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Mar 26, 2012 : Regular Meeting of the Emery USD Board of Trustees
: G. DISCUSSION/ACTION ITEMS (approximately 6:55 p.m.)

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8. Contract for ECCL California Environmental Quality Act (CEQA) Consulting Services

[Status: Submit] [Discussion Item] [Vote]

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▼ [Staff Recommendation](#)

First Reading: Receive, review, and discuss the CEQA Services contract as presented by staff.

▼ [Purpose](#)

The purpose of this agenda item is to present to the Board, for first reading, the CEQA Consultant Agreement for the ECCL project. This contract will also appear on the next Board Agenda for approval vote.

▼ [Background](#)

In May 2009, EUSD issued an RFP for California Environmental Quality Act (CEQA) consulting services related to the ECCL project work. The District received three responses to the RFP. City of Emeryville Planning Dept. staff and District staff reviewed the responses, jointly interviewed the respondents, and jointly selected the firm of LSA to work on the ECCL project. That firm has worked on numerous prior projects in Emeryville and they were very competitive in terms of their proposal for the work. The scope and time line for their work is clearly delineated in their contract and it covers all of the environmental analyses required for CEQA process documentation. They will continue to work closely with both District and City staff as their process moves forward.

▼ [Funding](#)

Current ECCL project work is authorized and supported by MOU #2 which incorporates City and Measure J funds.

▼ [Supporting Documents](#)


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PROFESSIONAL SERVICES AGREEMENT

(LSA Associates, Inc.)

District Contract No. _____

THIS AGREEMENT is by and between the Emery Unified School District, a political subdivision of the State of California, with offices at 4727 San Pablo Avenue, Emeryville, California 94608 (“District”), and LSA Associates, Inc., a California corporation, with offices at 2215 Fifth Street, Berkeley, California, 94710 (“Consultant”).

RECITALS

- A. Consultant is qualified to provide California Environmental Quality Act (“CEQA”) consulting services for the purposes specified in this Agreement; and
- B. District finds it necessary and advisable to use the services of the Consultant for the purposes specified in this Agreement.

TERMS

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth in this Agreement, District and Consultant agree as follows:

1. **Scope of Work.** Subject to the provisions of this Agreement, Consultant shall provide to District those services related to the Emeryville Center of Community Life Project that are described in the Scope of Services attached as Exhibit A.
2. **Assistance, Facilities, Equipment and Clerical Support.** Consultant shall furnish all facilities, equipment, supplies and clerical support that may be required to provide the services required by this Agreement. Except as expressly set forth in Exhibit A, all shall be provided at the sole cost and expense of Consultant.
3. **Time for Completion.** The services that are described in Exhibit A, shall be completed within the timeframe specified in Exhibit A unless a later date is mutually agreed upon by District and Consultant.
4. **Compensation.** District shall pay Consultant for services rendered pursuant to this Agreement in accordance with the provisions set forth in Exhibit B.
5. **Sufficiency of Consultant’s Work.** All reports, drawings, designs, images, responses to comments, and all other documents completed by Consultant in the performance of this Agreement shall meet the purposes for which they are prepared, and adhere to the professional standards for work of this nature. .
6. **Ownership of Work.** All reports, designs, images, response(s) to comments, and all other documents completed or partially completed by Consultant in the performance of this Agreement (“Materials”) shall become the property of the District. All Materials shall be delivered to the District upon completion or termination of the work under this Agreement. If any Materials are lost, damaged, or destroyed before final delivery to the District, the Consultant shall replace them

at its own expense. Any and all copyrightable and/or intellectual property subject matter in all related Materials (“Intellectual Property”) are hereby assigned to the District and the Consultant agrees to execute any additional documents that may be necessary to evidence such assignment of Intellectual Property. Consultant shall keep all Materials confidential. Materials shall not be used for purposes other than performance of services under this Agreement and shall not be disclosed to anyone other than those connected with these services (including their respective professional consultants), unless the District provides prior written consent.

7. **Changes.** District may request changes in the Scope of Services to be provided by Consultant. Any changes and related fees shall be mutually agreed upon between the parties. No change or related fee shall be effective unless reduced to writing as an Amendment to this Agreement.
8. **Consultant is Independent Contractor.** In performing the obligations set forth in this Agreement, Consultant shall have the status of an independent contractor and Consultant shall not be considered to be an employee of the District for any purpose. All persons working for or under the direction of Consultant (including the Subcontractors) are its agents and/or employees and are not agents or employees of the District.
9. **Termination for Convenience of District.** The District may terminate this Agreement at any time by providing written notice to Consultant.
 - a. Notice, if mailed, shall be effective five (5) days after mailing provided the notice of termination is mailed to Consultant via First Class Mail at the address specified in Paragraph 13. below.
 - b. Upon notice, the Agreement is deemed terminated and no further work shall be performed by Consultant.
 - c. In the event of such a termination, Consultant shall be paid for that percentage of the work actually successfully completed to the satisfaction of the District at the time the notice of termination was effective.
10. **Non-Assignability.** The Consultant shall not assign, subcontract or transfer this Agreement or any interest or obligation in the Agreement without the prior written consent of the District, and then only upon such terms and conditions as District may set forth in writing. Consultant is solely responsible for reimbursing Subcontractors and ensuring that each Subcontractor complies with every term of this Agreement. Consultant expressly holds and saves the District harmless from, and indemnifies the District, from any and all claims and causes of action arising from Consultant’s activities hereunder, in accordance with Section 11 below.
11. **Indemnity and Hold Harmless.** Consultant shall defend, indemnify, and hold harmless, the District and the City, and their respective officers, agents and employees from and against all claims, losses, damage, injury and liability for damages arising from, or alleged to have arisen from, errors, omissions, negligent, wrongful acts or other acts of the Consultant in the performance of its services under this Agreement, regardless of whether the District and/or City have reviewed or approved the work or services which has given rise to the claim, loss, damage, injury or liability for damages. This indemnification shall survive after completion of the Project and termination/expiration of this Agreement, as well as during the period of actual performance of services under this Agreement. The District’s acceptance of the insurance certificates required under this Agreement does not relieve the Consultant from its obligations under this paragraph.

12. **Insurance.** During the term of this Agreement, Consultant shall maintain, and cause its Subcontractors to maintain, the insurance coverage set forth in 12.a through 12.h below. This coverage shall be the sole cost of Consultant and shall be in full force and effect during the entire term of this agreement. Coverage shall be by an insurer(s) with an A.M. Best's rating of no less than A:Vii:
- a. **General Liability and Bodily Injury Insurance.** Commercial general liability insurance with limits of at least \$2,000,000 combined limit for bodily injury and property damage that provides that the District and City, and their respective officers, employees and agents are named as additional insureds under the policy. The policy shall state in writing either on the Certificate of Insurance or attached rider that this insurance will operate as primary insurance for work performed by Consultant and the Subcontractors (unless otherwise directly provided by a Subcontractor) and that no other insurance effected by the District and/or City or other named insured will be called on to cover a loss.
 - b. **Automobile Liability Insurance.** Automobile liability insurance with limits not less than \$1,000,000 per person/per occurrence.
 - c. **Workers' Compensation Insurance.** Workers' Compensation Insurance for all of Consultant's employees, in strict compliance with State laws, including a waiver of subrogation and Employer's Liability Insurance with limits of at least \$1,000,000.
 - d. **Professional Liability Insurance.** Professional liability insurance in the amount of \$1,000,000.
 - e. **Certificate of Insurance.** Consultant shall file a certificate of insurance with the District prior to the District's execution of this Agreement, and prior to engaging in any operation or activity set forth in this Agreement. The Certificate of Insurance shall provide in writing that the insurance afforded by this Certificate shall not be suspended, voided, canceled, reduced in coverage or in limits without providing thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District and City. In addition, the insured shall provide thirty (30) days prior written notice to the District and the City of any suspension, cancellation, reduction of coverage or in limits, or voiding of the insurance coverage required by this Agreement, and the District shall be named as an additional insured. The District and/or the City reserve the right to require complete certified copies of policies.
 - f. **Waiver of Subrogation.** The insurer agrees to waive all rights of subrogation against the District and the City, and their respective officers, employees and agents.
 - g. **Defense Costs.** Coverage shall be provided on a "pay on behalf of" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusions.
 - h. **Subcontractors.** Consultant shall include all Subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverage for Subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to all of the requirements stated in this Agreement, including but not limited the naming of an additional insured.

13. **Notices.** All notices required herein shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed as follows:

To Consultant: Chief Executive Officer
LSA Associates, Inc.
2215 Fifth Street
Berkeley, CA 94710

To District: Superintendent
Emery Unified School District
4727 San Pablo Avenue
Emeryville, CA 94608

To City: City Manager
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

14. **Conformance to Applicable Laws.** Consultant shall comply with all applicable Federal, State, and Municipal laws, rules, regulations and ordinances. Consultant shall not discriminate in the employment of persons or in the provision of services under this Agreement on the basis of any legally protected classification, including race, color., national origin, ancestry, sex or religion of such person.
15. **Licenses, Certifications and Permits.** Prior to District's execution of this Agreement and prior to the Consultant's engaging in any operation or activity set forth in this Agreement, Consultant shall obtain a City of Emeryville business license, which must be kept in effect during the term of this Agreement. Consultant covenants that it has obtained all certificates, licenses, permits and the like which are required to perform the services under this Agreement.
16. **Records and Audits.** Consultant shall maintain all records, regarding this Agreement and the services performed for a period of three (3) years from the date that final payment has been made. At any time during normal business hours, the records shall be made available to the District and/or City to inspect and audit.
17. **Confidentiality.** Consultant shall exercise necessary precautions to prevent unauthorized disclosure and use of District and/or City reports, information, or conclusions.
18. **Conflicts of Interest.** Consultant covenants that other than this Agreement, Consultant has no financial interest with any respective official, employee, or other representative of the District or the City. Consultant and its principals do not have any financial interest in real property, sources of income, or investment that would be affected in any manner of degree by the performance of Consultant's services under this Agreement. If such an interest arises, Consultant will immediately notify the District and the City.
19. **Waiver.** In the event that the District and/or the City and/or the Consultant at any time waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement.
20. **Governing Law.** California law shall govern any legal action pursuant to this Agreement with venue in the applicable court or forum for Alameda County, California.

- 21. **No Personal Liability.** No officer, official, agent or employee of the District, or of the City, shall be personally liable to Consultant in the event of any default or breach by the District and/or the City for any amount due Consultant.
- 22. **Exhibits.** All exhibits referred to in this Agreement are (1) attached and (2) are incorporated by this reference as though fully set forth herein.
- 23. **Full and Complete Agreement.** This writing constitutes the entire Agreement between the parties. It shall supersede any prior agreement, whether written or oral. Any modification to the Agreement, to be effective, must be in writing and signed by all parties.

IN WITNESS WHEREOF, THIS AGREEMENT is executed as of the day and year written above.

EMERY UNIFIED SCHOOL DISTRICT

LSA ASSOCIATES, INC.

Date: _____

Date: _____

By: _____

By: _____

Its: _____

Its: _____

AGREED AND CONSENTED TO THE EXTENT APPLICABLE:

CITY OF EMERYVILLE

Date: _____

By: _____

Its: _____

EXHIBIT A

SCOPE OF SERVICES

This document provides a revised Scope of Services and budget for the Emeryville Center of Community Life (ECCL) Project. This Scope of Services does not include NEPA documentation for the Project. LSA has assembled a Project team to prepare the CEQA documentation for the ECCL that provides the full range of required expertise. We are supported by sub-consultants selected for their technical skills, knowledge of the area and issues, and ability to meet deadlines and budgets. As prime consultant, LSA will manage the contract, be responsible for the accuracy and quality of all technical documentation, and represent the team at all meetings and public hearings. We will be responsible for preparing the CEQA documentation.

Other members of the LSA team, and their areas of technical expertise, include:

- **Fehr & Peers:** *traffic, circulation and parking*
- **Baseline Environmental Consulting:** *air quality; geology, soils and seismicity; hydrology and water quality; hazards and public health; noise (DBE Teaming Partner)*
- **Andrew McNichol:** *visual simulations*
- **ScanArt:** *report reproduction and binding (DVBE Teaming Partner)*

Judith Malamut will be the Principal-in-Charge for this Project and Amy Paulsen, Associate, will be the Project Manager. Updated resumes and additional information regarding personnel for this Project can be provided upon request.

A. PROJECT UNDERSTANDING

The Emeryville Unified School District (EUSD) is proposing to construct the Emeryville Center of Community Life (ECCL) on an approximately 7.5-acre parcel that currently is occupied by classroom buildings serving students in grades 7 to 12, administrative offices, indoor and outdoor sports facilities, and other education-related facilities. The Project site is bounded by 47th and 53rd Streets on the south and north, by San Pablo Avenue on the east, and by the Emery Bay Village on the west; it is bounded to the east and north by the City of Oakland. Existing facilities at the site are used primarily for education-serving activities. To allow construction of the ECCL, all on-site buildings would be vacated and most would be demolished. Only the gymnasium building and swimming pool would be retained, but these would undergo extensive renovation. New education and community-serving facilities would be built on the site as envisioned in the District's recently completed conceptual Master Plan for the property.

The conceptual Master Plan (currently being developed) envisions that the ECCL would provide facilities for both education and community activities. Approximately 180,000 square feet of interior space would be constructed. Proposed facilities include instruction classrooms, meeting rooms, administrative office, two gymnasiums, multi-purpose areas, art and music studios, dance and fitness studios, space for pre-school and before and after school activities, technology centers, teacher work areas, parent and teacher resources areas, a library, a health and wellness center and approximately 215 parking spaces. Outdoor space would include a multi-use sports field that could be configured for soccer, football, and baseball, basketball courts, a year-round swimming pool, a running track, gardens and green open space. The Nexus Partners in coordination with the District staff will provide LSA with sufficient Project information (text, graphics, tables) for the CEQA documentation.

The following two sections describe LSA’s general approach for achieving environmental clearance for the Project, in accordance with CEQA, and present a detailed program for accomplishing the work.

B. APPROACH

Based on the type and scale of the Project, our previous work in the Project area, and the District’s direction to provide analysis and documentation under CEQA, we propose to prepare an Initial Study (IS) in support of a Mitigated Negative Declaration (MND) that evaluates the Project’s effects related to the environmental topical areas listed in the CEQA Guidelines. There is a possibility, however, that significant impacts, for example the discovery that one of the buildings on site qualifies as a historical resource under CEQA or that there are Level of Service changes or delays that exceed the City’s significance criteria for traffic, might be identified during the analysis. Should significant and unavoidable effects of the Project be identified, an Environmental Impact Report (EIR) would be needed, which would require additional scope and budget to complete.

At this point, we will not be providing any environmental clearance under NEPA, as no federal funding has been identified. If NEPA clearance is required, LSA will identify what additional information would need to be provided and will prepare a separate scope and budget for that work.

C. PROPOSED WORK PROGRAM

Table 1 contains an outline of LSA’s proposed work program for the IS/MND, which is discussed below.

