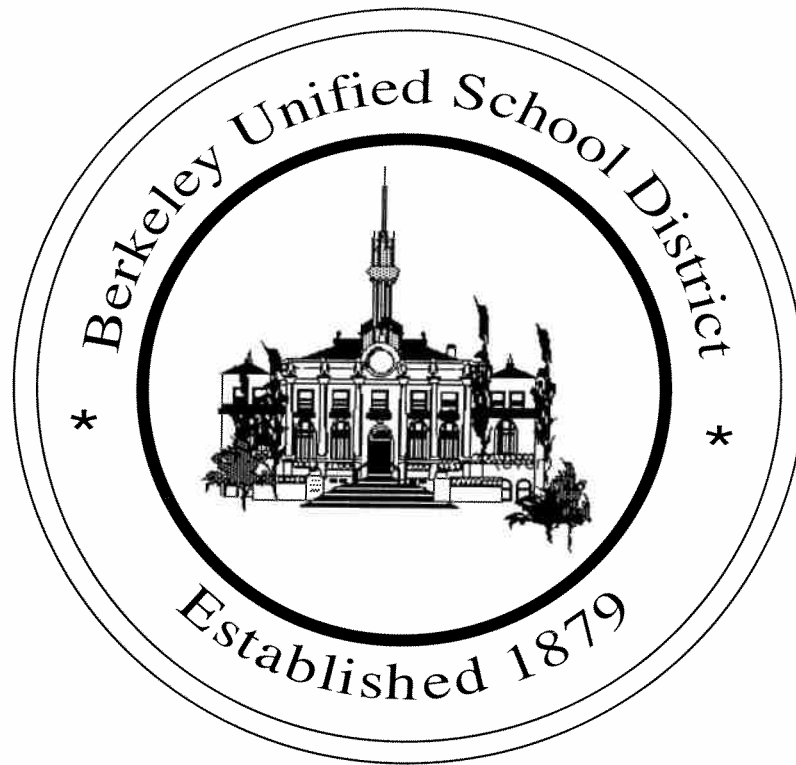


**BERKELEY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION MEETING
AND
SUPERINTENDENT OF SCHOOLS**



BOARD OF EDUCATION MEETING

OCTOBER 17, 2001

Queen Graham
Executive Assistant
to the Superintendent
& Board of Education

**BERKELEY UNIFIED SCHOOL DISTRICT
REGULAR MEETING OF THE BOARD OF EDUCATION – AGENDA
Wednesday, October 17, 2001, at 6:00 p.m.**

District Administrative Offices, Board Meeting Room
2134 Martin Luther King Jr. Way
Berkeley, CA 94704-1180

CALL TO ORDER: The Presiding Officer will call the Meeting to Order at 6:00 p.m. The Board will recess to Closed Session at 6:00 p.m. and reconvene in Public Session at 7:30 p.m.

1. **BOARD ROLL CALL:** President Terry S. Doran
Vice President Shirley Issel
Director Joaquin J. Rivera
Director Ted Schultz
Director John T. Selawsky
Student Director Sarena M. Chandler*

Administration: Superintendent Michele Lawrence, Secretary

2. Prior to Closed Session, as necessary, staff/employee comments are taken per Government Code Section 54957
3. Recess to Closed Session (Government Code Sections 3549.1(d), 54956.9, 54956.9(a) and 54957) and Education Code Section 48918(c)–Board Conference Room
- a. Conference with Legal Counsel—Existing Litigation
[] Service of Process [x] Existing Settlement Negotiations
- b. Liability Claims
1. Claim filed by an employee for damage and reimbursement of expenses allegedly caused by students at Longfellow Arts & Technology Magnet Middle School
 2. Claim filed by a parent for reimbursement of medical expenses and possible pain and suffering for her child when she allegedly fell at Emerson Elementary School
 3. Claim filed by parent for reimbursement of medical expenses and possible pain and suffering for her child when her child allegedly scratched his face on a nail at Arts Magnet
- b. Consideration of Student Expulsion **(Separate document)**
1. Case #07-02

*The Student Director does not attend Closed Session.

