the DISTRICT and ARCHITECT. Through the observations of such PROJECT Representative(s), the ARCHITECT shall endeavor to provide further protection for the DISTRICT against defects and deficiencies in the Work, but the furnishing of such PROJECT representation shall not modify the rights, responsibilities, or obligations of the ARCHITECT as described elsewhere in this AGREEMENT. Such services shall be negotiated and approved in writing by the DISTRICT. Compensation shall be negotiated.

ARTICLE V DISTRICT'S RESPONSIBILITIES

A. DISTRICT shall provide to the ARCHITECT information regarding requirements for the PROJECT, including information regarding DISTRICT's site, program, objectives, constraints, criteria, educational program, realistic budgets and schedules.

B. DISTRICT shall notify the ARCHITECT of administrative procedures required and name a representative authorized to act on its behalf. DISTRICT shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the PROJECT.

C. Inspection Services: DISTRICT shall furnish all inspection services.

D. Legal Advice: DISTRICT shall furnish all legal advice and services required for the PROJECT, save for those representing the ARCHITECT.

E. Notices of Defects: DISTRICT shall give prompt written notice to the ARCHITECT if DISTRICT becomes aware of any fault or defect in the PROJECT or non-conformance with the Construction Documents. However, DISTRICT's failure or omission to do so shall not relieve the ARCHITECT of ARCHITECT's responsibilities under Title 21 and Title 24 of California Code of Regulations and the Field Act, hereunder. DISTRICT shall have no duty to observe, inspect, or investigate the PROJECT.

F. Surveys: The DISTRICT shall furnish surveys, when needed, describing physical characteristics, legal limitations and utility locations for the site of the PROJECT, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements, and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information, as available, concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a PROJECT benchmark.

G. Geo Technical Reports: The DISTRICT shall furnish the services of geo-technical engineers when such services are requested by the ARCHITECT. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations.

H. Hazardous Materials: The DISTRICT shall furnish structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections, and reports required by law of the Contract Documents.

I. Auditing Services: Any auditing services the owner may require to verify the Contractor's application for payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the DISTRICT.

J. Accuracy of Reports: The services, information, surveys, and reports required by Article V, Sections F through I, above, shall be furnished at the DISTRICT's expense, and the ARCHITECT shall be entitled to rely upon the accuracy and completeness thereof.

K. Approve Budget: The DISTRICT shall approve a current, overall budget for the PROJECT, including the construction costs for the PROJECT.

ARTICLE VI TERMINATION

A. A Written Notice of Termination

This AGREEMENT may be terminated by either party upon fourteen (14) days written notice to the other party in the event of a material failure of performance by such other party, including insolvency of ARCHITECT, or if the DISTRICT should decide to abandon or indefinitely postpone the PROJECT.

B. Abandonment of Work by DISTRICT

1. In the event of a termination based upon abandonment or postponement by DISTRICT, DISTRICT shall pay to the ARCHITECT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records and expense reports up until the date of the abandonment or postponement plus any sums due the ARCHITECT for Board approved extra services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed Work and Work in process of completion and to complete and incomplete drawings and other documents whether delivered to DISTRICT or in the possession of the ARCHITECT. In the event termination is for a substantial failure of performance, all damages and costs associated with the termination, including increased consultant and replacement architect costs shall be deducted from payments to the ARCHITECT.

2. In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience in accordance with Article VI, Section C, below, and ARCHITECT shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by ARCHITECT.

C. Terminate Without Cause During Work On PROJECT

This AGREEMENT may be terminated without cause by DISTRICT during work on the PROJECT upon fourteen (14) days written notice to the ARCHITECT. In the event of a termination without cause, DISTRICT shall pay to the ARCHITECT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records, and expense reports up until the date of notice of termination plus any sums due the ARCHITECT for Board approved extra services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed Work and Work in process of completion and to complete and incomplete drawings and other documents whether delivered to DISTRICT or in the possession of the ARCHITECT. In addition, ARCHITECT will be reimbursed for reasonable termination costs through the payment of three percent (3%) beyond the sum due the ARCHITECT under this paragraph through fifty percent (50%) completion of the ARCHITECT's portion of the PROJECT, and if fifty percent (50%) completion is reached, payment of three percent (3%) of the unpaid balance of the Contract to ARCHITECT as termination cost. This three percent (3%) payment is agreed to compensate the ARCHITECT for the unpaid profit ARCHITECT would have made under the PROJECT on the date of termination and is consideration for entry into this termination for convenience clause.