Table 1: Work Program Outline

<p>TASK A. PROJECT INITIATION</p> <ol style="list-style-type: none"> 1. Start-Up Meeting/Site Visit 2. Data Gathering and Evaluation 3. Project Description <p>TASK B. ENVIRONMENTAL ANALYSIS</p> <ol style="list-style-type: none"> 1. Land Use and Planning Policy 2. Aesthetics 3. Air Quality 4. Cultural Resources 5. Geology and Soils 6. Global Climate Change 7. Hazards and Hazardous Materials 8. Hydrology and Water Quality 9. Noise 10. Population and Housing 11. Public Services, Utilities and Recreation <p>TASK C. ENVIRONMENTAL DOCUMENTATION (CEQA)</p> <ol style="list-style-type: none"> 1. Administrative Draft IS/MND 2. Screencheck Draft IS/MND 3. Public Review Draft IS/MND 4. Response to Comments 5. Final IS/MND 6. Mitigation Monitoring and Reporting Program <p>TASK D. PUBLIC HEARINGS AND NOTICING</p> <p>TASK E. PROJECT MANAGEMENT AND MEETINGS</p>
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TASK A. PROJECT INITIATION

Project initiation will include several tasks, including a preliminary meeting and site visit, compiling and distributing relevant documents, data gathering, and contacting responsible agencies and City departments. The Project description for the environmental document will be prepared as part of Project initiation subtasks.

1. Start-Up Meeting/Site Visit

LSA met with District staff on September 5, 2011 to discuss the environmental review strategy, time-line, and research tasks. We will collect any plans and background reports/policy documents that the District and City have available for the Project for distribution to our technical staff. We will provide a list of reports and plans, such as a geotechnical report, a hydraulic or stormwater report, a phase I environmental site assessment for hazardous materials, engineering and architectural plans, etc. that will be useful for the environmental analysis if they are available. Judith, Amy and key team members will visit the Project site to document existing conditions and site features.

2. Data Gathering and Evaluation

LSA will gather and evaluate existing data and analyses applicable to the Project site. LSA will contact responsible agencies and City departments that may have information about the Project site or insight into potential environmental effects of the Project.

3. Project Description

LSA will prepare the Project description based on materials provided by the District and architectural design team. The Project description will include a discussion of the key characteristics of the Project site and its vicinity, Project objectives, details of the proposed Project, the planning and approval process, and the anticipated development schedule. A base map of the Project site and vicinity will be prepared. The Project site base map will be used to illustrate street and lot layouts in the Project site vicinity, the Project site's relationship to surrounding land uses and General Plan, Specific Plan, and Zoning designations.

TASK B. ENVIRONMENTAL ANALYSIS

LSA will conduct an analysis of the Project's impacts in the following topical areas: land use and planning policy; aesthetics; agriculture resources; air quality; biological resources; cultural resources; geology and soils; hazards and hazardous materials; hydrology and water quality; mineral resources; noise; population and housing; public services, utilities, and recreation; and transportation and circulation. The LSA team will prepare written responses to the CEQA Appendix G Initial Study Checklist questions for each topical issue area. Practical and feasible mitigation measures to reduce significant effects to a less-than-significant level will be recommended, as appropriate.

The environmental analysis in the Initial Study will be used to support a Mitigated Negative Declaration. Agriculture, mineral resources, and biological resources are expected to require minimal environmental documentation. We will provide standard nesting birds mitigation measures but the proposed Project is not expected to result in impacts in these areas. Our proposed analysis of the other topics listed above is described below.

1. Land Use and Planning Policy

The Land Use and Planning Policy analysis will focus on the Project's relationship to local land use patterns and relevant planning policy. LSA will discuss, analyze and assess the compatibility of the Project with surrounding mixed uses, and the consistency of the Project with local planning policies and regulations.

2. Aesthetics

LSA will analyze the aesthetic impacts of the Project, including the compatibility of the proposed design with surrounding development. LSA will also determine whether proposed new lighting would increase glare or reduce the quality of nighttime views in Emeryville and Oakland. Andrew McNichol will prepare visual and shadow simulations for use in the assessment of aesthetic impacts. Following review of Project materials and conferring with LSA and the District, Andrew McNichol will conduct a site visit and photograph 20 views-to-site. LSA and the District will select five views which will be used to create computer-generated "before and after" visual simulations of the Project site. The cost estimate includes two review/revision cycles of the visual simulations. Shade and shadow simulations are not included in the analysis, but can be prepared on a time-and-materials basis if desired.

3. Air Quality

Project construction activities would include ground disturbance, the use of diesel vehicles on the site, and the potential release of contaminated soil, all of which could have adverse effects on air quality. In addition, the new community-serving space on the site would generate trips that would result in emissions of regional pollutants. Baseline will prepare the air quality impacts analysis for the proposed Project, based on the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines. The air quality analysis will include the following components: 1) assessment of baseline air quality in the area, as documented by the closest air monitoring stations; 2) assessment of construction impacts, including the potential release of toxic vapors from contaminated soil (and airborne pollutants associated with building demolition); 3) assessment of traffic-related air quality effects associated with the Project; and 4) recommendation of mitigation measures consistent with BAAQMD guidelines.

4. Cultural Resources

One of the Project's environmental issues is the demolition of the on-site structures that the District has indicated were built in the 1950s. As such, these buildings have the potential to qualify as historic resources under CEQA. The demolition of a building that is considered a historic resource pursuant to CEQA is considered a significant environmental impact. If a Project results in such an impact, an Environmental Impact Report (EIR) must be prepared. For the purposes of this scope and budget, it is assumed that the buildings on the site would not be considered significant historic resources pursuant to CEQA Guidelines Section 15064.5. A preliminary assessment of the buildings suggests that they do not meet any of the criteria set forth in the section; they have not been: 1) listed in or determined to be eligible for listing on the California Register of Historic Resources; 2) included in a local register of historic resources, or identified in a local resource survey; or 3) determined by the lead agency to be a historic resource. For the purposes of the analysis, the City's Ordinance 06-013 is not considered a local register of historic resources or a determination by the lead agency that the buildings on the Project site are historic resources.

To satisfy this Project's regulatory requirements for cultural resources, LSA will conduct archival and background research, consult with potentially interested parties, conduct a cultural resources field survey,

and evaluate possibly significant cultural resources for their National Register of Historic Places (National Register) eligibility.

Archival and Background Research. Archival and background research will be done to (1) identify previously recorded cultural resources and previously conducted cultural resource studies in or adjacent to the Project site; and (2) assess the likelihood of unrecorded cultural resources within or adjacent to the Project site based on archaeological, ethnographic, historical, and environmental information. LSA will conduct records searches at the Northwest Information Center (NWIC) of the California Historical Resources Information System at Sonoma State University and the University of California Museum of Paleontology (UCMP). Based on the results of the field survey, research may be conducted as needed at other repositories.

Cultural resource inventories will be reviewed to determine if they list any cultural resources within or adjacent to the Project site. These inventories will include the *California Inventory of Historic Resources* (California Department of Parks and Recreation 1976), and the Office of Historic Preservation's *Five Views: An Ethnic Historic Site Survey for California* (1988), *California Historical Landmarks* (1996), *California Points of Historical Interest* (1992), and the *Directory of Properties in the Historic Property Data File* (which contains the listings of the National Register of Historic Places, National Historic Landmarks, California Register of Historic Resources, California Historical Landmarks, and California Points of Historical Interest).

LSA will also review archaeological, ethnographic, historical, and environmental publications and maps to identify cultural resources in or adjacent to the Project site.

Interested Party Consultation. The Native American Heritage Commission (NAHC) will be requested to review their Sacred Lands File to determine if the Project area contains any cultural resources or areas of Native American concern. The NAHC will also be asked to provide a list of Native American individuals and organizations that may have information and/or concerns about cultural resources in the Project area. Each individual or organization identified by the NAHC will be contacted by LSA by letter or follow up telephone call to address the consultative requirements of 36 CFR 800. LSA will also contact the Alameda County Historical Society for any information or concerns they may have about historic resources in the Project site.

Project Area Field Survey. A pedestrian field survey will be conducted to identify cultural resources in the Project area.

Study Documentation. LSA will prepare a cultural resources technical report to document the study's methods, results, and management recommendations. The results of the study will be summarized in relevant sections of the Initial Study and Environmental Assessment documents, with mitigations provided as appropriate.

5. Geology and Soils

The Project site is located in a seismically-active portion of Northern California. A significant earthquake on one of the regional faults in the Project area, including the San Andreas or Hayward faults, will likely produce significant ground-shaking during the life of the Project. The surficial geologic deposits of Emeryville consist primarily of unconsolidated alluvium east of Shellmound Street including the area of the Project site. Baseline will characterize geologic and seismic concerns at the Project site using available existing site-specific reports, U.S. Geological Survey and California Geological Survey maps and reports.

6. Global Climate Change

LSA will evaluate the Project's impacts on global climate change and greenhouse gas emissions in accordance with the CEQA Guidelines Amendments that became effective on March 18, 2010. The guidelines state that a lead agency should make a good-faith effort, based on available information, to describe, calculate or estimate the amount of GHG emissions resulting from a Project and determine if the Project is consistent with GHG reduction plans. LSA will provide a quantitative assessment of GHG emissions associated with all relevant sources related to the Project for which Project data are available, including construction activities, vehicle emissions, energy consumption, and water usage using the BAAQMD's recently released BGM Greenhouse Gas Calculator model. LSA will also provide a qualitative assessment of the Project's consistency with relevant plans and regulations.

7. Hazards and Hazardous Materials

Similar to other redevelopment sites in Emeryville, the Project site could contain hazardous materials, including soil and groundwater contamination and lead and asbestos in building materials. In preparation of the Hazards and Hazardous Materials responses for the Initial Study, Baseline staff will rely on available reports and a site reconnaissance. It is our understanding that a Phase I Environmental Site Assessment has not been prepared for the Project. The section will include a discussion of applicable hazardous materials regulations, contamination concerns on the Project site and surrounding area, Department of Toxic Substances Control (DTSC) school site requirements, and hazards-related impacts associated with development of the site. Mitigation measures would likely include compliance with best management practices for hazardous materials storage during site development, requirements for health and safety plans in the event soil contaminants are identified, and adherence to state and local hazardous materials and fire maintenance provisions following site development.

8. Hydrology and Water Quality

Based on aerial photographs and preliminary designs, the currently developed Project site appears to have roughly the same amount of impervious surface as the proposed Project. The proposed Project reconfigures the site, and proposes features such as 'green' roofs, rooftop terraces with planters and gardens, and possibly replacing the current Temescal Creek culvert with a relocated and improved culvert, as well as providing a landscaped representational creek environment as part of the Project. The Project proposes to seek LEED silver certification, which may include improved water quality management features. Implementation of the proposed Project is therefore not expected to substantially increase impervious surfaces on the site and generate substantial new amounts of storm water runoff. However, the Project would be subject to Alameda Countywide Clean Water Program's National Pollutant Discharge Elimination System (NPDES) permit, which requires all Projects that result in the construction or redevelopment of more than 10,000 square feet of impervious surfaces to include post-construction storm water controls. Baseline will discuss pertinent storm water regulations and evaluate the efficacy of storm water controls and best management practices proposed as part of the Project.

9. Noise

Development of the Project would require the operation of heavy equipment in the vicinity of residential uses. Noise impacts from construction of the proposed Project on adjacent land uses will be analyzed based on the available Project specific construction information provided to LSA and Baseline. EPA recommended noise emission levels will be used for the construction equipment. The construction noise impact will be evaluated in terms of maximum levels (L_{max}) and/or hourly equivalent continuous noise levels (L_{eq}) and their frequency of occurrence. Existing sources of noise in the proposed Project area, such

as traffic, rail, and aircraft noise, will also be identified. Noise impacts on on-site and off-site sensitive land uses from traffic will be assessed.

Project specific and cumulative vehicular traffic noise impacts will be assessed using the U.S. Federal Highway Traffic Noise Prediction Model (FHWA A-RD-77-108, December 1978). Future Community Noise Equivalent Level (CNEL) along selected roadway segments, based on the traffic study prepared for the Project, will be provided in a table format to show the distance/contour relationship. This scope of work assumes that noise monitoring is not required. However, if determined to be required by the City, an ambient noise monitoring effort and scope/budget augment could be undertaken. We will work closely with the City to analyze the effects of the Project in the context of noise/land use compatibility standards.

For purposes of complying with NEPA, our cost estimate assumes that LSA will supplement the noise findings with an analysis of the Project for conformity with the Department of Housing and Urban Development (HUD) noise policies and standards.

10. Population and Housing

LSA will address the Project's effect on employment in Emeryville and the effect this increase in the context of expected population growth in the City and region.

11. Public Services, Utilities and Recreation

Construction of the proposed Project could affect existing utility lines and infrastructure. LSA will contact the Emeryville Public Works Department to discuss potential impacts of Project construction on utility infrastructure in and around the Project site. East Bay Municipal Utility District (EBMUD) will be contacted to ensure that there is adequate water supply and wastewater treatment capacity in the sub-basin to serve the Project. Expansion of the school and the development of new community-serving facilities on the site could also change current demand for police and fire services. LSA will work closely with the Emeryville Police/Fire Departments to identify potential impacts of the Project on emergency response times. LSA will also analyze the effects of the Project on local schools, parks and recreational facilities.

12. Transportation, Circulation and Parking

LSA will coordinate with Fehr & Peers who will conduct an analysis of the Project's effects on transportation, circulation, and parking and prepare a Transportation Impact Study (TIS). LSA will respond to the Initial Study checklist questions for transportation using the results of the TIS and other information for transportation-related issues. The scope of work for the TIS is attached to this proposal.

TASK C. ENVIRONMENTAL DOCUMENTATION (CEQA)

Based on the environmental analysis conducted as part of Task B, LSA will prepare an Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for review by the City. If it is determined during the research and analysis stage of Task B that the Project would result in significant unavoidable impacts, LSA will discuss alternate environmental review approaches (such as preparation of a focused EIR) with the City.

1. Administrative Draft IS/MND

LSA will prepare an Administrative Draft IS/MND with the following components. Figures will be provided to illustrate the Project site and the proposed Project.

- Project Description
- CEQA Environmental Checklist Form
- Mandatory Findings of Significance
- Contacts and Bibliography
- Mitigated Negative Declaration
- Technical Appendices

Five copies of the Administrative Draft IS/MND will be submitted to the District and City for review and comment. At the end of the review period, LSA will meet to discuss comments on the Administrative Draft, if desired by the District and City. We could also discuss comments over the phone or by-mail.

2. Screen check Draft IS/MND

LSA will amend the Administrative Draft IS/MND based on a single set of consolidated non-contradictory comments provided by the District and the City. Two copies of the Screencheck Draft IS/MND will be provided, one each to the District and to the City, to verify that all requested changes have been made and all appendix materials, references, and final graphics are acceptable.

3. Public Review Draft IS/MND

LSA will produce copies of the Public Review Draft IS/MND for public distribution and submittal to the State Clearinghouse. Our budget assumes publication of 50 copies of the Draft IS/MND (but additional copies could be produced on a time-and-materials basis). LSA will provide PDF version of the IS/MND and a copy-ready version of the document for posting on the District's and City's websites.

