

INDEPENDENT CONSULTANT AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES

This Independent Consultant Agreement for Construction Management Services ("Agreement") is made and entered into as of the 25th day of February, 2025, by and between the Tracy Unified School District, ("District") and Cumming Management Group, Inc. ("Consultant"), (together, "Parties").

WHEREAS, Public Contract Code section 20111, subdivision (d), provides that professional services, requiring specialized knowledge, training, or skill, are not subject to public bidding requirements; and

WHEREAS, Government Code section 4526, authorizes District to contract with and employ any person(s) for the furnishing of architecture, landscape architecture, environmental, engineering, land surveying, and construction project management services on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required; and

WHEREAS, District duly determined that it needs some or all of the services (collectively, "Services") to be provided pursuant to this Agreement; and

WHEREAS, Consultant is specially trained, experienced, and competent to perform the Services required by District, as needed on the basis set forth in this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Consultant shall provide construction management services as further described in **Exhibit A**, attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Consultant shall commence providing services under this Agreement on February 26, 2025, and will diligently perform as required and complete performance by August 30, 2025 ("Term"), unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Submittal of Documents.** Consultant shall not commence the Services under this Agreement until Consultant has submitted and District has approved the documents, certificate(s) and affidavit(s), and endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Prevailing Wage Certification
<u> X </u>	Fingerprinting/Criminal Background Investigation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> X </u>	Other: <u>Workplace Violence Prevention Plan Certification</u>

4. **Compensation.** District agrees to pay Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed One Hundred Ninety-Nine Thousand, Eight Hundred Dollars (\$199,800). District shall pay Consultant according to the following terms and conditions:

- 4.1. Payment for the Services shall be made for all undisputed amounts based upon the delivery of the work product as determined by District. Payment shall be made within thirty (30) days after Consultant submits an invoice to District for Services actually completed and after District's written approval of the Services, or the portion of the Services for which payment is to be made.
 - 4.2. The Services shall be performed at the hourly billing rates included in **Exhibit B**. The itemized invoice shall reflect the hours spent by Consultant in performing its Services pursuant to this Agreement.
5. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
6. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, except for Reimbursables with 10% markup.
7. **Independent Contractor.** Consultant represents and warrants that Consultant is an independent contractor or business entity that is: (i) free from the control and direction of District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of District, and are not entitled to benefits of any kind or nature normally provided employees of District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees.
8. **Certificates/Permits/Licenses/Registrations.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, licenses, and registrations as are required by law in connection with the furnishing of Services pursuant to this Agreement.
9. **Performance of Services.**
 - 9.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts.
 - 9.2. **Due Diligence.** Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.

- 9.3. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present. In the interest of clarity, Consultant shall neither have control over nor be responsible for maintaining safe conditions or enforcing or coordinating safety programs at any Project site.
- 9.4. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services, and as otherwise agreed upon by the Parties.
- 9.5. **District Approval.** The Services completed herein must meet the approval of District and shall be subject to District's general right of inspection and supervision to secure the satisfactory completion thereof.
- 9.6. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** District may evaluate Consultant in any way District is entitled pursuant to applicable law. District's evaluation may include, without limitation:
- 9.6.1. Requesting that District employee(s) evaluate Consultant and Consultant's employees and subcontractors and each of their performance.
- 9.6.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
10. **Deliverables.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission.
11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
12. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services but will allow determination by the court of the State of California, in the county in which District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial

written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to Consultant's right to bring a civil action against District. For purposes of those provisions, the running of the time within which a claim must be presented to District shall be tolled from the time Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

13. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.

14. **Termination.**

14.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement for its own convenience and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by Consultant or no later than three (3) days after the day of mailing, whichever is sooner.

14.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

14.2.1. material violation of this Agreement by Consultant; or

14.2.2. any act by Consultant exposing District to liability to others for personal injury or property damage; or

14.2.3. Consultant is adjudged as bankrupt, Consultant makes a general assignment for the benefit of creditors, or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate. Unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of termination for cause, District may secure the required services from another Consultant. If expenses, fees, and/or costs to District exceed the cost of providing the service pursuant to this Agreement, Consultant shall immediately pay the excess expenses, fees, and/or costs to District upon the receipt of District's notice of these expenses, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

14.3. Upon termination, Consultant shall provide the District with all documents produced, maintained or collected by Consultant pursuant to this Agreement, whether or not such documents are final or draft documents.