D. Work During Dispute

In the event of a dispute between the parties as to performance of the Work or the interpretation of this AGREEMENT, or payment or non-payment for Work performed or not performed, the parties shall attempt to resolve the dispute and as to payment, shall make every reasonable effort to resolve the dispute expeditiously. In the event of disputes regarding the level of completion or reimbursable expenses invoiced, the DISTRICT agrees to return the invoices with a clear description of the dispute within ten (10) working days from the date when invoice(s) are received. Unresolved payment disputes shall be subject to mediation, and the

mediation shall be held no later than sixty (60) days after receipt of the notice of a dispute, unless both parties agree otherwise. Pending resolution of this dispute, ARCHITECT agrees to continue the Work diligently to completion and the DISTRICT agrees to make progress payments in accordance with this AGREEMENT, except that the DISTRICT may withhold only those funds that are in dispute. The DISTRICT and ARCHITECT agree that any withholding by the DISTRICT in excess of ten percent (10%) of the total Architect Fee shall be considered material for purposes of providing professional architectural services and continuing work on the PROJECT. If the withholding by the DISTRICT is material as set forth herein, then the PARTIES shall submit the dispute to mediation for resolution as set forth herein. If the dispute involving a material withholding is not resolved within fifteen (15) days after the completion of mediation, the ARCHITECT may discontinue work on the PROJECT. If any other dispute not involving a material withholding is not resolved, ARCHITECT agrees it will neither rescind the AGREEMENT nor stop the progress of the Work, but ARCHITECT's sole remedy shall be to submit such controversy to determination by a court having competent jurisdiction of the dispute, after the PROJECT has been completed, and not before. If the DISTRICT withholds undisputed amounts in excess of forty-five (45) days from the receipt of a written demand for payment from the ARCHITECT, then the ARCHITECT shall be entitled to interest, not to exceed one percent (1%), on such outstanding balances.

ARTICLE VII MEDIATION

A. DISTRICT and ARCHITECT shall endeavor to resolve claims, disputes, and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this AGREEMENT and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

B. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the PROJECT is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

ARTICLE VIII ARBITRATION

A. Questions in dispute under this AGREEMENT may be submitted to arbitration at the election of both parties. Such arbitration shall be conducted in accordance with the rules of the American Arbitration Association insofar as the same are not in conflict with the laws of the State of California.

B. If either party petitions to confirm, correct, or vacate the award as provided by Chapter 4 of Title 9 of the Code of Civil Procedure (commencing with Section 128.5), the prevailing party shall be entitled as part of his or its costs to a reasonable attorney's fee to be fixed by the court.

ARTICLE IX ACCOUNTING RECORDS OF THE ARCHITECT

Records of the ARCHITECT's direct personnel and reimbursable expense pertaining to the extra services of this PROJECT and records of accounts between DISTRICT and Contractor shall be kept on a generally recognized accounting basis and shall be available to DISTRICT or its authorized representative at mutually convenient times.

ARTICLE X COMPENSATION TO THE ARCHITECT

A. This Article X sets out the milestone events for the payment of the ARCHITECT's Fee. The formula by which the Fee is set out and adjusted is found in Attachment "A" to this AGREEMENT.

<u>Schematic Design (100% Completion):</u>	10% of estimated Architect Fee as set forth on Attachment "A"
<u>Design Development (100% Completion):</u>	15% of estimated Architect Fee as set forth on Attachment "A"
<u>Construction Documents (90% Completion):</u>	40% of estimated Architect Fee, to be paid monthly based on actual level of completion, not to exceed state guidelines, as set forth on Attachment "A"
<u>DSA Approval of Construction Drawings:</u>	5% of estimated Architect Fee as set forth on Attachment "A"
<u>Bidding Phase:</u>	5% of estimated Architect Fee as set forth on Attachment "A", when bidding is completed
<u>Construction Administration:</u>	25% of estimated Architect Fee, with the final 5% of the overall Fee to be paid upon DSA approval.

B. When ARCHITECT's Fee is based on a percentage of construction cost and any portions of the PROJECT, as defined in the final Construction Documents, are deleted or otherwise not constructed, compensation for those portions of the PROJECT shall be payable to the extent actual services are performed in accordance with the schedule set forth in Article X, Section A, above.

C. To the extent that the time initially established for the completion of ARCHITECT's services is exceeded or extended through no fault of the ARCHITECT, compensation for any services rendered during the additional period of time shall be computed as follows: negotiated and not to exceed state fee guidelines prior to approval by DISTRICT Board.

ARTICLE XI REIMBURSABLE EXPENSES

A. Reimbursable expenses are in addition to compensation for basic and additional services and shall be paid to the ARCHITECT at one and one-tenth (1.10) times the expenses incurred by the ARCHITECT, the ARCHITECT's employees and consultants for:

1. Reproduction of drawings and specifications for required submittals and bid documents. Reproductions for ARCHITECT's internal use and meeting presentations are not reimbursable.

2. Fees advanced for securing approval of authorities having jurisdiction over the PROJECT. There shall be no mark up of these fees.

3. Items authorized in writing in advance by DISTRICT, such as the expense of models, renderings, photographs, etc.

B. Reimbursement for fees and other expenses, except for construction administration services associated with delay caused solely by the Contractor, shall be made to the ARCHITECT as incurred. ARCHITECT shall submit receipts and/or an itemized listing for reimbursables with ARCHITECT's invoice.

C. Reimbursable expenses shall not include:

1. Check prints;
2. Prints of plans or specifications made for ARCHITECT's consultants and two copies of progress prints supplied to DISTRICT;
3. Preliminary plans and specifications, unless said submittal is required;
4. Meetings with state planning officials, local or state fire departments, the DSA, State Allocation Board, or other public agencies having jurisdiction;
5. ARCHITECT's consultants' reimbursables, unless incurred for required submittals; and
6. Models or mock-ups.