4. Response to Comments

Immediately following completion of the public review period, LSA will meet with or call the District and City to discuss any comments received during the public review period, and the approach to undertake in responding to comments. This scope assumes that LSA would respond to comments from the public and agencies in the form of a memorandum.

5. Final IS/MND

LSA will provide responses to comments received on the IS/MND in a memorandum format for distribution to the School Board prior to their consideration of the MND.

6. Mitigation Monitoring and Reporting Program

LSA will prepare a Mitigation Monitoring and Reporting Program (MMRP) for all mitigation measures recommended in the IS/MND. LSA will identify responsibility for implementing and monitoring each mitigation measure, along with monitoring triggers and reporting frequency, subject to approval by District and City staff. We will prepare a checklist listing these items and providing a column for verification of compliance.

TASK D. PUBLIC HEARINGS AND NOTICING

1. Public Hearings

The cost estimate includes attendance by Judith and Amy at two public hearings for the Project and attendance by a representative from Fehr & Peers, the transportation consultant, at one public hearing. It is assumed that each hearing will be 2 hours in length. LSA will prepare and present an overview of the environmental review process and the findings of the Initial Study, and will be available to answer questions from the Board and public. Attendance at additional hearings can be provided on a time-and-materials basis.

2. Noticing

LSA will prepare a Notice of Intent to adopt a Mitigated Negative Declaration in accordance with the CEQA Guidelines and a Notice of Availability in the City's standard format (bound in the front of the Draft IS/MND), and will coordinate with the District and City to distribute the Draft IS/MND pursuant to CEQA and the District's and City's review procedures. LSA will send fifteen copies of the IS/MND to the State Clearinghouse along with a Notice of Completion.

After the Mitigated Negative Declaration is adopted by the District's Board, LSA will prepare the Notice of Determination and file it with the Alameda County Recorders Office. The District will be responsible for payment of any filing fees, including the County's \$50.00 processing fee and the California Department of Fish and Game (CDFG) CEQA environmental review fee, if required.

TASK E. PROJECT MANAGEMENT AND MEETINGS

1. Project Management

Judith Malamut and Amy Paulsen will undertake a variety of general Project management tasks throughout the process of preparing the environmental documentation, and coordinating with the District, City, the federal agency providing funding, and various regulatory agencies/organizations. Amy will coordinate the day-to-day activities associated with the Project, including monitoring the scope, budget, and scheduling of the Project. Other Project management tasks include: regular client contact; contract management; assistance to team members; schedule coordination; and development of products. Judith will ultimately be responsible for quality assurance for all work undertaken and will review all text, tables, and graphics before these materials are presented as administrative review documents. Judith will also be available for consultation on environmental review procedural matters and strategy.

2. Meetings

Judith and Amy will be available throughout the design development period and the environmental documentation preparation period to meet with the District, the City and other involved parties to gather information, review progress, review preliminary findings, and discuss comments and concerns about the Project. During the design development period we will strive to assist the District, the City, and the architectural design team in identifying measures that can be incorporated into the Project to reduce its potential environmental impacts. The cost estimate includes attendance by Judith and Amy at six meetings with the District, City, and others, in addition to conference calls and the site visit/start-up meeting. Fehr & Peers, the transportation consultant, has included attendance at one Project meeting in their budget. It is assumed that each meeting will be 2 hours in length. Attendance at additional meetings (or attendance by specific technical experts) can be provided on a time-and-materials basis.

D. SCHEDULE

Table 2 provides a proposed schedule for the IS/MND. Based on this schedule, LSA would provide an Administrative Draft IS/MND to the City within 10 weeks of authorization to proceed and receipt of Project information at a level adequate to begin the environmental analyses. The MND would be ready for adoption within 5 to 6 months of this date. As always, we are open to discussing ways to shorten this schedule, if desired.

Table 2: Proposed CEQA Environmental Documentation Schedule

Milestone	Responsible Party	Weeks to Complete	Cumulative Weeks
Authorization to Proceed / Project Description Developed	District	--	--
Prepare Administrative Draft IS/MND	LSA	10	10
Review of Administrative Draft IS/MND	District	2	12
Prepare Screencheck Draft IS/MND	LSA	2	14
Review Screencheck Draft IS/MND	District	2	16
Prepare and Reproduce Public Review Draft IS/MND	LSA	2	18
Public Review Period	--	4	22
Prepare Final IS/MND and MMRP	LSA/District	2	24
Earliest date for IS/MND adoption	District	--	24

E. DBE/DVBE PARTICIPATION

LSA Associates, Inc., is committed to helping the District meet its DBE/DYBE participation goals. To that end, we have included Baseline Environmental Consulting, a Caltrans-certified DBE firm. They are a long-time teaming partner of LSA. We have also invited ScanArt, a State-certified DYBE, to provide report printing services. The current cost estimate gives Baseline \$21,100 of the contract, which is in excess of the 13.5 percent DBE requirement. We estimate the printing cost at approximately \$4,400. Depending on the number of pages/copies, this number could be adjusted; nevertheless, ScanArt is guaranteed 3 percent of the budget to meet the DYBE goal.

Both firms are located in Emeryville. Their certificates can be provided upon request..

EXHIBIT B

(LSA Associates, Inc.)

A. TOTAL. The total amount due for all services pursuant to this Agreement shall:

1. Not exceed one hundred thirty-Three Thousand Eight Hundred Fifty-Five Dollars (\$133,855.00). There shall also be a Project allowance of Five Thousand Six Hundred Five Dollars (\$5,605.00), which shall be used for unforeseen costs, but only with the District's prior written approval.
2. Expressly include, by way of illustration and not limitation, any costs, expenses or fees associated with any consultant or subcontractor (e.g. Baseline and Fehr and Peers) utilized by Consultant.

B. SUBMISSION OF INVOICES. Consultant shall submit invoices for services to District on a monthly basis.

1. Invoices submitted must contain a brief description of work performed, time expended, and District reference number.
2. The District shall notify Consultant within ten (10) calendar days of receipt of an invoice if it objects to all or any portion of an invoice and identify the cause of the disagreement. The parties shall promptly meet to resolve any disputes concerning the invoice.

C. PAYMENT BY DISTRICT. Payment shall be made by District within thirty (30) calendar days of receipt of Consultant's invoice and notice of approval by the District. Any payment not received within this thirty (30) day period will accrue interest at the rate of ten percent (10%) per annum until paid in full.

D. FINAL INVOICE Upon completion of all work, and acceptance by District, Consultant shall submit its final invoice for payment within sixty (60) calendar days.

1. An extension will be granted by District if Consultant submits a written request for extension at least thirty (30) calendar days in advance of said time limit.
2. The District shall not be obligated to pay any invoice for work that was performed if the Consultant fails or neglects to submit the final invoice as required by this paragraph (D.).

E. USE OF BASE MAPS If one or more of the base maps described in the Scope of Work are provided to the Consultant in a timely manner, and the District and the Consultant mutually agree that the base map(s) can be used by the Consultant to fulfill part of the Scope of Work, then the Consultant shall make a commensurate reduction to the compensation for services in the final invoice.

SCOPE OF WORK – TRANSPORTATION IMPACT STUDY (EMERYVILLE CENTER FOR COMMUNITY LIFE)

Fehr & Peers is pleased to submit this proposal to prepare the transportation impact study (TIS) for the Mitigated Negative Declaration (MND) for the proposed Emeryville Center for Community Life. The TIS will be developed in accordance with this scope of work and under the direction of the School District. The Prime-Consultant will be responsible for preparing the MND using the TIS as the basis for writing the Transportation Section.

The Scope of Work below describes the tasks Fehr & Peers will perform for this analysis. Also, attached to this scope are the land use and project transportation characteristics assumptions developed by Fehr & Peers in previous work for this project. We propose to use these assumptions for purposes of the TIS. To expedite the study process, please review the assumptions and provide feedback at the time of contract approval and authorization to proceed with work.

Task 1 – Project Start-Up

Fehr & Peers will participate in a scoping meeting with the Project Team. The purpose of this meeting is to determine the level of analysis and specific issues to be addressed in the TIS. The focus of this meeting will be on this scope of work as well as the assumptions memorandum attached to this work scope.

Documentation: final scope of work

STUDY PREPARATION

The following scope of work has been developed in accordance with Fehr & Peers understanding of the area and our previous work on this project.

Task 2 – Project Description and Transportation Characteristics

The TIS will define the project from a transportation perspective. This section will include existing and proposed sizes for each land use, existing and proposed number of on- and off-street parking and loading spaces, any effects on public rights-of-way. Figures in this section will include: the proposed site plan; vehicular, bicycle, and pedestrian site access; auto and bicycle parking and circulation; loading and service access; and a project location figure.

Trip generation will be estimated for the proposed project from a variety of sources including ITE rates. The base trip generation rates may be adjusted based on:

- Existing Trips – trips currently generated by the existing land uses will be accounted for when developing the proposed project trip generation
- Internally Captured Trips – Users such as students may stay on-site after school because of the community center. The potential for trip rate reduction due to the mixture of land uses proposed within the project site will be considered.
- Modal Split – The Project, because of its land use character and location, will have a higher propensity of walk, bike, carpool, transit trips to/from the site than a typical suburban project. Available data will be reviewed to identify potential reductions in auto trips to account for the Project character and context.

The project-generated trips will be assigned to intersection turning movements based on the project trip distribution pattern developed for the project. We will rely on our past experience in the area and the allocation of complimentary land uses to determine the distribution pattern.

Documentation: Technical memorandum describing the project and summarizing trip generation, distribution and assignment assumptions for the analysis.

Task 3 – Technical Procedures and Assumptions

Fehr & Peers will summarize the methodologies and assumptions used in the transportation analysis, as well as the regulatory setting of the analysis.

Task 4 – Project Setting/Existing Conditions

Fehr & Peers will prepare a section describing existing transportation infrastructure and conditions in the vicinity of the project. The section will include the following elements:

Study Area and Intersections – Fehr & Peers will define the study area characteristics. The discussion will include the designations, classifications, and descriptions of study area streets, regional highway and freeway access, public transit routes, actual and effective width of sidewalks adjacent to the project site, and on- and off-street parking supply and occupancy within the project vicinity.

Additionally, Fehr & Peers will evaluate the operation of key intersections in the study area, including those adjacent to the project site. The following four (4) study intersection locations have been identified for analysis. Additional study locations, if requested, may require additional resources to address beyond what was assumed in the work scope.

1. Doyle Street at 45th Street
2. San Pablo Avenue at 45th Street
3. San Pablo Avenue at 47th Street
4. San Pablo Avenue at 53rd Street

Planned transportation infrastructure improvements will be identified and included in the analysis. Those that are planned and fully funded will be included in the future analysis.

Traffic Counts – No new traffic data will be collected for this study. Fehr & Peers collected data in September 2008 when area schools were in session. This data will be used for the analysis and supplemented with traffic data from the Emeryville General Plan DEIR which is currently undergoing public review. Fehr & Peers will study the morning (7:00 to 9:00 AM) and evening (4:00 to 6:00 PM) peak period.

Given the length of time since the preparation of this scope of work, Fehr & Peers collected data in November 2011 at the study intersections on San Pablo Avenue in anticipation of the work effort starting. We will compare the recently collected data to determine if the 2008 data is appropriate for use at the remaining study intersections. Additionally, the scope of work does not include an assessment of afternoon peak hour activities for the school, including the afternoon pick-up period; this analysis period may need to be included in the analysis to address potential operational issues. Based on the results of the initial analysis, we can discuss the need for this analysis scenario with the Project team.

Level of Service Calculation – Fehr & Peers will identify the AM and PM peak hours for the study intersections and obtain existing traffic control signal timing sheets from the City for

signalized study intersections. Existing signal timings will be used in all analysis scenarios. Level of Service analyses will be performed operation using the *2000 Highway Capacity Manual* (HCM) methodologies and the Synchro software package. Existing level of service will be compared to those reported in recent studies in the project vicinity, and significant inconsistencies addressed.

Multi-Modal Level of Service Calculation – Fehr & Peers will use LOS+ to assess existing roadway segment operations for bicycles, pedestrians and transit users. LOS+ is a hybrid tool developed by Fehr & Peers that is consistent with the Level of Service methodology in the *2010 Highway Capacity Manual* for bicycles, pedestrians and transit. The evaluation will include the AM and PM peak hours.

Documentation: The description of the study area will include graphics showing existing streets, transit routes and stops; existing and planned public improvements; on- and off-street automobile and bicycle parking facilities and conditions; and existing and proposed bicycle facilities and usage. The intersection traffic data will be summarized in figures and the intersection LOS will be described in a table. Figures and tables will also be used to summarize the transportation experience for autos, transit, pedestrians, and bicycles.

Task 5 – Cumulative Forecasts for 2035

Cumulative traffic forecasts will be obtained from the Emeryville General Plan DEIR. No additional traffic forecasting will be completed for this study.

Task 6 – Transportation Impacts

Project traffic will be added to the existing volumes and the cumulative forecasts, to estimate the Existing with Project and 2035 with Project traffic volumes. Weekday AM and PM peak hour service levels will be calculated at the study intersections for the following scenarios:

- Existing
- Existing With Project
- 2035 Without Project (2035 No Project)
- 2035 With Project

Level of Service analysis assumptions will be consistent with the Emeryville General Plan DEIR. Fehr & Peers will identify significant impacts using Criteria of Significance described in the Emeryville General Plan DEIR.

Documentation: The intersection traffic data will be summarized in figures and the intersection LOS will be described in a table. The significant project impacts will be identified and discussed.

Task 7 – Site Access/Circulation Impacts

The TIS will include a discussion of the project site plan for each phase of development in terms of the following aspects:

- Site access and interface with roadway network
- Emergency vehicle access
- Vehicular circulation
- Pedestrian circulation
- Bicycle circulation
- Passenger loading

Task 8 – Parking Supply and Demand Impacts

Fehr & Peers conducted a comprehensive parking demand study in the early planning phases of this project. The study, attached to this scope of work, will be the basis for this analysis task. The parking supply and demand impacts associated with the project will be identified and described in figures to illustrate the likely parking conditions at various times of the day and week.

Task 9 – Transit, Pedestrian and Bicycle Impacts

Fehr & Peers will assess bus stops serving the site and access to bus transit service from the project site, and identify necessary pedestrian improvements. Potential project-related transit impacts, including those due to construction, will also be identified.

Fehr & Peers will evaluate the project for consistency with the pedestrian- and bicycle-related policies included in the Land Use and Transportation Element of the Draft Emeryville General Plan. Impacts will be identified if the proposed project conflicts with the aforementioned plan.

Per Task 4, the level of service will also be identified for the transit, pedestrian and bicycle travel modes on San Pablo Avenue between 45th Street and 53rd Street.

Task 10 – Goods Movement Loading and Service Impacts

Fehr & Peers will assess truck delivery access and loading operations on the project site, and review the proposed site plan for consistency with the Emeryville Planning Code with respect to off-street truck loading requirements.