15. Indemnification.

- 15.1. To the furthest extent permitted by California law, Consultant shall indemnify and hold harmless District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant ("Claim"). Consultant shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Consultant's own expense, including attorneys' fees and costs, from any and all Claim(s) and allegations relating thereto. District shall have the right to accept or reject any legal representation that Consultant proposes to defend the Indemnified Parties.
- 15.2. Consultant shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim, subject to section 15.1 above. Consultant's obligation pursuant to this Article includes reimbursing District for the cost of any settlement paid by the Indemnified Parties and for any and all fees and costs, including but not limited to legal fees and costs, expert witness fees, and consultant fees, incurred by the Indemnified Parties in the defense of any Claim(s) and to enforce the indemnity herein, subject to section 15.1 above. Consultant's obligation to indemnify shall not be restricted to insurance proceeds.
- 15.3. District may withhold any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant from amounts owing to Consultant.

16. Insurance.

- 16.1. **Coverage.** Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

TYPE OF COVERAGE	MINIMUM REQUIREMENT
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
Automobile Liability Insurance - Any Auto	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability , per accident for bodily injury or disease	\$ 1,000,000

- 16.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Consultant, District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by District.)

16.1.2. **Workers' Compensation and Employer's Liability Insurance.**

Workers' Compensation Insurance and Employer's Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Consultant shall be required to secure workers' compensation coverage for its employees. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of District for all work performed by Consultant, its employees, agents and subcontractors. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

16.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Consultant's profession, coverage to continue through completion of construction plus three (3) years thereafter.

16.2. **Proof of Carriage of Insurance.** Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to District and approved by District. Certificates and insurance policies shall include the following:

16.2.1. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

16.2.2. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

16.2.3. An endorsement stating that District and its Board of Education, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance.

16.2.4. An endorsement stating that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District.

16.2.5. An endorsement stating that there shall be a waiver of any subrogation.

16.2.6. Consultant's insurance limit shall apply separately to each insured against whom a claim is made or suit is brought.

16.2.7. All policies except the Professional Liability, Workers' Compensation Insurance, and Employer's Liability Insurance Policies shall be written on an occurrence form.

- 16.2.8. Insurance written on a "claims made" basis shall be retroactive to a date that coincides with or precedes Consultant's commencement of Work, including subsequent policies purchased as renewals or replacements.
- 16.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to District.
- 16.4. If Consultant normally carries insurance in an amount greater than the minimum amounts required herein, that greater amount shall become the minimum required amount of insurance for purposes of the Agreement. Therefore, Consultant hereby acknowledges and agrees that all insurance carried by it shall be deemed liability coverage for all actions it performs in connection with the Agreement.
17. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
18. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify District, in writing, and, at the sole option of District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from District. If Consultant performs any Services that is in violation of any laws, ordinances, rules or regulations, without first notifying District of the violation, Consultant shall bear all costs arising therefrom.
19. **Anti-Discrimination.** It is the policy of District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decision making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status and therefore Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, Consultant agrees to require like compliance by all of its subcontractor(s).
20. **Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services. Consultant expressly acknowledges that the following conditions shall apply to any work performed by Consultant and/or Consultant's employees on a school site:
- 20.1. All site visits shall be arranged through District;

- 20.2. Consultant and Consultant's employees shall inform District of their proposed activities and location at the school site, allowing District time to arrange site visits without a disruption to the educational process;
- 20.3. Consultant and/or Consultant's employees shall check in with the school office each day immediately upon arriving at the school site;
- 20.4. Once at such location, Consultant and Consultant's employees shall not change locations without contacting District;
- 20.5. Consultant and Consultant's employees shall not use student restroom facilities; and
- 20.6. If Consultant and Consultant's employees find themselves alone with a student, Consultant and Consultant's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.
21. **Confidentiality.** Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
22. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or electronic mail, addressed as follows:

District:

Tracy Unified School District
ATTN: Tania Salinas, Associate
Superintendent
1875 W. Lowell Avenue
Tracy, CA 95376
Email: tsalinas@tusd.net

Consultant:

Cumming Management Group, Inc.
ATTN: John Caputo, VP Operations and
Development
3230 Monument Way
Concord, CA 94518
Email: John.Caputo@cumming-group.com

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

23. **Assignment.** The obligations of Consultant pursuant to this Agreement shall not be assigned by Consultant. Any such assignment shall be null and void.
24. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

25. **Amendments, Changes and Modifications.** This Agreement may not be amended, changed, modified, altered or terminated without the written agreement of both Parties hereto.
26. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
27. **Governing Law; Venue.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which District's administrative offices are located.
28. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
29. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
30. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
31. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
32. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
33. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
34. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
35. **Execution of Other Documents.** The parties to the Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
36. **Counterparts.** This Agreement may be executed in one or more counterparts, and all counterparts together shall be construed as one document. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature. All counterparts so executed shall constitute one Agreement binding all the Parties hereto.

37. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 2025

Dated: February 24, _____, 2025

Tracy Unified School District

Cumming Management Group, Inc.

Signed By: _____

Signed By: John Caputo

Print Name: _____

Print Name: John Caputo

Print Title: _____

Print Title: VP _____

Information regarding Consultant:

License No.: _____

Address: 3230 Monument way Concord CA

Telephone: 925-671-7717

Facsimile: 925-671-7788

E-Mail: john.caputo@cumming-group.com

Type of Business Entity:

____ Individual

____ Sole Proprietorship ____ Partnership

____ Limited Partnership X Corporation,

State: ____ Limited Liability Company ____

Other: _____

Employer Identification and/or
Social Security Number

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, District requires Consultant to furnish the information requested in this section.

EXHIBIT A
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

The construction management services will include but not necessarily be limited to the following services in 2025:

Tracy Unified School District – Interim Full Time Director of Facilities, Don Dias
Don Dias will assume 40 Hours per week for 6 Months. The District can decrease or increase the duration on a as is needed basis.
27 weeks x 40 hours per week @ \$185.00 per hour T & M
Budget of \$199,800.00 (\$7400.00 per week)

1. General:
 - a. Understand and represent District's goals & objectives for the projects;
 - b. Coordinate project activities with and assist District's Project Inspector;
 - c. Coordinate project activities with District's Architect and consultants;
 - d. Make recommendations, if appropriate, which may be incorporated into plans and specifications for project;
2.
 - a. Assist District and interview potential candidates if requested, and provide training to ensure transition of new Director of Facilities.

If necessary, Coordinate and work with PM Attend site meetings at least weekly and prepare complete and accurate meeting minutes for such meetings for distribution; as appropriate
 - b. Oversee, with PM, review and advise District concerning submittals, product samples, and specifications provided by contractor, subcontractors, and material suppliers for the project;
 - c. Analyze recommendations from PM, Contractor, Architect, or other consultants which could improve the project or decrease construction time or costs;
 - g.
 - 1) work billed for each payment requested is completed in accordance with the plans and specifications;
 - 2) contractor time schedule is being maintained, as required by construction contract documents; and
 - 3) costs are within the District's budget;

Consultant's duties and services under this Agreement shall not include preparing or assisting the District with any portion of the District's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the District. The District shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this Project. Consultant's participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. Consultant shall cooperate with the District to ensure that all bidders for a subsequent contract on any subsequent phase of this Project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by Consultant pursuant to this Agreement.

**EXHIBIT B
HOURLY BILLING RATES**

District shall compensate Consultant for the services provided pursuant to this Agreement as follows:

- Don Dias will assume 40 Hours per week for 6 Months. The District can decrease or increase the hours and duration on an as needed basis.
- 27 weeks x 40 hours per week @ \$185.00 per hour T & M Budget of \$199,800 (\$7400.00 per week)

Costs shall be calculated by actual hours per week.

Reimbursable charges and mark-up will not be considered part of the T & M amount.