ARTICLE XII EMPLOYEES AND CONSULTANTS

A. The ARCHITECT, as part of the basic professional services, shall furnish at its expense the services of subcontractors for structural, mechanical, electrical, traffic and street improvements, civil engineers, and other disciplines as required for the PROJECT.

B. The ARCHITECT shall submit, for written approval by DISTRICT, the names of the consultant firms proposed for the PROJECT. Nothing in this AGREEMENT shall create any contractual relation between DISTRICT and any consultants employed by the ARCHITECT under the terms of this AGREEMENT.

C. ARCHITECT's consultants shall be licensed to practice in California and have relevant experience with California school design and construction during the last five (5) years. If any employee or consultant of the ARCHITECT is not acceptable to DISTRICT, then that individual shall be replaced with an acceptable, competent person at DISTRICT's request.

D. The construction administrator or field representative assigned to this PROJECT by ARCHITECT shall be a licensed California Architect and be able to make critical PROJECT decisions in a timely manner and shall be readily available and provide by phone, facsimile, and through correspondence, design direction and decisions when the construction administration is not at the site.

ARTICLE XIII MISCELLANEOUS

A. Indemnification

To the fullest extent permitted by law, the ARCHITECT agrees to indemnify, defend, and hold DISTRICT entirely harmless from all liability arising out of:

1. Any and all claims under Workers' Compensation acts and other employee benefit acts with respect to ARCHITECT's employees or ARCHITECT's subcontractor's employees arising out of ARCHITECT's work under this AGREEMENT; and
2. If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the ARCHITECT, the ARCHITECT shall indemnify and hold the DISTRICT harmless from any liability for damages for: (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law; or (4) any other loss, damage, or expense arising under either (1), (2), or (3) in this Subsection, sustained by the ARCHITECT or the DISTRICT, or any person, firm or corporation employed by the ARCHITECT or the DISTRICT upon or in connection with the PROJECT, except to the extent the damages arose from the negligence of the DISTRICT.
3. Any loss, injury to or death to persons or damage to property caused by any negligence, recklessness or willful misconduct of the ARCHITECT or any person, firm or corporation employed by the ARCHITECT, either directly or by independent contract, including all damages due to loss or theft sustained by any person, firm or corporation including the DISTRICT, arising out of or in any way connected with the PROJECT, including injury or damage either on or off DISTRICT property; but not for any loss, injury, death or damages caused by the active negligence of the DISTRICT. With regard to the ARCHITECT's obligation to indemnify for acts of professional negligence, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought against the DISTRICT, but rather to reimburse the DISTRICT for attorney's fees and costs incurred by the DISTRICT that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the ARCHITECT.
4. The ARCHITECT, at its own expense, cost, and risk, shall defend any claims, actions, suits, or other proceedings that may be brought or instituted against the DISTRICT, its officers, agents or employees, other than professional negligence discussed in Article XIII, Section A, Subsection 3, above, on any such claim or liability relating to the negligence, recklessness or willful misconduct of the ARCHITECT, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents, or employees in any action, suit or other proceedings due to the negligence of the ARCHITECT, arising from their work on the PROJECT.

B. State Allocation Board

ARCHITECT shall assist DISTRICT and its consultants to apply for funding for the PROJECT from the State Allocation Board; however, ARCHITECT shall not be responsible for preparation, form, submittal, monitoring, or tracking of funding applications prepared by the DISTRICT. ARCHITECT shall be responsible for submittals required of the ARCHITECT by the DSA, OPSC, and California Department of Education in connection therewith.

C. Maintenance of Insurance

ARCHITECT shall purchase and maintain policies of insurance with an insurer or insurers, qualified to do business in the State of California and acceptable to DISTRICT which (acceptance will not be unreasonably withheld) will protect ARCHITECT and DISTRICT from claims which may arise out of or result from ARCHITECT's actions or inactions relating to the AGREEMENT, whether such actions or inactions be by themselves or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

1. The ARCHITECT shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California. However, such amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).
2. Commercial general and auto liability insurance with limits of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit, bodily injury and property damage liability, aggregate, including:
 - a. owned, if any, non-owned and hired vehicles;
 - b. blanket contractual;
 - c. broad form property damage;
 - d. products/completed operations; and
 - e. personal injury.
3. Professional liability insurance for the ARCHITECT, including contractual liability, with limits of TWO MILLION DOLLARS (\$2,000,000) aggregate. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the rates current at the time of execution of this AGREEMENT adjusted for inflation. In the event that ARCHITECT subcontracts any portion of ARCHITECT's duties, ARCHITECT shall require any such subcontractor to purchase and maintain insurance coverage as provided in this subparagraph. Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

D. District As Additional Insured

Each policy of insurance required in Article XIII, Section C, above, shall name DISTRICT and its officers, agents, and employees as additional insureds and shall state that, with respect to the operations of ARCHITECT hereunder, such policy is primary and any insurance carried by DISTRICT is excess and non-contributory with such primary insurance. Each policy of insurance required in Article XIII, Section C, Subsections 1 and 2, above, shall state that not less than thirty (30) days written notice shall be given to DISTRICT prior to cancellation; and, shall waive all rights of subrogation. ARCHITECT shall notify DISTRICT in the event of material change in, or failure to renew, each policy. Prior to commencing Work, ARCHITECT shall deliver to DISTRICT certificates of insurance as evidence of compliance with the requirements herein, including certificates of insurance for the ARCHITECT's subcontractors, as discussed in Article XIII, Section E, below. In the event ARCHITECT fails to secure or maintain any policy of insurance required hereby, DISTRICT may, at its sole

discretion, secure such policy of insurance in the name of and for the account of ARCHITECT, and in such event ARCHITECT shall reimburse DISTRICT upon demand for the cost thereof.