Task 11 – Construction Impacts

The potential impacts to roadways, intersections, parking, transit, pedestrians, and bicyclists during construction period will be qualitatively assessed. Construction phasing, workers, and deliveries will be identified by the project applicant.

Task 12 – Freeway Operations Analysis and Impacts

Given the local nature of the project i.e., local school and community center freeway segments will not be evaluated in this study.

Task 13 – Congestion Management Agency (CMA) Analysis

An Alameda County CMA analysis will be conducted to analyze roadway segment volume-to-capacity ratios in both 2015 and 2035, according to the 1985 HCM methodology. Up to fifteen locations will be analyzed as part of the CMA analysis. The City of Emeryville will need to request that the ACCMA release their model for our use in this analysis.

Task 14 – Transportation Mitigation Measures

Fehr & Peers, with Project Team, will identify mitigation measures for any impacts identified in the previous tasks. Where proposed mitigation measures affect LOS, calculations and results will be provided for the mitigated conditions. Explanation of why certain mitigations may be infeasible will also be discussed, as appropriate.

The identification of feasible mitigation measures will include a quantitative analysis of secondary impacts on pedestrians, bicyclists, and transit. The analysis will be based on NCHRP Report 616, "Multimodal Level of Service Analysis for Urban Streets."

Task 15 – Traffic Impact Study (TIS)

Fehr & Peers will submit a draft TIS to the Project Team for review and comment. We will respond to two (2) rounds of comments, in the form of a redlined version of the draft TIS. If the comments raise issues that are not included in the scope of work or require quantitative analysis, Fehr & Peers will consult with the Project Team to determine any necessary adjustment to the scope of work.

Fehr & Peers will submit a Final TIS to the Project Team, incorporating revisions made through the draft TIS review. After final submission, we will assist the environmental consultant hired by the project sponsor in summarizing the TIS for inclusion in the MND.

It is difficult to judge the level of work necessary to respond to public comments without first reviewing the comments. For budgeting purposes, we have assumed 10 staff hours to respond to transportation related comments. However, a budget amendment may be necessary depending upon the number of comment received.

Documentation: Draft and Final TIS

Task 16 – Meetings and Public Hearings

Fehr & Peers will attend one meeting with Staff, consultants, and others in conjunction with the transportation impact analysis. Additional meetings can be attended upon request.

Fehr & Peers will attend and participate in one hearing on the MND. Additional hearings can be attended upon request.

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Mar 26, 2012 : Regular Meeting of the Emery USD Board of Trustees
: G. DISCUSSION/ACTION ITEMS (approximately 6:55 p.m.)


[PRINTABLE VERSION](#)

9. Contract for ECCL Communications Consultant Services

[Status: Submit] [Discussion Item] [Vote]

[PREVIOUS ITEM](#)
[NEXT ITEM](#)
[EXPAND](#)
[COLLAPSE](#)

▼ [Staff Recommendation](#)

First Reading: Receive, review, and discuss the Communications Consultant Services contract as presented by staff.

▼ [Purpose](#)

The purpose of this agenda item is to present to the Board, for first reading, the Communications Consultant Agreement for the ECCL project. This contract will also appear on the next Board Agenda for approval vote.

▼ [Background](#)

The Board of Trustees has requested that the District implement more and better communications strategies in support of building the connection between the District's vision and programs and the community of Emeryville. The District and the ECCL project will benefit substantially from specific expertise and assistance in building and implementing an effective set of communications strategies and tools that, once developed, the District staff (and appropriate community Fellows) can use and maintain. Also, the District is currently undergoing a number of very significant transitions that need to be understood and embraced by the community. District staff does not have all the capacity needed to accomplish that work. The consulting services contained in this contract that is being presented to the Board will augment the capacity of staff to successfully accomplish these important goals.

▼ [Funding](#)

Current ECCL project work is authorized and supported by MOU #2 which incorporates City and Measure J funds.

▼ [Supporting Documents](#)


[ECCL Contract with Communications Consultant](#)
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Guiding Principles
We Hold High Academic, Social, and Professional Expectations
We Create a Sense of Family
We Inspire and Support Innovation to End Racist and Classist Practices

INDEPENDENT CONTRACTOR AGREEMENT

This Agreement is entered into between the Emery Unified School District (DISTRICT) and Davis and Associates Communications, Inc. (CONTRACTOR).

Recitals

1. DISTRICT is authorized by Government Code Section 53060 to contract for the furnishing of special services and advice in financial, economic, accounting, engineering, legal and administrative matters with persons specially trained, experienced and competent to perform such services.
2. DISTRICT needs special services and advice as follows:

The District needs to inform, engage and respond to the greater Emeryville community, parents, staff and faculty and students about:

- a) Transitioning the high school (grades 9-12) to a temporary location during the construction of the new high school campus and facilities.
 - b) Communicating the design and development of all areas of programming for the Emeryville Center of Community Life (ECCL).
3. CONTRACTOR is specially trained, experienced and competent to provide such services.

THEREFORE, the parties agree as follows:

Terms

1. Services

CONTRACTOR agrees to provide the following services:

Phase 1: Implement the Strategic Communications Plan

1A. Implement the Strategic Communications Plan that has been developed and designed in March 2012 under separate contract with Davis and Associates to address the following:

- a) Transitioning the high school (grades 9-12) to a temporary location during the construction of the new high school campus and facilities.
- b) Communicating the design and development of all areas of programming for the Emeryville Center of Community Life (ECCL).

Initiate and sustain an interactive dialogue with teachers, administration, parents and the community on the benefits of the voter approved new school facilities program.

- Use results of earlier assessment and evaluation of current attitudes and perceptions to reach key stakeholders
- Establish a timeline of targeted activities and opportunities to best engage and reach stakeholders
- Develop appropriate messaging and collateral materials to educate stakeholders including parents and teachers. Use existing imagery, website, social media platforms, direct mail, public meetings, and community meetings as well as newly defined communications tools to reach key stakeholders.
- Inform and work with neighbors who will be impacted by the school relocation, and provide parents and students with information about the temporary site.

Our goal will be to address their concerns and provide information and answers to assuage their concerns.

Duration and Fee for this Phase 1: Four Months – Mid April 2012 – Mid August 2012; \$50,000

Phase 2: Developing Community Understanding of the ECCL

To develop community understanding of the ECCL, further efforts toward defining, communicating and clarifying the initiative are needed. To that end, a well-communicated vision is one that is easily understood and supported and is highly valued by the community. Davis & Associates will work in partnership with the City, School District, and relevant community stakeholders to implement an innovative communications strategy that effectively describes the community benefits of the ECCL and demonstrates the shared vision and collaboration between the partners. The communications strategy will “connect the dots” for Emeryville residents and illustrate how the ECCL connects all aspects of the community and local government entities to better serve the community, implement innovative education programs, and provide access to recreational and community services and shared community spaces for all residents.

The purpose of this communications work is to develop a comprehensive understanding of

the ECCL.

ECCL Messaging

The communications strategy for ECCL will be consistent, coherent, and integrated to illustrate the public partnership between the City and School District, and other service providers (e.g. Alameda County Behavioral Health Services, Berkeley City College, etc.). An outline of the strategy is included below:

- A. Define the ECCL and its vision
 - Conduct research and internal analysis
 - Community perspectives of ECCL
 - Review existing community input
 - Build the Communications Strategy
- B. Develop the strategic plan for the ECCL vision with the City, School District and stakeholders.
 - SWOT analysis (described in detail below)
 - Identify opportunities for outreach/communication
 - Articulate the ECCL goals, vision, and plan
 - Develop implementation framework
- C. Start the implementation of the strategy with an effective outreach campaign and evaluate progress (Please see Phase 3)

To effectively implement an outreach strategy, the City and School District will need to clearly define the ECCL. Davis & Associates will begin by presenting current perspectives of the ECCL. This will be achieved by:

- Researching and reviewing past outreach and design comments, as necessary, collected by NEXUS Partners (via the ECCL website), and earlier work of the Emeryville Youth Service Advisory Committee, Partners for Community Life, and the City/School Committee.
- Solidifying working partnerships with local businesses and community-based organizations to identify ways to build trust and communicate with community stakeholders.
- Conducting targeted grassroots outreach and survey partners and representatives of the community on current perceptions of the ECCL.

Additionally, since a number of communication and outreach strategies have been implemented over the years, Davis & Associates will determine gaps in the ECCL story and vision. Davis & Associates will establish metrics for to measure community understanding. Methods will likely include: increase in public's awareness and perception about the ECCL; level of public involvement in outreach activities; community connectivity and other identified project goals. Data points may include: volume of website visits, number of attendees at public workshops, qualitative and quantitative phone poll and survey instruments from public events, community participation in ECCL-sponsored events and the like.

Davis & Associates will incorporate community feedback and conduct an internal assessment of the current strengths and weaknesses of the ECCL message; barriers and opportunities for the message's success; core values and components of the ECCL; and the

ECCL mission and goals.

Davis & Associates will complete a report that will incorporate the community input and analysis to inform the City and School District of community perceptions as part of determining communications priorities moving forward.

Community School Program Initiative

Our primary task will be to communicate the ECCL vision. However, Davis & Associates believes that it is important to simultaneously partner with the School District to ensure that the community also understands the Community School Program. The School District must effectively communicate its positive effects on the academic performance and achievement of Emeryville's students, and the District's vision to "provide each student a rigorous education in a welcoming, safe school environment that supports student learning and where there is tolerance, respect and engagement with people from different cultures, backgrounds, and beliefs. "

Once the preliminary research and development regarding the ECCL is complete, Davis & Associates will assist the School District in clearly articulating EUSD's Community School Program and its services to the Emeryville community. An outline of our approach includes:

- Conduct research on existing community school programs and assess how the initiatives have been effectively communicated to students, parents, educators, civic and business leaders, and the community (e.g. CommunitySchools.org, Harlem Children Zone, Schools Uniting Neighborhoods, Lighthouse Community School)
- Review existing data on perceptions of the Community School Program in Emeryville from teachers, students, parents, and residents (This can involve representatives from local businesses such as: Pixar, Bayer, and others) if appropriate. Provide a robust avenue for business involvement since local employers will directly benefit from improved student academic performance.
- Prepare a document that focuses on the core values of the Community School Program and presents it in a logo, messaging, collateral, stationary, website, Please see Phase II).

In partnership with the School District, Davis & Associates will develop a process to garner input from the community. At the conclusion of these discussions, Davis & Associates will provide the District with a framework that effectively positions and communicates the program. This approach will allow the District to have a clear vision and message for the program and will set the framework for communications and community engagement. The Community School Program is an integral component of the ECCL and there is great value in ensuring that the initiatives are defined and communicated in a way that highlights their interconnections.

Duration and Fee for this Phase 2: Three Months – Mid August 2012 – Mid November 2012; \$55,000

Phase 3: Logo/Identity, Messaging, Naming, and Collateral Materials

3a – Key Project Messages and Naming

3b – Identity/Logo Development

3c – Outreach Materials

Effective messaging, naming, identity, and creative collateral materials are key to effective communication, reaching a diverse range of stakeholders, and facilitating community understanding. Davis & Associates Creative Director will be intimately involved in the development of all the visual components that are needed – such as a logo, key messages (taglines) and document templates - as well as the supporting perception components, social media tools, and multi-audience approaches.

3A: Communications Tools and Naming:

Davis & Associates will assist with developing communications tools about the benefits, value and the positive impact that the ECCL will have for the residents of Emeryville – a place for recreation, education, health and wellness, and community activities. Additionally, by identifying core messages for the Community School Program, the School District will be able to effectively develop understanding around the new education model and illustrate its connection to the ECCL. Davis & Associates will work with the School District to effectively describe the program including the vision (what success looks like), problems/risks (why it is important?), opportunity (how is it part of the solution?), and a call to action (inspire the community to get involved).

Furthermore, Davis & Associates will partner with the School District to support a community process that names the new facilities that will be located at the ECCL. We will verify with stakeholders that the name we collectively select resonates and effectively communicates the vision of the program. Additionally, we will ensure that the name is easy to understand and can be effectively conveyed in a number of different formats.

Davis & Associates will help establish guidelines for effective communication by developing a glossary of terms, standard language (names, abbreviation), and program descriptions. This is the most effective tool to ensuring that the project messages are continuous and consistent and will help clarify community perceptions about the ECCL.

3B: Identity/Logo Development:

There are five principals of developing an effective logo: Simple, Memorable, Timeless, Versatile and Appropriate. A logo design must convey the intended message and allow for easy recognition. Good logos feature something unique without being overdrawn. An effective logo should be able to work across a variety of mediums and applications. The logo should be functional. The logo should be able to work both in horizontal and vertical formats.

Davis & Associates' Creative Director will develop and create a logo for the ECCL that reflects its identity and key messages. The ECCL logo will also illustrate the collaboration and partnership between the City, School District and community services that has made the project possible. Davis & Associates will partner with the relevant stakeholders to review draft logos and may bring together stakeholders to ensure that the logo/identity truly resonates and accurately captures the intended meaning and purpose of the ECCL.

The ECCL and Community School Program are part of the same initiative, thus any identity/logo that is developed for the Community School Program must be tied to the ECCL. Thus, if appropriate, Davis & Associates' Creative Director will partner with the School District to create an identity/logo for the new school that will be created through the Community School Program. Since a logo derives its meaning and usefulness from the quality of that which it symbolizes, it is key that Davis & Associates and the School District have developed the key messaging and naming strategy for the Community School Program (and the new school) to ensure the logo communicates the appropriate messages and illustrates its positive impact on student performance.

3C: Outreach Materials:

At this point, Davis & Associates, the City and School District have created a communications process, name, and identity/logo for the ECCL. Additionally, Davis & Associates will have completed work on communicating the Community School Program and potentially developed a logo/identity for the new school, which will be located at the ECCL. Davis & Associates will also develop a suite of materials – both electronic and print – that echoes the message, name and logo/identity.

Once these items are in place, Davis & Associates Creative Director will create a number of important materials. The materials will help communicate the community benefits of these projects. These materials might include:

1. Website (Davis & Associates' Creative Director will be available to redesign the existing ECCL website to ensure it aligns with the communications and messaging strategy. Our Creative Director will assist in the developing of a website or webpage that provides information about the Community School Program.)
2. Outreach (Davis & Associates will implement an outreach/signage program. There will be signage that is strategically placed in existing related facilities and at the construction site and provides information about the benefits of ECCL. Davis & Associates may establishment signage partnerships with Emeryville businesses, transportation vehicles and hubs, and community groups, who can post information in public view, hand out fliers to the public, etc. If appropriate, these may incorporate elements of the Community School Program)

Additionally, a number of collateral - electronic and print - materials will be developed. These items can include:

1. Project history timeline (Illustrating the history and vision of ECCL and the formation of the partnership between the City and School District)
2. Current project timeline (Including information on construction impacts to prepare the community)
3. Frequently asked questions document (One-page summary of information about ECCL and community common questions)
4. Project information and fact sheet (Summary services that will be available at the ECCL – including information regarding the Community School Program. This document should highlight why the ECCL and its services and programs will be created, its vision and how the community can get involved)
5. Phone line and project contact numbers

Davis & Associates will create a number of documents for the media as well as for City and School District meetings. These items can include:

1. Channel 27 public service announcements
2. Digital presentation materials
3. Press releases

When appropriate, all of the materials and information will be translated into specific languages such as Spanish and Cantonese.