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 provides, in relevant part:

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

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: February 24, 2025

Name of Consultant: Cumming Management Group, Inc

Signature: *John Caputo*

Print Name and Title: John Caputo

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with District prior to performing any Services under this Agreement.)

FINGERPRINTING CERTIFICATION/CRIMINAL BACKGROUND INVESTIGATION

The undersigned does hereby certify to District that I am a representative of Consultant entering into this Agreement with District; that I am familiar with the facts herein certified; and that I am authorized and qualified to execute this certificate on behalf of Consultant.

Consultant certifies that it has taken at least one of the following actions (check all that apply):

- ☐ The Work of the Agreement is either (i) at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of the Agreement shall come in contact with District pupils or (ii) if Consultant's employees or any subcontractor or supplier of any tier of the Contract interacts with pupils, such interaction shall only take place under the immediate supervision and control of the pupil's parent or guardian or a school employee, so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant under the Agreement.
- ☐ Consultant, who is not a sole proprietor, has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined (A) that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1 and/or (B) that the prohibition does not apply to an employee as provided by Education Code section 45125.1(e)(2) or (3). When Consultant performs the criminal background check, it shall immediately provide any subsequent arrest and conviction information it receives to District pursuant to the subsequent arrest service. No work shall commence until the Department of Justice ascertains that Consultant's employees and any subcontractors' employees have not been convicted of a felony as defined in Education Code Section 45122.1.

A complete and accurate list of Consultant's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto as ATTACHMENT "A."

- ☐ Consultant is a sole proprietor and intends to comply with the fingerprinting requirements of Education Code section 45125.1(h) with respect to all Consultant's employees who may have contact with District pupils in the course of providing services pursuant to the Agreement, and hereby agrees to District's preparation and submission of fingerprints such that the California Department of Justice may determine (A) that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1 and/or (B) that the prohibition does not apply to an employee as provided by Education Code section 45125.1(e)(2) or (3). No work shall commence until the Department of Justice ascertains that Consultant has not been convicted of a felony as defined in Education Code Section 45122.1.

Consultant's responsibility for background clearance extends to all of its employees, subcontractors, and employees of subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of Consultant.

FINGERPRINTING CERTIFICATION/CRIMINAL BACKGROUND INVESTIGATION

ATTACHMENT "A"

List of Employees/Subcontractors

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____


Name/Company: _____

Name/Company: _____

Name/Company: _____

If further space is required for the list of employees/subcontractors, attach additional copies of this page.

Date: February 24, 2025 _____

Name of Consultant:  _____

Signature: _____

Print Name: John Caputo _____

Title: V.P. _____

WORKPLACE VIOLENCE PREVENTION PLAN CERTIFICATION

California Labor Code section 6401.9 requires covered employers to adopt a comprehensive workplace violence prevention plan, which shall be in writing and shall be available and easily accessible to the District's employees. To the extent that it may apply to Contractor's employees, the District's Workplace Violence Prevention Plan ("Prevention Plan") can be found here: [[link to Prevention Plan](#)] or is available at the District Office.

In light of Section 6401.9 of the California Labor Code, Contractor certifies that Contractor has ascertained that the personnel (including the entity's employees and Subcontractors) providing site services on the District's Project have (1) received comprehensive Prevention Plan training and (2) access to the Prevention Plan.


Contractor understands that the Project site will need to comply with the Prevention Plan requirements for its employees and Subcontractors. Personnel who have not received comprehensive Prevention Plan training and do not have access to the Prevention Plan or decline to state if they received such training and have access to the Prevention Plan will be treated as not receiving comprehensive Prevention Plan Training and not having access to the Prevention Plan.

Contractor agrees to compensate the District for any civil penalties and expenses (including attorney's fees) it accrues pursuant to the California Labor Code, including but not limited to, California Labor Code section 6401.9(g), for any California Labor Code violations stemming from Contractor's Project work.

I acknowledge that I am aware of the provisions of and hereby certify that I will adhere to the requirements of the California Labor Code section 6401.9.

Date: February 24, 2025

Name of Consultant: Cumming Management Group, Inc

Signature: 

Print Name: John Caputo

Title: V.P.