E. Insurance for Subcontractors

In the event that ARCHITECT subcontracts any portion of ARCHITECT's duties, ARCHITECT shall require any such subcontractor to purchase and maintain insurance coverage for the types of insurance referenced in Article XIII, Section C, above, in amounts which are appropriate with respect to that subcontractor's part of Work which shall in no event be less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) per occurrence.

F. Lack of Insurance is Material Breach

Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

G. Valuable Document Insurance

The ARCHITECT shall carry adequate insurance on all drawings and specifications as may be required to protect the DISTRICT in the amount of its full equity in those drawings and specifications and shall file with the DISTRICT a certificate of that insurance. The cost of that insurance shall be paid by the ARCHITECT.

H. Architect is Independent Contractor

ARCHITECT, in the performance of this AGREEMENT, shall be and act as an independent contractor. ARCHITECT understands and agrees that ARCHITECT and all of ARCHITECT's employees shall not be considered officers, employees, or agents of DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of DISTRICT and/or to which DISTRICT's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. ARCHITECT assumes the full responsibility for the acts and/or omissions of ARCHITECT's employees or agents as they relate to the services to be provided under this AGREEMENT. ARCHITECT shall assume full responsibility for payment of all federal, state, and local taxes or contributions, including unemployment insurance, social security, and income taxes for the respective ARCHITECT's employees.

I. Third Parties

Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of any third party against either DISTRICT or ARCHITECT.

J. Assignment

DISTRICT and ARCHITECT, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other party to this AGREEMENT with respect to the terms of this AGREEMENT. ARCHITECT shall not assign this AGREEMENT.

K. Applicable Law

This AGREEMENT shall be governed by the laws of the State of California.

L. Project Records

The ARCHITECT shall make a written record of all meetings, conferences, discussions, and decisions made between or among the DISTRICT, ARCHITECT, and Contractor during all phases of the PROJECT and concerning any material condition in the requirements, scope, performance, and/or sequence of the Work. The ARCHITECT shall provide a copy of such record to the DISTRICT.

M. Entire Agreement

This AGREEMENT represents the entire AGREEMENT between DISTRICT and ARCHITECT and supersedes all prior negotiations, representations or agreements, either written or oral. This AGREEMENT may be amended or modified only by an agreement in writing signed by both DISTRICT and the ARCHITECT. This AGREEMENT may be executed in counterpart and with facsimile signatures.

N. Effective Date

This AGREEMENT entered into as of the day and year first written above.

ALBANY UNIFIED SCHOOL DISTRICT

By _____
Superintendent Val Williams

Date: _____

ARCHITECT

By _____
Principal Marcus Hibser

Date: _____

ATTACHMENT “A”**PROJECT FEE FORMULA**

The Fee due the ARCHITECT shall not be fixed, but shall be adjusted periodically, according to the terms of this paragraph. The DISTRICT’s estimated construction costs (i.e. the Project Budget) will be used to calculate fees up to the bidding of the Project, unless the DISTRICT issues a written notice of change in the budget prior to bidding.

The Fee shall thereafter be adjusted, using the approved bid cost. If the bid cost exceeds the Project Budget, any additional amounts due the ARCHITECT for completed design phase services will then be billable and payable to the ARCHITECT, in accordance with Article X of this AGREEMENT and subject to Article III (D). If the bid cost is less than the Project Budget, the design fees previously billed and paid will not be recalculated downward. The Fee will be adjusted a final time at the time of Project Completion, to include change orders. Any additional amounts due ARCHITECT for previously completed phases will then become due and payable.

The above referenced Fee is based on upon the following Fee Schedule:

Modernization Construction Projects:

1. Up to \$500, 000 of construction costs: 9%
2. The next \$500,000 of construction costs: 8.5%
3. The next \$1,000,000 of construction costs: 8%
4. The next \$4,000,000 of construction costs: 7%
5. The next \$4,000,000 of construction costs: 6%
6. Costs in excess of \$10,000,000: 5%.

Definition of Computed Costs: Computed Costs shall include the amount of the base contract, plus the cost of all approved change orders, with the exception of items resulting from errors on the part of the ARCHITECT. For those projects or portions of projects that are designed assuming a single bid package but that are subsequently let using separate bid packages, the architect shall receive a reasonable adjustment to its fee to reflect the increased cost of preparing the bid documents and administration of the project.