Duration and Fee for this Phase 3: Three Months – Mid November 2012 – Mid February 2013; \$95,000

DISTRICT will notify CONTRACTOR of the dates and times that this service is required.

2. Term

CONTRACTOR shall commence work on April 14, 2012. The work shall be completed on March 1, 2013.

3. Compensation

DISTRICT shall pay CONTRACTOR a total fee for all phases of work noted in “Section 1. Services” of \$200,000 and maximum reimbursables charges of \$15,000. Payable as follows: CONTRACTOR shall invoice for percentage of work complete and accepted by the DISTRICT on a monthly basis and DISTRICT shall pay CONTRACTOR within twenty (20) business days after receipt of a written invoice by CONTRACTOR and approved by the administrator.

4. Completeness of Agreement

This Agreement constitutes the entire understanding of the parties and any changes shall be agreed to in writing.

5. Status of Contractor

This is not an employment contract. CONTRACTOR is an independent contractor. CONTRACTOR is responsible for providing Unemployment Insurance and Worker's Compensation coverage for CONTRACTOR's employees and for payment of all federal, state and local payroll taxes for and on behalf of CONTRACTOR's employees.

6. Fingerprinting

By execution of this Agreement/Contract, the CONTRACTOR acknowledges that Education Code Section 45125.1 applies to contracts for the provision of school and classroom janitorial, school site administrative, school site grounds and landscape maintenance, pupil transportation and school site food-related services, and any similar services. Section 45125.1 requires that employees of entities providing such services to school districts must be fingerprinted by the California Department of Justice for a criminal records check, unless the

DISTRICT determines that the CONTRACTOR and CONTRACTOR's employees will have limited contact with pupils. In making this determination, the DISTRICT will consider the totality of the circumstances, including factors such as the length of time the CONTRACTOR and CONTRACTOR's employees will be on school grounds, whether pupils will be in proximity with the site where the CONTRACTOR and CONTRACTOR's employees will be working, and whether the CONTRACTOR and CONTRACTOR's employees will be alone or with others.

(a) **DISTRICT Determination of Fingerprinting Requirement Application**

The DISTRICT has considered the totality of the circumstances concerning the Project and has determined that the CONTRACTOR and CONTRACTOR's employees:

_____ are subject to the fingerprinting requirements of Education Code Sections 45125.1 and/or 45125.2 and Paragraph (b) below, is applicable.

X are not subject to the fingerprinting requirements of Education Code Section 45125.1 or 45125.2 and Paragraph (c) below, is applicable.

(b) If the DISTRICT has determined that fingerprinting is required, the CONTRACTOR expressly acknowledges that: (1) CONTRACTOR and all of CONTRACTOR's employees working on the school site must submit or have submitted fingerprints in a manner authorized by the Department of Justice, together with the requisite fee as set forth in Education Code Section 45125.1; (2) CONTRACTOR shall not permit any employee to come in contact with students until the Department of Justice has ascertained that the employee has not been convicted of a serious or violent felony; (3) CONTRACTOR shall certify in writing to the Governing Board of the DISTRICT that none of its employees who may come in contacts with students have been convicted of a serious or violent felony; and (4) CONTRACTOR shall provide to the Governing Board of the DISTRICT a list of names of its employees who may come in contact with students. The CONTRACTOR is required to fulfill these requirements at its own expense.

(c) Even if the DISTRICT has determined that fingerprinting is not required, the CONTRACTOR expressly acknowledges that the following conditions shall apply to any work performed by the CONTRACTOR and/or CONTRACTOR's employees on a school site: (1) CONTRACTOR and CONTRACTOR's employees shall check in with the school office each day immediately upon arriving at the school site; (2) CONTRACTOR and CONTRACTOR's employees shall inform school office staff of their proposed activities and location at the school site; (3) Once at such location, CONTRACTOR and CONTRACTOR's employees shall not

change locations without contacting the school office; (4) CONTRACTOR and CONTRACTOR's employees shall not use student restroom facilities; and (5) If CONTRACTOR and/or CONTRACTOR's employees find themselves alone with a student, CONTRACTOR and CONTRACTOR's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

7. Indemnification

CONTRACTOR agrees to hold harmless, indemnify and defend DISTRICT and its officers, agents and employees from any and all claims and losses accruing or resulting from injury, damage or death of any person, firm or corporation in connection with its performance of this Agreement. CONTRACTOR also agrees to hold harmless, indemnify and defend DISTRICT and its officers, agents and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services or materials to CONTRACTOR in connection with the performance of this Agreement.

8. Equipment and Materials

CONTRACTOR shall provide all equipment, materials and supplies necessary for the performance of the Agreement.

9.. Licenses and Permits

CONTRACTOR shall obtain and keep in force all licenses, permits and certificates necessary for the performance of this Agreement if such permits or licenses are required.

10. Assignment

The obligations of CONTRACTOR under this Agreement shall not be assigned by CONTRACTOR without the express prior written consent of DISTRICT.

11. Non-Discrimination

CONTRACTOR shall not engage in unlawful discrimination in the employment of persons because of race, color, national origin, age, ancestry, religion, sex, marital status, medical condition or physical handicap.

12. Termination

DISTRICT may at any time terminate this Agreement upon written notice to CONTRACTOR. DISTRICT shall compensate CONTRACTOR for services satisfactorily provided through the date of termination.

In addition, DISTRICT may terminate this Agreement for cause should CONTRACTOR

fail to perform any part of this Agreement. In the event of termination for cause, DISTRICT may secure the required services from another contractor. If the cost to DISTRICT exceeds the cost of providing the service pursuant to this Agreement, CONTRACTOR shall pay the additional cost.

13. Copyright

Any written product produced under this Agreement shall be a work for hire and shall be the property of DISTRICT. DISTRICT shall have the right to secure a copyright and the product may not be used, in any manner, without DISTRICT's written permission.

14. Waiver

No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.

15. Attorney's Fees

If any litigation is initiated to enforce or interpret this Agreement, the prevailing party shall be entitled to reasonable attorney's fees.

16. Governing Law

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

17. Severability

In the event that any portion of this Agreement is finally determined by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed void and the remainder of this Agreement shall continue in full force and effect.

18. Notice

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

DISTRICT:

CONTRACTOR:

Emery Unified School District 4727 San Pablo Avenue Emeryville, CA 94608	<u>Davis and Associates Communications, Inc.</u> 45 Belden Place Third Floor San Francisco, CA 94104
--	---

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

EMERY UNIFIED SCHOOL DISTRICT

Contractor

By: _____

Signature

Date: _____

By: _____

Signature

Date: _____

EIN

Emery USD

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Mar 26, 2012 : [Regular Meeting of the Emery USD Board of Trustees](#)
: [G. DISCUSSION/ACTION ITEMS \(approximately 6:55 p.m.\)](#)


[PRINTABLE VERSION](#)

6. ECCL Total Project Budget

[Status: Submit] [\[Discussion Item\]](#)

[PREVIOUS ITEM](#)
[NEXT ITEM](#)
[EXPAND](#)
[COLLAPSE](#)

▼ [Staff Recommendation](#)

First Reading: Receive, review, and discuss the ECCL Total Project Budget as presented by staff.

▼ [Purpose](#)

The purpose of this agenda item is to present to the Board, for first reading, the Total Project Budget for the ECCL project. This item will also appear on the next Board Agenda for approval vote.

▼ [Background](#)

The ECCL project has been operating under the auspices of MOU #2 which contained "Exhibit A: Budget". Events over the past several months (e.g. the specific timing and availability of Measure J funds) have caused the information in that exhibit to be out of date and not well-related to the revised scope of the approved ECCL Conceptual Design (particularly, the phased approach to the project to coincide with projected enrollment and funds). The "ECCL Total Project Budget" being presented to the Board will replace that "Exhibit A: Budget" and will provide the updated budget parameters for the ECCL project going forward. Staff is also presenting a summary of revenue sources for the ECCL project as well as a summary of expenses on the ECCL project through the end of February 2012.

▼ [Funding](#)

Current ECCL project work is authorized and supported by MOU #2 which incorporates City and Measure J funds.

▼ [Supporting Documents](#)


[ECCL Project Budget Summaries](#)
[DOWNLOAD NOW](#)
[PREVIOUS ITEM](#)
[NEXT ITEM](#)

ECCL Project Budget

03.26.12 draft for discussion

ECCL "Hard" Costs			
ECCL Main Project Phase 1 Construction Cost		\$	55,725,000.00
	115,100 sqft @ approx. \$482/sqft		
demolition	\$	2,200,000.00	
site work	\$	9,704,265.00	
substructure	\$	682,951.00	
structure	\$	7,177,492.00	
enclosure	\$	10,175,734.00	
enclosure, horizontal	\$	711,408.00	
support items	\$	360,127.00	
internals, vertical	\$	809,862.00	
internals, horizontal	\$	2,066,081.00	
finishes, special	\$	958,647.00	
interiors	\$	1,942,207.00	
specialties	\$	1,066,856.00	
equipment	\$	1,022,097.00	
special construction	\$	2,776,510.00	
conveying	\$	1,001,364.00	
plumbing	\$	1,347,518.00	
fire protection systems	\$	742,234.00	
hvac	\$	4,734,063.00	
electrical	\$	4,226,843.00	
special electrical	\$	2,018,741.00	
	\$	55,725,000.00	
ECCL Main Project Phase 1 F&E			
	115,100 sqft @ approx. \$22.60/sqft	\$	2,600,000.00
ECCL Main Project Phase 1 Art Requirement			
	1.5% of City Funds	\$	375,000.00
Construction Contingency	Approx. 5% of Construction Costs	\$	3,000,000.00
CEQA Mitigation Contingency	Lump Sum	\$	1,000,000.00
"Hard" Costs Subtotal			\$ 62,700,000.00
ECCL "Soft" Costs			
Utility Connections for New Facilities		\$	500,000.00
Plan Checks for Building Permit and Planning		\$	500,000.00
Testing and Inspection of Construction Activities	(2% construction)	\$	1,200,000.00
Interim Facilities		\$	2,425,000.00
Professional Consulting Fees		\$	8,945,000.00
ECCL Personnel		\$	2,000,000.00
ECCL Staff Operations		\$	450,000.00
ECCL "Soft" Costs Contingency		\$	1,382,000.00
"Soft" Costs Subtotal			\$ 17,402,000.00
ECCL TOTAL PROJECT COSTS		\$	80,102,000.00
		\$	80,102,000.00



Meeting: Regular Meeting of the Emery USD Board of Trustees : G. DISCUSSION/ACTION ITEMS (approximately 6:55 p.m.)

Created : March 27, 2012 at 10:17 AM

11. Contract for ECCL Lease Leaseback Builder Pre-construction Services *(D)* *(V)*

March 26, 2012

Status: Submit

[Discussion Item](#)

Staff Recommendation

First Reading: Receive, review, and discuss the Lease Leaseback Builder Pre-construction Services contract as presented by staff.

Purpose

The purpose of this agenda item is to present to the Board, for first reading, the Lease Leaseback Builder Pre-construction Services Agreement for the ECCL project. This contract will also appear on the next Board Agenda for approval vote.

Background

In late 2008, the District and the City of Emeryville, through discussions at the City/School Committee, made the decision to use the Lease Leaseback project delivery method for the Emeryville Center of Community Life project. In February of 2009, the District issued an RFQ for Lease Leaseback Builder for the ECCL project. The District conducted an RFQ information meeting and approximately 30 contractors attended. The District ultimately received 9 very competitive proposals for the work. The District and the City jointly appointed a selection committee and through a process of RFQ review and interviews, the selection committee identified Turner Construction as the Lease Leaseback Builder for the ECCL.

One of the significant advantages of the Lease Leaseback process is having the project builder on the team early in the process of developing the project. This allows them to add their expertise in the formative stages of the project and work alongside the architectural team as the design is developed. The architectural team still does their own work, including their own independent cost estimating. The builder is paralleling these cost estimation efforts with their own work and cost estimating staff, giving the District the advantage of having two independent sources of information for both how the project is designed and what it will ultimately cost to construct.

The Lease Leaseback process involves two major phases of work. The first phase starts with architectural conceptual design and ends with approved plans and specifications. This phase for the Lease Leaseback Builder is called "pre-construction". The District executes a separate "Pre-construction Services" contract for this phase of the work. The actual Guaranteed Maximum Price (GMP) contract that the District ultimately signs with the Builder is for the "construction" phase of the project and it begins with approved plans and specifications from the architects (developed at the end of the approvals phase of the architects' work) and ends with the District and City fully occupying the new set of ECCL facilities. The GMP cannot be negotiated with the Lease Leaseback Builder until approved plans and specifications are available to form the basis of that contract.

The contract before the Board at this time is for the "pre-construction" services from Turner

Construction. The original language of the contract draft included in the RFQ issued by the District in 2009 required that the Builder chosen would only charge for pre-construction services if they saved an equivalent or greater sum from the negotiated GMP through cost savings during the construction phase, and they would only be paid from those savings if the funds remained once all project expenses due under the GMP were paid and the project was fully complete and occupied. Turner Construction is honoring that commitment, but they are requesting some pre-construction services fees in order to assist the District in implementing, for a specific portion of the ECCL project, an approach that was not contemplated at the time of the RFQ. Turner will be assisting the District in implementing a partial "design/build" approach for the mechanical, electrical, plumbing, and fire sprinkler sub-contracts. This will increase the effectiveness and efficiency of the dollars the District is committing to the development of the project plans and specifications by having the tradespeople who best know how those systems will be detailed and built actually doing the construction document production. The design engineers on the architect's team will closely monitor that document production to ensure that their design criteria are fully met by the sub-contractors. Also, Turner will competitively bid each of these sub-contracts to ensure that the ECCL project funds are spent in a competitive bid environment.

Dedicating these funds for Lease Leaseback Builder pre-construction services in the design/build of the mechanical, electrical, plumbing, and fire sprinkler sub-contracts generates some savings to the District from the architectural services contract because the architect's engineers for these disciplines serve to oversee the production of the documents rather than creating the documents themselves. The cost of this pre-construction services contract is thereby offset, to a large extent, by a reduction in the architectural services fees.

Funding

Current ECCL project work is authorized and supported by MOU #2 which incorporates City and Measure J funds.

Associated File Attachments



[ECCL Contract for Pre-construction Services with Lease Leaseback Builder \(Files\)](#)

DRAFT

**PRELIMINARY SERVICES
AGREEMENT**

This Preliminary Services Agreement (“Agreement”) is made as of the ____ day of _____, 2012, by and between *Turner Construction* (“Contractor”) and the Emery Unified School District (“District”).