ATTACHMENT “B”
HOURLY BILLING RATES
Effective January 1, 2014

<u>POSITION</u>	<u>RATE</u>
Principal	\$275/hr
Studio Leader	\$210/hr
Architect 3	\$170/hr
Architect 2	\$160/hr
Architect 1	\$150/hr
Job Captain	\$130/hr
Senior Draftsperson	\$120/hr
Draftsperson	\$115/hr
Jr. Draftsperson	\$105/hr
Interior Project Designer	\$130/hr
Interior Staff Designer	\$110/hr
Administrative Staff	\$ 85/hr

REIMBURSABLE EXPENSES

Engineering Services	Actual Cost + 10%
Printing/Postage	Actual Cost + 10%

00257-00005/650928.2

**AMENDMENT TO ARCHITECTURAL SERVICES AGREEMENT
BETWEEN ALBANY UNIFIED SCHOOL DISTRICT (“DISTRICT”)
AND HIBSER YAMAUCHI ARCHITECTS, INC.**

The Architectural Services Agreement between Albany Unified School District (“District”) and Hibser Yamauchi Architects, Inc. shall be amended as follows:

I. SCOPE OF SERVICES – SCOPING

1) Outreach Meetings and Charrettes:

ARCHITECT will conduct a series of meetings and charrettes (working design sessions) that will seek to build on the work that was completed in the master plan phase.

ARCHITECT will confirm the needs as expressed in previous meetings and listen to concerns about the current schemes.

2) ARCHITECT anticipates three (3) site committee meetings.

a. Meeting 1 – ARCHITECT will confirm program, validate needs/desires and have preliminary discussions regarding site utilization. In the second half of this meeting the site committee will work with manipulatives to test various campus options and discuss pros and cons.

b. Meeting 2 - Prior to this meeting ARCHITECT will have codified 2-4 options as developed in the previous charrette and discuss pros and cons of each solution. ARCHITECT will hone in on a single option for development.

c. Meeting 3 – ARCHITECT will review the selected option and revise details such as building access, site amenities, building construction type, and project phasing.

3) After the initial site committee meeting, ARCHITECT will conduct a community meeting to hear from community members about their needs so that this feedback can be brought back to the site committee.

4) After the second site committee meeting, ARCHITECT will conduct an "all-hands" staff meeting to relay the current state of the planning and solicit feedback on potential solutions.

5) ARCHITECT will meet with DISTRICT and its Maintenance and Operations personnel throughout the process to confirm budget and receive District direction.

6) ARCHITECT will present the final solution along with schedule and budget information to the Board.

II. DELIVERABLES

1) Prior to the community and committee meetings ARCHITECT will develop drawings and manipulatives (blocks representative of program requirements) for communication and note-taking.

2) ARCHITECT will deliver a final package that includes an updated program, the selected solution, proposed phasing and cost estimate. The cost estimate will be based on a per square foot basis.

III. ANTICIPATED SCHEDULE

Upon execution of this Amendment, ARCHITECT will begin work in early November, to complete by the end of December. This schedule is predicated on receipt of all appropriate information in a timely fashion. DISTRICT understands that review times by various parties (i.e. users, building departments, etc.) may have an impact on this schedule.

IV. FEE

- 1) For the above work ARCHITECT shall receive a lump sum fee of \$21, 580.
ARCHITECT may submit a contract modification prior to commencement additional scope of work beyond what is described above.
- 2) The Parties will negotiate a flat fee for the design and or construction administration phase(s) of the Project, hereby replacing the percentage formula found in Attachment "A" and referenced throughout the Agreement.

ALBANY UNIFIED SCHOOL DISTRICT

By _____
Superintendent Val William

Date: _____

ARCHITECT

By _____
Principal, Marcus Hibser

Date: _____

EXHIBIT B

ALBANY UNIFIED SCHOOL DISTRICT BOARD AGENDA BACKUP

Regular Meeting of January 27, 2015

ITEM: **AMENDMENT TO HY ARCHITECTS, INC. AGREEMENT TO PROVIDE ARCHITECTURAL SERVICES FOR THE OCEAN VIEW SCHOOL CONSTRUCTION PROJECT**

PREPARED BY: **ALLAN GARDE, CHIEF BUSINESS OFFICIAL**

TYPE OF ITEM: **REVIEW AND ACTION**

PURPOSE: To review and approve the amendment agreement with HY Architects, Inc. to provide architectural services for the Ocean View School Construction Project.

BACKGROUND INFORMATION: At the March 25th, 2014 Board meeting, the Board approved the Facilities Master Plan. One of the projects included the architectural development of Ocean View Elementary. At the August 26th, 2014 Board meeting, the Board directed staff to move forward with the selection of an architect for the Ocean View School Construction Project. Public bids and follow-up interviews were conducted in September 2014.

DETAILS: At the October 14th, 2014 Board meeting, the Board approved the original contract with HY Architects, Inc. to provide architectural services for the Ocean View School Construction Project. This Board approval approved the programming phase of the project in order for the Ocean View Design Committee to clarify and refine the scope of the project for \$21,580. Based on this refinement, a total contract amount was to be negotiated. A total fee of \$1,375,000 or 5% of the projected construction budget for Ocean View was negotiated for Board approval. Of this total fee only the Schematic Design and Design Development phases of the project have been approved to move forward.

Schematic Design 100% Complete
Design Development 100% Complete

May 29, 2015
October 5, 2015

KEY QUESTIONS/ANSWERS:

1. Where can I find the original contract approved by the Board?
 - a. The original contract can be found online at: http://www.ausdk12.org/ourpages/auto/2014/10/9/57680472/10_14_14%20BOE%20Meeting.pdf
2. What is the reason for the amendment?
 - a. The original contract approved a programming (Pre-Design) phase of the project to refine the scope of the project. This allows clarity and understanding between the District and the Architect to better understand the needs of the project prior to approving a full fee.
3. Why are only the Schematic Design and Design Development phases being approved?
 - a. The Schematic Design and Design Development phases are the phases needed before construction documents and the actual construction of the project begins. This allows changes to be made fairly easily if needs or regulations change prior to construction.

FINANCIAL INFORMATION:

Schematic Design Phase: \$165,000 – Fund 35 (State-Matching Funds)

Design Development Phase: \$233,750 – Fund 35 (State-Matching Funds)

Total Fee Authorized with Amendment: – \$398,750

STRATEGIC GOALS ADDRESSED: This Board Item addresses Strategy One (Assessing and Increasing Academic Success), Strategy Two (Supporting the Whole Child), and Strategy Three (Communicating and Leading Together)

<p>RECOMMENDATION: Review and approve the amendment agreement with HY Architects, Inc. for the Ocean View School Construction Project</p>
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**AMENDMENT TO ARCHITECTURAL SERVICES AGREEMENT
BETWEEN ALBANY UNIFIED SCHOOL DISTRICT (“DISTRICT”)
AND HIBSER YAMAUCHI ARCHITECTS, INC.**

The Architectural Services Agreement between Albany Unified School District (“District”) and Hibser Yamauchi Architects, Inc. (“Architect”) shall be amended as follows:

I. SCOPE OF SERVICES

- a. In accordance with ARTICLE III, District has elected to complete the Project in phases. Phase I shall consist of requirements detailed in ARTICLE III A-B (Schematic Design and Design Development). Phase I is authorized by this Amendment.
- b. District has elected to proceed with a Pre-fabricated building construction type for all new facilities as indicated on attached Option 2C, dated December 23, 2014.
- c. Phase II is expected to consist of requirements detailed in ARTICLE III C-D. Phase II will be authorized by a future Amendment.

II. SCHEDULE

- a. Upon execution of this Amendment, Architect will begin work immediately and will be bound to the following milestone schedule:

Schematic Design 100% Complete	May 29, 2015
Design Development 100% Complete	October 5, 2015

III. DISTRICT’S CONSTRUCTION BUDGET

- a. District’s Construction Budget is \$27.5 million.

IV. FEE

- a. For its Scope of Services, Architect shall receive a Flat Fee equal to Five Percent (5.0%) of District’s Construction Budget, as follows:
 - i. $\$27.5 \text{ million} \times 5.0\% = \$1,375,000$ (Flat Fee)
- b. At completion of Schematic Design, District may elect to make specific buildings “Stick Built” in lieu of Pre-fabricated construction type.
- c. If District elects to make any buildings “Stick Built,” then:
 - i. District’s Construction Budget will be increased for any components changed from Pre-fabricated to “Stick Built” construction type.
 - ii. Architect’s Flat Fee will be increased from 5.0% to 7.0% of District’s Construction Budget for any components changed from Pre-fabricated to “Stick Built” construction type.

AMENDMENT TO ARCHITECTURAL SERVICES AGREEMENT
 BETWEEN ALBANY UNIFIED SCHOOL DISTRICT
 AND HIBSER YAMAUCHI ARCHITECTS, INC.
 P. 2

V. PAYMENTS

- a. Payments to Architect for Phase I authorized by this Amendment will be made per ARTICLE X, as follows:

i.	100% Schematic Design	12% of Flat Fee
ii.	100% Design Development	17% of Flat Fee
iii.	Total Authorized by this Amendment	29% of Flat Fee, as follows:
		\$1,375,000 x 29% = \$398,750

ALBANY UNIFIED SCHOOL DISTRICT

By _____ Date: _____
 Allan Garde, Chief Business Official

HIBSER YAMAUCHI ARCHITECTS, INC.

By _____ Date: _____
 Marcus Hibser, Principal

SITE PLAN - SCHEME 2C - FIRST FLOOR.