RECITALS

- 1. District intends to enter into a lease/leaseback arrangement and the appropriate contracts (“Lease Agreements”) with Contractor for the Emeryville Center of Community Life (“Project”).
- 2. District and Contractor intend to enter into the Lease Agreements for purposes of building the Project in accordance with applicable law, including California Education Code Section 17406.
- 3. District has previously selected and contracted with *Nexus Partners* (“Architect”) for the design of the Project.
- 4. Prior to execution of the Lease Agreements, District desires to obtain, and Contractor desires to provide, certain pre-construction development and management services for the design phase of the Project on the terms set forth herein.

NOW, THEREFORE, the parties acknowledge that the foregoing recitals are true and correct and based upon such recitals, and in consideration of the following mutual covenants, obligations and agreements, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

AGREEMENT

1. Effective Date and Term

This Agreement shall become effective as of the date set forth above, and shall continue in full force and effect until Contractor and District enter into the Lease Agreements, or as otherwise agreed to in writing by the parties. The formal Lease Agreements shall govern the construction and delivery of the Project.

2. Pre-Construction Development and Project Management Services

2.1 Pursuant to this Agreement, Contractor shall provide pre-construction development and related services required during the Project’s design and approval phases. Such services are scheduled to commence upon approval of this Agreement by District and conclude with the execution of the Lease Agreements.

- 2.2 Contractor's pre-construction development and service arrangements shall include:
- a. Contractor shall work with District staff and Architect to develop an overall Project budget and Project schedule.
 - b. Contractor shall assist District by providing detailed and on-going evaluations of the Project, including the plans and specifications (the "Plans and Specifications"), detailed construction budget cost projections, project schedule and phasing requirements, analysis of the District's overall Project budget, project constructability reviews of Architect's work, leadership and participation in youth and community involvement efforts, and implementation of community benefits and local work force options and opportunities. Such evaluations shall include alternative approaches to design, development and construction of the Project.
 - c. Contractor shall attend regular meetings during Project design, development, and document production phases between Architect and District, and any other applicable consultants of District, as required.
 - d. Contractor shall assist Architect in considering operating or maintenance costs with respect to selecting systems (mechanical, electrical, lighting, bell/intercom, etc.) for the Project. Contractor will provide life cycle costing analyses as requested by District.
 - e. Contractor shall perform a detailed analysis of both the preliminary and the final Plans and Specifications and provide District with value engineering and recommendations regarding scope and budget of the Project, suggested value engineering items, long lead purchases and a plan for revising the Plans and Specifications to the extent necessary to achieve District's goals and objectives, including Project completion dates.
 - f. Contractor shall assist District in obtaining all local and State licenses, permits, requirements, and approvals including, but not limited to, approval from the Division of the State Architect ("DSA"), approval from the Office of Public School Construction, requirements of the California Environmental Quality Act, and approval from the City of Emeryville Planning Commission, Emeryville City Council and Emeryville Redevelopment Agency.
 - g. Contractor shall work with District's legal counsel in the preparation of documents needed for a Lease/Leaseback arrangement.

- h. Contractor shall provide construction cost estimates at the following design milestones; Schematic Design, Design Development, and 50% Construction Documents.
- i. Contractor shall provide budget tracking during the course of design to determine the cost impact of the development of the design and scope changes.
- j. Contractor shall provide mechanical, electrical, plumbing and fire protection design/build services commencing during the Design Development Phase of the project. The design/build services will be fully synchronized with the work of the architectural team. The design/build contractor will submit, for District and architect approval, submittals at the end of each architectural phase. Selection of the design/build contractors will utilize a mutually agreed to format which will include at a minimum; cost, experience, safety, and financial strength factors. The process for selecting the design/build contractors shall follow the following process:
 - i. Contractor shall develop Request for Proposal (RFP) for the design build services and submit to the District for approval.
 - ii. A preliminary list of prequalified candidate contractors shall be developed and submitted to the District for their review and approval.
 - iii. Unless otherwise agreed to by the District the Contractor shall obtain a minimum of three competitive proposals from prequalified design build contractors.
 - iv. Contractor shall review the proposals and recommend award of the design/build contracts and submit to the District for their approval.The design/build contractors will become the engineer-of-record for these disciplines.
- k. During the Construction Document phase of the design the contractor shall provide staff to coordinate the work of the design build subcontractors.
- l. Design work will utilize a 3-D Revit (or similar software) model developed by Nexus Partners. This Building Information Model (BIM) will be used by the design build contractors to incorporate and coordinate their design work. The contractor shall provide staff to manage the coordination of this work.
- m. Upon DSA approval of the Plans and Specifications, Contractor shall negotiate with District a guaranteed maximum price for the construction of the Project which shall become the basis for the Lease Agreements.

3. Compensation to Contractor

- 3.1 Contractor's total cost of services under this Preliminary Agreement will be based upon the billable rates that are attached to this Agreement as Exhibit A
- 3.2 The total cost of Contractor's services for the above items shall not exceed Five Hundred fifty-nine Thousand and twenty Dollars (\$559,020). These costs are included in the proposed Project budget. Any subsequent increase beyond the aforementioned amount shall be subject to District approval in writing.
- 3.3 Contractor shall be paid at the end of each of the following phases: schematic design, design development, construction documents, and construction. The dates of completion of each phase, along with the percentage/amount of monies owed at each point, are set forth in Exhibit A, attached hereto.

4. Termination

This Agreement may be terminated at will by District upon fourteen (14) days' written notice to Contractor. In the event of a termination pursuant to this section, and notwithstanding Section 3.1, District shall pay Contractor for all services performed and expenses incurred pursuant to this Agreement, up to the time termination is effective. Any such payment for services will be based upon the billable rates that are attached to this Agreement as Exhibit A, and the total cost of any such services shall not exceed the maximum amount stipulated in Section 3.3 above.

5. Ownership of Records

It is mutually agreed that all materials prepared by Contractor under this Agreement shall become the property of District and that Contractor shall have no property right therein whatsoever. Contractor shall require its sub-consultants to provide District copies of all other materials (the "Sub-Consultant Work") prepared by sub-consultants and shall require sub-consultants to grant District the right to reuse such Sub-Consultant Work in accordance with State law. Contractor hereby assigns to District any copyrights associated with the materials prepared pursuant to this Agreement. Immediately upon termination, and upon written request, District shall be entitled to, and Contractor will deliver to District, all data, drawings, specifications, reports, estimates, summaries, and such other materials and commissions as may have been prepared or accumulated to date by Contractor in performing this Agreement which is not Contractor's privileged information (the "Termination Material"), as defined by law, or Contractor's personnel information.

6. Warranty

Contractor agrees and represents that it is qualified to properly provide the services set forth in this Agreement in a manner which is consistent with the generally accepted standards of the industry.

7. Insurance Requirements

7.1 Contractor agrees that it shall maintain in force at all times during the duration and performance of this Agreement the policies of insurance specified in this Section. Such insurance must have the approval of District as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A.

- a. Prior to the execution of this Agreement, Contractor shall furnish District with original endorsements effecting coverage for all policies required by this Agreement. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf.
- b. The requirement as to types, limits, and District's approval of insurance coverage to be maintained by Contractor is not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Contractor under this Agreement.
- c. The maintenance by Contractor, its contractors and its subcontractors, of the following coverage and limits of insurance is a material element of this Agreement.

7.2 Worker's Compensation and Employer's Liability Insurance

- a. Worker's Compensation: Insurance to protect Contractor, its contractors and subcontractors from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act ("Acts"), if applicable. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable State and Federal statutes and regulations. Contractor shall execute a certificate in compliance with Labor Code Section 1861, on the form attached to this Agreement as Exhibit B.
- b. Claims Against District: If an injury occurs to any employee of Contractor for which the employee or his/her dependents, in the event of his/her death, may be entitled to compensation from District under the provisions of the Acts, for which compensation is claimed from District, and if such injury is a compensable injury under the Acts, there will be retained out of the sums due

Contractor under this Agreement, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If District is required to pay such compensation, the amount paid will be deducted and retained for sums due, or to become due, to Contractor.

7.3 Comprehensive General and Automobile Liability Insurance

- a. Contractor shall take out and maintain at its sole cost and expense during the term of the work performed hereunder, public liability and property damage insurance in the following amounts:
 - (i) Commercial general liability insurance including blanket contractual, broad form property damage, completed operations and independent contractors' liability, all applicable to personal injury, bodily injury, and property damage to a limit of Five Million Dollars (\$5,000,000). Coverage shall be project specific coverage with limits of not less than Five Million Dollars (\$5,000,000).
 - (ii) Comprehensive automobile liability insurance including owned, hired, and non-owned automobiles, for bodily injury and property damage to a combined single limit of Five Million Dollars (\$5,000,000) each occurrence.
- b. Contractor shall require its contractors and their subcontractors, if any, to take out and maintain similar public liability and property damage insurance and comprehensive automobile liability insurance in an amount of Two Million Dollars (\$2,000,000) each occurrence and Five Million Dollars (\$5,000,000) aggregate. All insurance policies must be issued by California admitted insurers.
- c. All policies required in this section shall contain an endorsement providing that written notice shall be given to District at least thirty (30) calendar days prior to termination, cancellation, or reduction of coverage in the policy.
- d. In addition to any other remedy District may have, if Contractor or any subcontractor fails to maintain the insurance coverage required herein, District may obtain such insurance coverage as is not being maintained, in form and amount substantially as required herein, and charge the cost thereof to the party so failing to provide the insurance.

- e. The comprehensive general and automobile liability insurance coverage shall also include, or be endorsed to include, the following:
- (i) Provision or endorsement naming District and each of its officers, employees, and agents as additional insureds in regards to: liability arising out of the performance of any work under this Agreement; liability arising out of activities performed by or on behalf of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to District, its officers, officials, employees or volunteers.
 - (ii) Provision or endorsement stating that for any claims related to this Project, Contractor's insurance coverage shall be primary insurance as respects District, its officers, officials, employees and volunteers, to the extent District is an additional insured. Any insurance or self-insurance maintained by District, its officers, officials, employees or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.
 - (iii) Provision or endorsement stating that Contractor's failure to comply with reporting or other provisions of the policies, including breaches of representations, shall not affect coverage provided to District, its officers, officials, employees, or volunteers.
 - (iv) Provision or endorsement stating that Contractor's insurance shall apply separately to each insured against who claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - (v) Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by Contractor under this Agreement, including that set forth in Section 8 - "Indemnity."

8. Indemnity

Contractor shall indemnify, defend and hold harmless District, its administrators Governing Board and employees from all claims, liabilities, lawsuits, costs, losses, expenses, damages or judgments arising from any negligent or intentional acts or omissions of Contractor, its agents, employees and consultants relating to Contractor's performance of its obligations under this

Agreement. District shall indemnify, defend and hold harmless Contractor from any claims, lawsuits, costs, losses, expenses, damages or judgments arising from any negligent or intentional acts or omissions of District relating to this Agreement. Contractor shall defend, indemnify and hold harmless District from any claim for employment benefits, worker's compensation or other benefits, by any agent or employee of Contractor.

9. Notices

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by overnight mail delivery service (e.g. Federal Express), sent by registered or certified mail, postage prepaid, return receipt requested, or sent by electronic facsimile. No party shall evade or refuse delivery of any notice. Notice shall be deemed received upon the earlier of (1) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, one (1) day after the date of pick-up by the overnight delivery service, (iii) if mailed by registered or certified mail, two (2) days after the date of posting by the United States Post Office, or (iii) if given by electronic facsimile, when received by the other party, and evidenced by receipt of facsimile transmission.

If to District: Emery Unified School District
4727 San Pablo Avenue
Emeryville, CA 94608
Attention: _Roy Miller, District Architect
Telephone: 510-601-4750
Facsimile: _510-601-4913_____

with a copy to: Emery Unified School District
4727 San Pablo Avenue
Emeryville, CA 94608
Attention: _Dr. John Sugiyama, Superintendent
Telephone: 510-601-4904
Facsimile: __510-601-4913_____

If to Contractor:

Attention:
Telephone:
Facsimile:

with a copy to:

Attention:
Telephone:
Facsimile:

10. Attorneys' Fees and Costs

In the event any action or suit is brought by either party hereto against the other party by reason of any breach of any of the covenants or obligations arising out of this Agreement, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs of suit, including fees and costs incurred on any appeals.

11. Independent Contractor

Contractor, in the performance of this Agreement, is and shall be an independent contractor. Contractor understands and agrees that Contractor and all of Contractor's employees, agents, consultants, and subconsultants shall not be considered officers or employees of District.

12. No Third Party Rights

Nothing contained in this Agreement shall create a contractual relationship with, or cause of action in favor of, any third party (that is not a party to this Agreement) against either District or Contractor.

13. Binding on Successors

District and Contractor, 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.

14. Assignment

Contractor shall not assign, transfer or convey its rights or obligations under this Agreement without the prior written consent of District, and only then if Contractor's assignee assumes, in writing, all of Contractor's obligations hereunder, and provided further that Contractor shall in no event be released from its obligations hereunder by way of such assignment.

15. Representations, Covenants and Warranties

15.1 In consideration of District entering into this Agreement, and in addition to all representations, covenants and warranties made elsewhere in this Agreement, Contractor makes the following representations, covenants and warranties, each of which is material and is being relied upon by District (and the continued truth and accuracy of which shall constitute a condition precedent to District obligations hereunder):

- a. Contractor has the legal power, right and authority to enter into this Agreement, and the instruments referenced herein, and to perform the services contemplated hereby.
- b. All requisite action (corporate, trust, partnership or otherwise) has been taken by Contractor in connection with the execution of this Agreement, the instruments referenced herein, and the consummation of the services contemplated herein. No other consent of any partner, shareholder, trustee, trustor, beneficiary, creditor, investor, judicial or administrative body, governmental authority or other party is required.
- c. The individuals executing this Agreement and the instruments referenced herein on behalf of Contractor have the legal power, right, and actual authority to bind Contractor to the terms and conditions hereof and thereof.
- d. This Agreement and all documents required to be executed by Contractor are and shall be valid, legally binding obligations of, and enforceable against, Contractor in accordance with their terms.
- e. Each representation, covenant and warranty made herein is made solely for the benefit of District. The representations, covenants and warranties contained herein shall not run in favor of any other transferee or any other person.

15.2 In consideration of Contractor entering into this Agreement, and in addition to all the representations, covenants and warranties made elsewhere in this Agreement, District makes the following representations, covenants and warranties, each of which is material and is being relied upon by Contractor (and the continued truth and accuracy of which shall constitute a condition precedent to Contractor's obligations hereunder):

- a. District has the legal power, right and authority to enter into this Agreement and the instruments referenced herein and to consummate the transaction contemplated hereby.
- b. All requisite action has been taken by District in connection with the execution of this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby.
- c. District's representative executing this Agreement and the instruments referenced herein on behalf of District has the legal power, right, and actual authority to bind District to the terms and conditions hereof and thereof.

- d. This Agreement and all documents required hereby to be executed by District are and shall be valid, legally binding obligations of District in accordance with their terms.

16. General Provisions

- 16.1 District and Contractor agree to execute such instruments and documents and to diligently undertake such actions as may be required in order to fulfill their respective responsibilities and obligations as set forth in this Agreement.
- 16.2 The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.
- 16.3 The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.
- 16.4 This Agreement shall be construed in accordance with the laws of the State of California and venue shall be in the County of Alameda.
- 16.5 This Agreement may be executed in counterparts and each counterpart shall be considered one and the same agreement.

[CONTRACTOR]:

By: _____ Date: _____
Name: _____
Its: _____

[SCHOOL DISTRICT]:

By: _____ Date: _____
Name: _____
Its: _____

Emery USD

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Mar 26, 2012 : Regular Meeting of the Emery USD Board of Trustees
: G. DISCUSSION/ACTION ITEMS (approximately 6:55 p.m.)


[PRINTABLE VERSION](#)

7. Contract for ECCL Project Labor Agreement Consulting Services

[Status: Submit] [Discussion Item] [Vote]

[PREVIOUS ITEM](#)
[NEXT ITEM](#)
[EXPAND](#)
[COLLAPSE](#)

▼ [Staff Recommendation](#)

First Reading: Receive, review, and discuss the Project Labor Agreement Consulting Services contract as presented by staff.

▼ [Purpose](#)

The purpose of this agenda item is to present to the Board, for first reading, the Project Labor Agreement Consulting Services contract for the ECCL project. This contract will also appear on the next Board Agenda for approval vote.

▼ [Background](#)

The Board of Trustees, in partnership with the City of Emeryville, has had long-standing direction to staff to optimize the opportunities for the ECCL project to improve local workforce, workforce development, and community benefits, especially given public investments such as Measure J. One significant step in accomplishing those goals has been in defining, drafting and approving policies that effectively and efficiently guide the ECCL work. For example, all of the project processes to date, including the RFP's and RFQ's issued for consultant selection for the project, have contained language highlighting contract requirements for community benefits and community and youth engagement. Continued accomplishment of these goals will be augmented with the expert assistance of this consultant who, with the approval of the Board, will define goals and specific language for the upcoming major capital construction contracts that will assure workforce and community benefits are realized as part of building the ECCL.

▼ [Funding](#)

Current ECCL project work is authorized and supported by MOU #2 which incorporates City and Measure J funds.

▼ [Supporting Documents](#)



[ECCL Contract for Project Labor Agreement Consultant](#)

[DOWNLOAD NOW](#)
[PREVIOUS ITEM](#)
[NEXT ITEM](#)



Guiding Principles
We Hold High Academic, Social, and Professional Expectations
We Create a Sense of Family
We Inspire and Support Innovation to End Racist and Classist Practices

INDEPENDENT CONTRACTOR AGREEMENT

This Agreement is entered into between the Emery Unified School District (DISTRICT) and A Squared Ventures, Inc. (CONTRACTOR).

Recitals

1. DISTRICT is authorized by Government Code Section 53060 to contract for the furnishing of special services and advice in financial, economic, accounting, engineering, legal and administrative matters with persons specially trained, experienced and competent to perform such services.
2. DISTRICT needs special services and advice as follows:
3. CONTRACTOR is specially trained, experienced and competent to provide such services.

THEREFORE, the parties agree as follows:

Terms

1. Services

CONTRACTOR agrees to provide the following services:

Phase 1: Policy Objectives Development and Prioritization: develop the objectives of the business, workforce, and labor stability efforts for ECCL and prioritize the objectives. The identified stakeholders include:

EUSD – ECCL Project Team

EUSD Facilities Committee Members
Community Representatives in businesses and construction workforce industries
Define "Local"/ catchment area (East Bay, Green Corridor)

Phase II: Policy Outline

Draft policy that accomplishes objectives arrived at from Phase I work
Obtain approvals from EUSD related stakeholders
Vet through Contra Costa and Alameda County Building Trades Council, and community representatives

Phase III: Policy Development and Approval

Draft Policy
Vet through EUSD, labor and community stakeholders
Revise Policy accordingly
Take Policy through final School Board approvals process

Deliverables:

Policy Objectives
Policy/Policies Outline
Draft Policy/Policies
Final Policy/Policies

The DISTRICT agrees to provide the following services:

DISTRICT will notify CONTRACTOR of the dates and times that this service is required.

2. Term

CONTRACTOR shall commence work on March 26, 2012. The work shall be completed on July 1, 2012.

3. Compensation

DISTRICT shall pay CONTRACTOR a total fee of \$20,000.00. District shall pay a maximum of \$2,000.00 in reimbursables charges. Payable as follows: per monthly invoices from CONTRACTOR by DISTRICT within twenty (20) business days after receipt of a written invoice by CONTRACTOR and approved by the administrator.

4. Completeness of Agreement

This Agreement constitutes the entire understanding of the parties and any changes shall be agreed to in writing.

5. Status of Contractor

This is not an employment contract. CONTRACTOR is an independent contractor. CONTRACTOR is responsible for providing Unemployment Insurance and Worker's Compensation coverage for CONTRACTOR's employees and for payment of all federal, state and local payroll taxes for and on behalf of CONTRACTOR's employees.

6. Fingerprinting

By execution of this Agreement/Contract, the CONTRACTOR acknowledges that Education Code Section 45125.1 applies to contracts for the provision of school and classroom janitorial, school site administrative, school site grounds and landscape maintenance, pupil transportation and school site food-related services, and any similar services. Section 45125.1 requires that employees of entities providing such services to school districts must be fingerprinted by the California Department of Justice for a criminal records check, unless the DISTRICT determines that the CONTRACTOR and CONTRACTOR's employees will have limited contact with pupils. In making this determination, the DISTRICT will consider the totality of the circumstances, including factors such as the length of time the CONTRACTOR and CONTRACTOR's employees will be on school grounds, whether pupils will be in proximity with the site where the CONTRACTOR and CONTRACTOR's employees will be working, and whether the CONTRACTOR and CONTRACTOR's employees will be alone or with others.

(a) **DISTRICT Determination of Fingerprinting Requirement Application**

The DISTRICT has considered the totality of the circumstances concerning the Project and has determined that the CONTRACTOR and CONTRACTOR's employees:

_____ are subject to the fingerprinting requirements of Education Code Sections 45125.1 and/or 45125.2 and Paragraph (b) below, is applicable.

XXX are not subject to the fingerprinting requirements of Education Code Section 45125.1 or 45125.2 and Paragraph (c) below, is applicable.

(b) If the DISTRICT has determined that fingerprinting is required, the CONTRACTOR expressly acknowledges that: (1) CONTRACTOR and all of CONTRACTOR's employees working on the school site must submit or have submitted fingerprints in a manner authorized by the Department of Justice, together with the requisite fee

as set forth in Education Code Section 45125.1; (2) CONTRACTOR shall not permit any employee to come in contact with students until the Department of Justice has ascertained that the employee has not been convicted of a serious or violent felony; (3) CONTRACTOR shall certify in writing to the Governing Board of the DISTRICT that none of its employees who may come in contacts with students have been convicted of a serious or violent felony; and (4) CONTRACTOR shall provide to the Governing Board of the DISTRICT a list of names of its employees who may come in contact with students. The CONTRACTOR is required to fulfill these requirements at its own expense.

(c) Even if the DISTRICT has determined that fingerprinting is not required, the CONTRACTOR expressly acknowledges that the following conditions shall apply to any work performed by the CONTRACTOR and/or CONTRACTOR's employees on a school site: (1) CONTRACTOR and CONTRACTOR's employees shall check in with the school office each day immediately upon arriving at the school site; (2) CONTRACTOR and CONTRACTOR's employees shall inform school office staff of their proposed activities and location at the school site; (3) Once at such location, CONTRACTOR and CONTRACTOR's employees shall not change locations without contacting the school office; (4) CONTRACTOR and CONTRACTOR's employees shall not use student restroom facilities; and (5) If CONTRACTOR and/or CONTRACTOR's employees find themselves alone with a student, CONTRACTOR and CONTRACTOR's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

7. Indemnification

CONTRACTOR agrees to hold harmless, indemnify and defend DISTRICT and its officers, agents and employees from any and all claims and losses accruing or resulting from injury, damage or death of any person, firm or corporation in connection with its performance of this Agreement. CONTRACTOR also agrees to hold harmless, indemnify and defend DISTRICT and its officers, agents and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services or materials to CONTRACTOR in connection with the performance of this Agreement.

8. Equipment and Materials

DISTRICT shall provide all equipment, materials and supplies necessary for the performance of the Agreement.

9.. Licenses and Permits

CONTRACTOR shall obtain and keep in force all licenses, permits and certificates necessary for the performance of this Agreement if such permits or licenses are required.

10. Assignment

The obligations of CONTRACTOR under this Agreement shall not be assigned by CONTRACTOR without the express prior written consent of DISTRICT.

11. Non-Discrimination

CONTRACTOR shall not engage in unlawful discrimination in the employment of persons because of race, color, national origin, age, ancestry, religion, sex, marital status, medical condition or physical handicap.

12. Termination

DISTRICT may at any time terminate this Agreement upon written notice to CONTRACTOR. DISTRICT shall compensate CONTRACTOR for services satisfactorily provided through the date of termination.

In addition, DISTRICT may terminate this Agreement for cause should CONTRACTOR fail to perform any part of this Agreement. In the event of termination for cause, DISTRICT may secure the required services from another contractor. If the cost to DISTRICT exceeds the cost of providing the service pursuant to this Agreement, CONTRACTOR shall pay the additional cost.

13. Copyright

Any written product produced under this Agreement shall be a work for hire and shall be the property of DISTRICT. DISTRICT shall have the right to secure a copyright and the product may not be used, in any manner, without DISTRICT's written permission.

14. Waiver

No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.

15. Attorney's Fees

If any litigation is initiated to enforce or interpret this Agreement, the prevailing party shall be entitled to reasonable attorney's fees.

16. Governing Law

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

17. Severability

In the event that any portion of this Agreement is finally determined by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed void and the remainder of this Agreement shall continue in full force and effect.

18. Notice

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

DISTRICT:

CONTRACTOR:

Emery Unified School District 4727 San Pablo Avenue Emeryville, CA 94608	A Squared Ventures, Inc. 1970 Broadway, Suite 1100 Oakland, CA 94612
--	--

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

EMERY UNIFIED SCHOOL DISTRICT

Contractor

By: _____

By: _____

Name/Title

Signature

Date: _____

Date: _____

Social Security Number



a squared ventures, inc.

1970 Broadway, Suite 1100
Oakland, CA 94612
510.986.1100
www.a2ventures.com

March 12, 2012

Roy Miller
District Architect
Emeryville Unified School District
4727 San Pablo Avenue
Emeryville, CA 94609

Roy,

Thank you for providing us the opportunity to propose on providing policy development work for the Emeryville Community Center for Life Project. We have assembled a proposal that provides a description of the phases, associated scopes of work, deliverables and cost to deliver a best in class policy solution to investing in your local construction businesses and workforce through the opportunities made available by this project.

We look forward to hearing from you once you have had an opportunity to review this revised proposal.

Sincerely,

Cleminatu Fields
CEO
A Squared Ventures, Inc.

Andrea Lowe
Director

COMMUNITY BENEFITS PROGRAM PROPOSAL

A²V, a local, small, minority and women owned business, maintains a strong background in developing local business and workforce programs for major infrastructure projects in the East Bay. Overall, we have provided construction and workforce outreach for over \$2B worth of projects in East Bay. Moreover, our relationships with owner organizations at all levels, from Board Members to contract compliance and procurement staff, aids in assuring the awarding agency that the business, workforce and community participation is effectively managed and will lead to successful outcomes. As the Legislative Chair for the Association of Minority Contractors, Northern California, we have worked with the Building and Trades Council of Alameda County to negotiate a Memorandum of Understanding. We have also worked in an oversight and/or implementation capacity for the Port of Oakland's Maritime Aviation Project Labor Agreement and the BART Oakland Airport Connector Project Labor Agreement. We have also participated as a member of Oakland Unified School District PLA Joint Administrative Council that adjudicated PLA violations. With this experience and knowledge base, we would anticipate performing the tasks listed below to develop the objectives, outline and final documentation of a policy/or policies and programs that will allow for the greatest participation of the small local contracting and local workforce community in partnership with labor for the Emeryville Unified School District's Emeryville Center of Community Life project:

Mission Statement

Deliver best practices for incorporating labor stability and construction business and workforce development and inclusion polices/programs to support work envisioned for ECCL project

Three Phases - Policy Development

Phase 1: Policy Objectives Development and Prioritization: develop the objectives of the business, workforce, and labor stability efforts for ECCL and prioritize the objectives. The identified stakeholders include:

- EUSD – ECCL Project Team
- EUSD Facilities Committee Members
- Community Representatives in businesses and construction workforce industries
- Define "Local"/ catchment area (East Bay, Green Corridor)

Phase II: Policy Outline

- Draft policy that accomplishes objectives arrived at from Phase I work
- Obtain approvals from EUSD related stakeholders
- Vet through Contra Costa and Alameda County Building Trades Council, and community representatives

Phase III: Policy Development and Approval

- Draft Policy

Vet through EUSD, labor and community stakeholders
Revise Policy accordingly
Take Policy through final School Board approvals process

Overall Deliverables

Policy Objectives
Policy/Policies Outline
Draft Policy/Policies
Final Policy/Policies

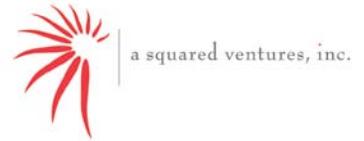
Pricing

\$20,000 – Lump Sum

A²V's associated hourly rates for the scopes of work identified above are as follows:

Project Executive	\$175.00
Project Administrator	\$85.00

Proven Experience Proven Results...



A Squared Ventures, Inc. (A²V) provides a variety of supplier diversity and contract compliance services to our municipal and private clients. For over 10 years we have devised policies that bring together the large contracting community with minority, woman, disadvantaged, local and small businesses in municipal and private procurement opportunities. A²V maintains well established relationships with local unions, city administrators and staff as well as county administrators and community based organizations. We pride ourselves on assisting agencies and contractors in devising programs that envelope the total community; from career awareness programs for local youth to technical assistance seminars for small contractors.

Given Our professional expertise we bring an inside perspective into the contracting process and the ability to create mutually beneficial policies and programs. Our experience and proven track record has been acknowledged locally, statewide, and regionally.

A²V is composed of two principle officers with substantial experience in the industry of outreach and marketing, policy development, community benefits, youth programming, and workforce development. We have fostered excellent relationships through proven results. Our focus is on innovative processes, open communication, and a true collaborative approach.

We look forward to partnering with you to support your organization's projects and the communities they will impact.

Cleminatu (Atu) Fields
CEO

Andrea H. Lowe
Director

Experience and Qualifications...