Site Plan Legend:

- concrete
- grass / planting
- parking & roadway
- play area
- main entry
- vehicular traffic
- pedestrian traffic

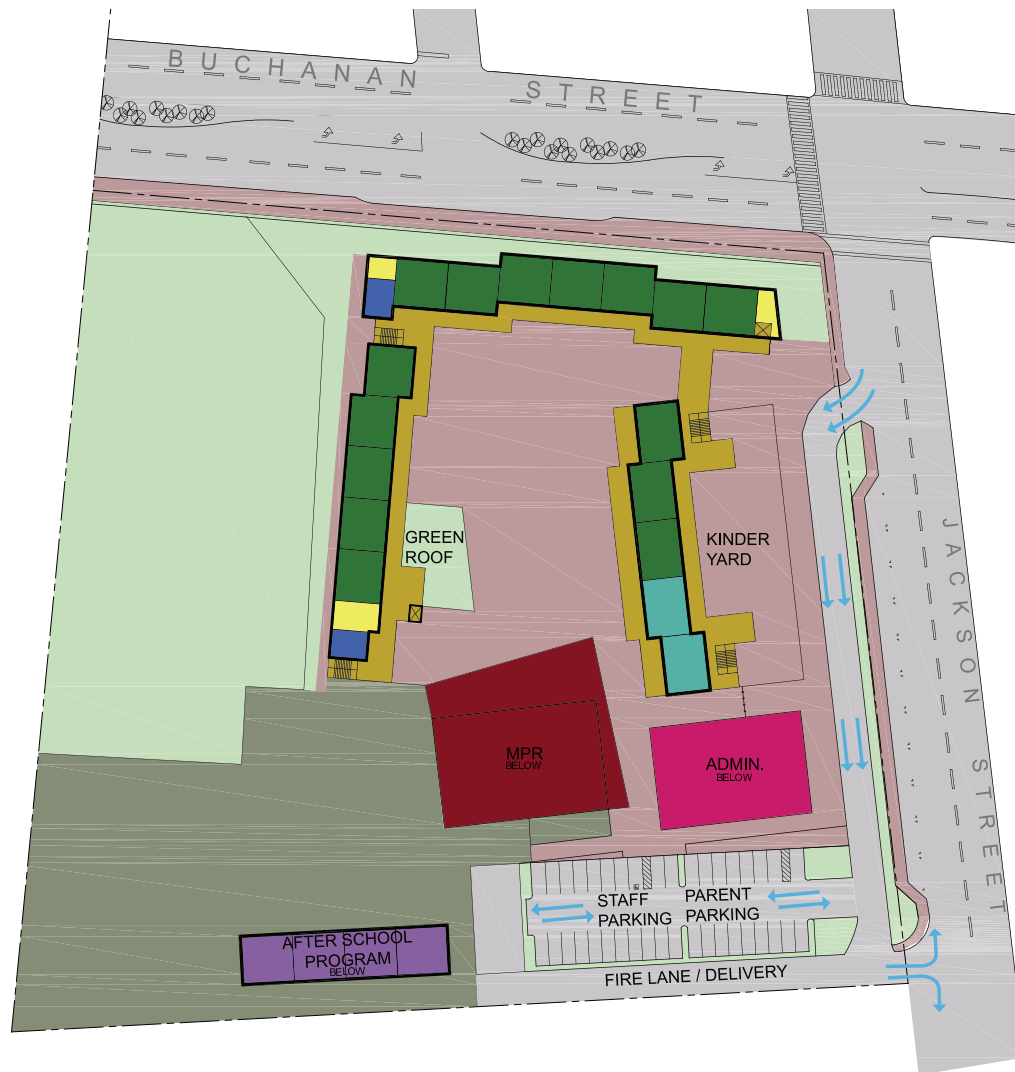
Floor Plan Legend:

- | | |
|---|--|
| ADMINISTRATION
6,600 SF | STANDARD CLASSROOMS
19 classrooms |
| LIBRARY
4,400 SF | SPECIALIZED CLASSROOMS
2 classrooms + 3 half sized |
| MULTIPURPOSE
6,860 | SPECIAL EDUCATION CLASSROOMS
4 classrooms |
| FOOD SERVICE
1,210 SF | KINDERGARTEN CLASSROOMS
5 classrooms |
| SUPPORT
1,600 SF | AFTER SCHOOL PROGRAM
4 classrooms |
| | RESTROOMS |
| | CIRCULATION |

0 30 60 120















SITE PLAN - SCHEME 2C - SECOND FLOOR.



Site Plan Legend:

- | | |
|--|---|
|  concrete |  parking & roadway |
|  grass / planting |  play area |
|  main entry | |
|  vehicular traffic | |
|  pedestrian traffic | |

Floor Plan Legend:

- | | |
|--|---|
|  ADMINISTRATION
6,600 SF |  STANDARD CLASSROOMS
19 classrooms |
|  LIBRARY
4,400 SF |  SPECIALIZED CLASSROOMS
2 classrooms + 3 half sized |
|  MULTIPURPOSE
6,860 |  SPECIAL EDUCATION CLASSROOMS
4 classrooms |
|  FOOD SERVICE
1,200 SF |  KINDERGARTEN CLASSROOMS
5 classrooms |
|  SUPPORT
1,600 SF |  AFTER SCHOOL PROGRAM
4 classrooms |
| |  RESTROOMS |
| |  CIRCULATION |

0 30 60 120



EXHIBIT C

HIBSER YAMAUCHI Architects, Inc.