- **Program & Policy Development**

- Created, implemented & measured local, small, minority, woman, and disabled veteran owned business utilization policies & federal DBE programs
- Drafted contract language to communicate policy goals and ensure contractor compliance

- **Contractor Outreach**

- Coordinated outreach to local contractors and vendors
- Created market capacity studies to determine availability of local, small, woman, minority and disabled veteran owned business
- Conducted pre-proposal and pre-bid meetings
- Coordinated construction management training seminars
- Collaborated with over 20 trade associations, chambers, & community groups

- **Monitoring & Analysis**

- Worked with web based tools for tracking actual business and workforce utilization verified by the targeted businesses
- Evaluated actual business and workforce utilization against contract goals and recommended remediation strategies
- Ombudsman for contract related issues

- **Project Communication**

- Established and maintained project websites, newsletters, and other informational materials to provide project overview and ongoing communications
- Served as panelist for local vendor fairs and outreach workshops
- Provided executive summaries and communicated project statuses and accomplishments to key stakeholders and governmental representatives



a squared ventures, inc.

Clients

Turner Construction

Outreach and policy development for
Oakland Army Base Project
2012

San Francisco Bay Area Rapid Transit

Provide construction contractor
supportive services for subcontractors on
Warms Springs II contracts
2012-2015

Flatiron/Parsons, JV

Oversee community outreach program
and compliance with Bart DBE and
Project Stabilization Agreement for the
Bart Oakland Airport Connector Project
2011 – 2014

McArthur Transit Village

Coordinate local business contractor
outreach for developer, Howard S. Wright
& Roberts Obayashi
2011-2013

Clark Construction

Manage the Community Benefits
Program and communication with project
stakeholders for Highland Hospital
Project
2010-2015

*"We partner with public
agencies and prime
contractors to develop and
implement community
engagement programs
that ensure opportunities for
local businesses and
workers and allocate
resources to community
based organizations."*



a squared ventures, inc.

Clients

San Francisco Bay Area Rapid Transit

Coordinate and conduct outreach meetings for Earthquake Safety Program 2010

McCarthy Building Companies

Outreach and policy development for Kaiser Oakland Replacement Hospital Project
2006 – 2015

GKK Works-McCarthy-The Alley Group

Market Oakland Unified School District's new Local Vendor Policy and analyze support programs.
2009-2011

Turner Construction Company

Oversee Community Affairs Program for Oakland & San Francisco Business Unit
2008 – 2010

San Francisco Municipal Transportation Authority

Develop, market and implement Technical Assistance workshops for small local contractors.
2008

"We partner with public agencies and prime contractors to develop and implement community engagement programs that ensure opportunities for local businesses and workers and allocate resources to community based organizations."

CLEMINATU A. FIELDS

(510) 986-1100 w • (510) 435-2380 c • amckinney@a2ventures.com

EDUCATION: Yale University. New Haven, CT

B.A. Sociology Major, Psychology Minor

Additional courses in statistics, accounting, computing and website design.

On-going supervisory, project and time management, communication and computer technology seminars and workshops (ISO 9000, Stephen Covey 7 Habits and 4 Disciplines of Execution).

EXPERIENCE: A Squared Ventures, Inc. Oakland, CA (8/06-present)

Chief Executive Officer

- *McCarthy Building Company:* Manage business and workforce outreach for McCarthy on the \$110 million Kaiser Permanente Oakland Hospital Replacement Phase I and \$800+ million Phase II projects. Create and implement plan and objectives for outreach to construction contractor and workforce communities. Work on creation of market capacity study to determine availability of local, small local, woman, minority and disabled veteran owned business to participate in project. Document good faith efforts, including use of web-based electronic labor compliance monitoring system. Work on establishing and maintaining project web site and other informational materials to provide overview of project and contracting opportunities.
- *Shimmick Construction Company:* Manage business outreach for assembling proposal for the BART Oakland Airport Connector Project. Review request for proposal and delineate all DBE and Labor Compliance requirements for submittal, coordinate outreach event, manage DBE database creation and firm recommendations, assist with DBE certifications and provide input regarding PLA negotiations.
- *Howard S. Wright Constructors:* Manage local and small local business and workforce outreach on the Jack London Square Building C and Site F1 projects.
- *GKK Works-McCarthy-The Alley Group:* Manage Oakland Unified School District Measure B funded construction local vendor outreach on behalf of the program management/construction management team. Create and implement plan and objectives for outreach to construction contractor and workforce communities. Develop and implement process for identifying OCIP providers to potentially be used on Measure B funded projects in support of the local business policy.
- *Exstare:* Work on Disparity Study for City of Phoenix Aviation Department to determine the availability of airport concession disadvantaged business enterprises (ACDBEs) to participate in their concession opportunities and identify instances of discrimination and underutilization.

Port of Oakland. Oakland, CA (3/96-8/06)

Contract Compliance Manager (07/04-8/06)

Supervise nine (9) person ISO 9000 certified Contract Compliance Department.

- Created, modified, implemented and measured socio-economic policies for local business and local workforce utilization for overall Port procurement: living wage, prevailing wage, project labor agreement local hire and small local business utilization programs, two non-discrimination and local/small local business utilization policies and two federally required disadvantaged business utilization programs including support services

- for local businesses such as financing and bonding program. Conducted presentations locally, regionally and nationally for the above listed socio-economic policies.
- Project manager for web-based electronic system covering contract and labor compliance monitoring.
 - Submitted first federally required DBE program and plan in United States for complying with newly promulgated regulations governing airport concessions.
 - Division liaison for Oakland International Airport's \$500 million Terminal Improvement Project. Participated in creating marketing materials for publication in press releases, quarterly newsletters, and periodic magazines.

*Contract Compliance Officer** (10/01-06/04)

- Trained incoming contract compliance supervisors.
- Led team in creation of new non-discrimination and local/ small local business utilization policy applicable to \$1.4 billion aviation capital improvement project and presented before senior Port staff, Board of Port Commissioners and various community based organizations (e.g. Oakland Black Caucus; National Association of Minority Contractors).
- Led team in creating related request for qualifications language for local business utilization policy, web-based electronic certified payroll specifications, reporting standards and oversight of socio-economic policies including creation of community advisory committee.
- Created LEED certification request language for the use of local contracting and local hiring policies applicable to the airport expansion highlighting smart growth and sustainable aspects of socio-economic policies.
- Liaison between contract compliance and airport expansion group.
- Created training material regarding SRD's role in Port procurement processes and presented to senior management, coordinating committee and various Port divisions and departments.
- Led revisions to local business policy to increase productivity and applicability.
- Oversaw and provided training towards completion of the various federally required Disadvantaged Business Enterprise Program reports and brought to Board for approvals.
- Project manager for web-based labor compliance management system: conducted and presented to senior staff and Board committee cost-benefit analysis, oversaw process for selection of consultant.

Acting Supervisor, Contract Compliance (9/00-10/01)

- Supervised labor compliance and business certification units and affiliated consultants.
- Created and implemented a training program for incoming assistant contract compliance officers.
- Acted as and represented division director when appropriate.

Contract Compliance Officer (3/96-9/00)

- Created, reviewed, researched and revised Port, local, state and Federal non-discrimination, local and small local business utilization, equal opportunity and prevailing wage policies.
- Developed and organized division business plans.

* Acted in higher capacity for entire period due to extra duties related to training supervisors and high level project management.

- Created, presented and moderated seminars for local and national professions in similar field and to the public at large.
- Project manager for various projects including creation of video presentation for public use and Access database project and business directory.
- Acted as and represented division director when appropriate.
- Participated as division liaison on projects such as 1996 Disparity Study, the Port Intranet and Internet websites.

ACTIVITIES: Yale University Alumni Association

Alumni Interviewer (1/2000-present): conduct interviews on an annual basis with prospective Yale undergraduate students to round out the application process in determining the following year's admissions.

Inner City Advisors

Board Member (1/05-5/06)

Participate in Board of non-profit organization that serves to reinvest in the community by providing strategic business development advice to businesses located in the inner city, employing inner city residents. Client advisor to Tucker Technology owned by Frank Tucker.

California Uniform Certification Program Planning Committee,

Chairperson of Training Committee (4/01-12/02)

[Statewide committee formed to meet the Federal regulations of creating a statewide certification program]. Participated in Executive Committee and helped to formulate first federally required and approved Memorandum of Agreement for the California Unified Certification Program. Created Training Procedures for Memorandum of Understanding, training module and organized and led two training sessions statewide to train all federally funded agencies signatory to the MOA.

ANDREA H. LOWE

1970 Broadway, Suite 1100
Oakland, California 94612
(510) 986-1100
E-mail: alowe@a2ventures.com

SUMMARY OF QUALIFICATIONS

Fifteen years of progressive experience in community affairs, youth development, program management, employee development & training. Expertise in contract compliance, development and implementation of community benefit programs, and design & delivery of technical assistance and professional development courses.

RELEVANT WORK EXPERIENCE

A SQUARED VENTURES, Oakland, CA

2008 - Present

Director,

A local, woman-owned firm specializing in community engagement programs and contract/labor compliance.

- *Flatiron/Parsons JV* – Oversight of the project’s Community Benefits plan including: internal project team meetings; BART/external clients and stakeholders meetings; DBE utilization oversight and overall reporting; subcontractor and community outreach and communication; participation on project local hire committee and oversight of workforce goal attainment; and oversight of relations web-based reporting systems.
- *Flatiron* – Development and implementation of a workforce outreach and training program for the Phase 2 Public/Private Partnership portion of the Presidio Parkway Project.
- *Turner Construction Company* - Oversee the Community Affairs Program including implementing youth development programs and the Construction Management Course for small local businesses. Monitor workforce & labor compliance for the Oakland Airport & East Oakland Sports Center projects.
- *Clark Construction Company* - Developed a comprehensive community benefits program for Clark’s pursuit of the Alameda County Highland Hospital Replacement Tower Project.
- *San Francisco Bay Area Rapid Transit District* – Conduct outreach to local contractors interested in bidding on the Earthquake Safety Program and Warm Springs Extension
- *Ace Mentorship Program* – Assist organization with event planning, student outreach, and mentor training. Develop fundraising strategy and connect with potential donors.
- *Merriwether & Williams* – Developed, marketed, and implemented seven (7) technical assistance courses for the SF Municipal Transportation Authority’s BusinessWorks Program. This was the agencies first initiative to provide training to small/local contractors seeking to bid on SFMTA Projects.

TURNER CONSTRUCTION COMPANY, Oakland, CA

2003 – August 2008

Community Affairs Director

- Oversaw Turner’s philanthropic and volunteer activities in the greater East Bay
- Established relationships with trade associations and local, minority, and woman owned businesses
- Completed local agency and federally mandated contract reports
- Managed relationships with local schools to provide mentors, internships and scholarships
- Coordinated the Annual Construction Management course to assist small firms with capacity building and technical skill development

Oakland Airport Terminal Improvement Program

- Oversaw outreach to local firms resulting in contract awards to 283 subcontractors and vendors
- Developed and implemented Outreach Plan that resulted in
 - 80% contracts awarded to local firms, 24% to small local firms
 - 20% contracts awarded to minority and women owned firms
- Developed and managed Mentor/Protégé program for 10 business partnerships
- Monitored workforce utilization program that resulted in 75% of work hours being performed by local residents
- Prepared reports for Social Justice Committee on contractor labor and contract compliance and work with contractors to remedy shortfalls

ANDREA H. LOWE

1970 Broadway, Suite 1100
Oakland, California 94612
(510) 986-1100
E-mail: alowe@a2ventures.com

OTHER WORK EXPERIENCE

INROADS/NORTHERN CALIFORNIA, INC., Oakland, CA 1996 - 2003

Managing Director

- Developed, implemented, and monitored \$1 million annual affiliate budget
- Managed eight personnel including staff selection, development, and performance management
- Managed relationships with 15 member board of directors including recruiting new members and working with board nominating, finance, and marketing committees
- Cultivated and sustained an effective community presence in order to foster favorable public relations and increase the organization's visibility

BANK OF AMERICA, San Francisco, CA

Human Resources Generalist

1992 - 1996

- Directed project team in restructuring career progression, compensation, and competencies for Bank-wide secretarial and administrative staff
- Conducted job and payline analysis, broadbanding, and job slotting for bank-wide programs
- Supported affirmative action processes including preparation and analysis of quarterly reports
- Provided technical and analytical support for annual stock grant and bonus processes

EDUCATION

Golden Gate University, San Francisco, CA
MA, Applied Psychology
Emphasis: Industrial/Organizational Psychology

University of California, Berkeley, CA
Walter A. Haas School of Business
BS, Organizational Behavior & Finance

Participant, 2008 & 2009 & 2010 American Contract Compliance Association Conference
Adjunct Professor, Organizational Psychology, Golden Gate University

COMMUNITY INVOLVEMENT

Current Activities

Board Member, East Oakland Youth Development Center; Team Lead ACE High Mentorship Program; Member, Delta Sigma Theta Sorority, Inc.-Berkeley Bay Area Alumnae Chapter; Advisory Board Member, Escuela Bilingue Internacional; Team Leader, Rebuilding Together Oakland; Member, Oakland Workforce Investment Board; Member, Oakland Youth Council; Participant, Oakland Chamber of Commerce Planning & Construction Committee

Past Activities

Member, Cal State East Bay SBDC Advisory Board; Coordinator; Advisory Board Member, Allen Temple Training Academy; Board Member, Young Women's Christian Association (YWCA); Selection Committee, Port of Oakland Good Neighbor Awards 2004; Member, INROADS/Northern California Alumni Association; Advisory Board Member, Junior Achievement; Participant 2002 Leadership Oakland; Member, Northern California Human Resource Council

Emery USD
Revenue Sources for ECCL Project

<u>Confirmed</u>	<u>Revenue</u>
MOU #1 ^A	\$1,800,000
MOU #2 ^B	2,000,000
Series A GO Bonds	25,499,600
Series A GO Bonds - Interest	16,042
Series B QSCB GO Bonds	15,000,000
Series B QSCB GO Bonds - Interest	19,968
Series C QSCB GO Bonds	7,640,000
FEMA Grant	600,000
MOU #2 (Revised) ^C	21,200,000
	<u>73,775,609</u>
Expenditures and encumbrances through Feb 28, 2012	<u>(5,444,804)</u>
Remaining Available	68,330,805
<u>Potential</u>	
2014 GO Bond Series D ^D	10,000,000
State Facilities grants - minimum, up to \$15M	<u>6,000,000</u>
Potential Available funding for ECCL project	<u><u>\$84,330,805</u></u>

^A Includes \$450,000 received prior to MOU #1

^B Includes \$1,000,000 of lease payment used to pay off State Loan

^C Formerly called MOU #3; revision to be executed spring 2012. Includes \$1,250,000 final ESS lease payment, and \$200,000 match for FEMA grant.

^D Per CFW, planned Series D GO bond issuance to be in range of \$10,000,000 to \$20,000,000 in 2014

Summary of ECCL Revenue and Expenditures
Through February 28, 2012

	2008-09	2009-10	2010-11	2011-12	Total to Date
Measure J					
Revenues			25,515,640	22,322,076	47,837,716
Expenditures			1,140,342	1,528,948	2,669,290
MOU #1					
Revenues	450,000	690,000	660,000	-	1,800,000
Expenditures	450,000	445,789	523,062	63,770	1,482,621
MOU #2					
Revenues			2,000,000	-	2,000,000
Expenditures			1,000,000	42,893	1,042,893

Fisc 05 February 28, 2012