July 25, 2018

Val Williams

Superintendent
 Albany Unified School District
 1051 Monroe Street
 Albany, CA 94706
vwilliams@ausdk12.org

Re: OVES Ongoing Consulting Fee Proposal

Dear Val:

Thank you for continuing to trust us with your projects. We appreciate all opportunities to work with the Albany Unified School District. Per our conversations, we are submitting professional fees to assist the District in modifying the May, 2015 OVES schematic design layout as a basis for Bridging Documents that will be used for Design Build Teams to bid and develop in further detail.

BASIC SCOPE OF SERVICES

1. Update the program and confirm square footages.
2. Attend four meetings with Ocean View Stakeholders, District Staff and the Design and Sustainability Committee. Agendas as follows:
 - A. Meeting #1:
 - 1) Review and confirm original program.
 - 2) Review conceptual design options developed from feedback at the June 18th meeting.
 - B. Meeting #2: Present a more detailed design based on feedback from Meeting #1
 - C. Meeting #3:
 - 1) Present site plan incorporating changes discussed in meeting #2
 - 2) Discuss modernization scope for any original building to remain.
 - D. Meeting #4: Wrap up desired scheme with the Committee.
3. Attend up to 3 meetings with local entities or agencies to discuss emerging changes to the campus. Those entities include but are not limited to Albany Public Works, Albany Fire Marshal and UCB.
4. Provide Bridging Documents consisting of the following:
 - A. An updated site plan reflecting building and campus layout as approved by the District and stakeholders committee.
 - B. Standard classroom and kinder classroom drawings including floor plans, reflected ceilings plans and interior elevations.
 - C. Outline specifications.
 - D. 2016 daylighting studies.
 - E. 2016 Sage Renewables PV Study.
 - F. Civil Surveys from the original schematic design phase
 - G. Programming and Schematic Design Phase meeting notes
 - H. District sustainability guidelines/standards.



Val Williams, AUSD Superintendent
AUSD – General Consulting
July 25, 2018

5. Participate in the Design/Build Team selection process:
 - A. Attend one session for up to three D/B Team interviews and three confidential feedback meetings for each of the three Design Build teams, a total of ten meetings.

TIME AND MATERIALS SCOPE OF SERVICES

Scope to be billed on a Time and Materials basis covers activities that are not described under the Basic Scope of Services. Those activities include but are not limited to the following:

1. Additional design studies and investigations exploring modernization of existing buildings that were not part of the May 29, 2015 schematic design package.
2. Stakeholder charrettes employing manipulative models.
3. Detailed exploration of sustainability modifications to the project design (it is assumed that this effort will be covered by the D/B Team).
4. Modifications to the program reviewed at the July 20, 2018 committee meeting.
5. Additional design and regulatory agency meetings not listed under basic scope.

SCHEDULE:

1. Meetings 1, 2, 3 and 4: July 20 to September 27, 2018. Additional Time and Material effort may extend this period. HY will provide a schedule adjustment associated with these Time and Materials tasks as they emerge.
2. Developing Bridging Documents 4 weeks
3. Bid phase including confidential meetings: 6 weeks

CLARIFICATIONS and ASSUMPTIONS

1. Our scope is limited to architectural services. Consulting engineers are not included as part of this proposal. Should we, in collaboration with the District, determine that specific studies or reports (structural, mechanical, electrical, etc.) would be useful for the Bridging documents, then we can add these services at a later date.
2. Information provided to bidders for modernization scope is limited to descriptive notes on existing documentation. Should the District determine that development of Revit or CAD drawings for modernization scope is necessary HY will submit fees for the additional effort.

EXCLUSIONS

1. CHPS/CHPS Scorecard, USGBC LEED process, PG&E Savings by Design support and developing new sustainability documentation.
2. Drawings, diagrams and specifications other than those listed under deliverables.
3. Modifications to the May 2015 schematic design package for use by the D/B Teams
4. Materials selection.
5. Furniture and equipment selection.
6. Cost estimating.
7. Value engineering
8. DSA submittal



Val Williams, AUSD Superintendent
AUSD – General Consulting
July 25, 2018

9. Haz Mat reports

PROPOSED FEES

Basic Scope of Services	\$36,000
<u>Time and Materials Effort, Not to Exceed</u>	<u>\$15,000</u>
Total Fees	\$51,000

For any additional scope of work beyond what is described above we will submit a contract modification for approval prior to commencement of the additional work.

I hope that this proposal meets with your expectations. If you have any additional questions, please do not hesitate to call. Our current billing rates are attached for your reference. This proposal is valid for the next 60 days. We are available to begin work immediately upon receipt of your written approval. I look forward to working with you.

Very Truly Yours,

Jorge Rico, Associate

Attachments: 2018 HY Billing Rates

cc Marcus Hibser, Principal



HIBSER YAMAUCHI Architects, Inc.

2018 Billing Rates

Architectural

Principal	\$235 per hour
Associate	\$195 per hour
Architect 3	\$180 per hour
Architect 2	\$160 per hour
Architect 1	\$150 per hour
Job Captain	\$135 per hour
Senior Draftsperson	\$120 per hour
Draftsperson	\$115 per hour
Jr. Draftsperson	\$105 per hour

Interiors

Project Designer	\$135 per hour
Staff Designer	\$110 per hour

Administrative Staff	\$85 per hour
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(rates subject to change annually)