Regular Meeting of the Board of Education – Agenda
Wednesday, October 17, 2001, at 6:00 p.m.
Page 2 of 6

3. **Recess to Closed Session** – Board Conference Room (continued)
- d. Collective Bargaining Session
 - e. Public Employee Discipline/Dismissal/Release
 - f. Public Employment and Appointments

RECONVENE IN PUBLIC SESSION - 7:30 p.m.

4. **BOARD ROLL CALL:**
- President Terry S. Doran
 - Vice President Shirley Issel
 - Director Joaquin J. Rivera
 - Director Ted Schultz
 - Director John T. Selawsky
 - Student Director Sarena M. Chandler

APPROVAL OF AGENDA AS PRINTED

REPORT OF ACTION TAKEN IN CLOSED SESSION

PUBLIC TESTIMONY: 30 Minutes—3 Minutes Per Speaker

UNION REPRESENTATIVES: 5 Minutes Each

ADVISORY COUNCILS: 5 Minutes Each

SUPERINTENDENT’S COMMENTS

BOARD MEMBERS’ COMMENTS: 5 Minutes Each

APPROVAL OF MINUTES	Placed on Agenda by	Disposition	Page(s)
5. Approval of Minutes: September 29, 2001 and October 3, 2001	Q.Graham		1-12

Regular Meeting of the Board of Education – Agenda
Wednesday, October 17, 2001, at 6:00 p.m.
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APPROVAL OF CONSENT CALENDAR	Placed on Agenda by	Disposition	Page(s)
6. Approval of Personnel Report	D.Gomez		13-17
7. Action taken regarding decision of Student Expulsion Administrative Panels: Case Number 07-02	C.Lim		Sepa- rate docu- ment
8. Approval to deny claims against the District	D.Gomez		18
9. Approval of Purchases in Excess of \$15,000	J.Malone		19-20
10. Approval of Contract Between Berkeley Unified School District and Hatchuel, Tabernik and Associates	C.Lim		21
11. Approval of Contract Between Berkeley Unified School District and the Bay Area Community Resources (BACR)	C.Lim		22
12. Approval of Placement of Two Special Education Students in Non-Public Schools: a. Seneca for the period of September 28, 2001 to June 30, 2002, at a cost of \$30,137 b. La Cheim for the period of October 1, 2001 to June 30, 2002, at a cost of \$35,600	C.Lim		23
13. Approval of Memorandum (MOU) between the City of Berkeley and Berkeley Unified School District related to architectural and engineering services for the Warm Water Pool and Old Gymnasium Project at Berkeley High School	J.Malone		24-29
14. Approval of Expenditure Plan for Governor's Performance Award for Willard Middle School	C.Lim		30-31
15. Approval of Out-of-State Travel Requests	C.Lim		32

Regular Meeting of the Board of Education – Agenda
Wednesday, October 17, 2001, at 6:00 p.m.
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APPROVAL OF CONSENT CALENDAR (continued)	Placed on Agenda by	Disposition	Page(s)
16. Adoption of Resolution No. A331: Authorization to Accept Completion Of the Electrical Conduit Project At Multiple Sites	J.Malone		33-34
17. Receive and Approve Information on the issuance of payroll warrants for Employee Services for September 2001	J.Malone		35-36
18. Approval of Consulting Services related to operations of the District's Business Information System for the period, October 17, 2001 to January 31, 2002	J.Malone		37-54

APPROVAL OF ACTION ITEMS	Placed on Agenda by	Disposition	Page(s)
19. Approve the submitting of a waiver to suspend the Budget Review Team Process	M.Lawrence		55
20. Approve the Comprehensive Plan for Facilities Operations and Maintenance	M.Lawrence		56-68

Regular Meeting of the Board of Education – Agenda
Wednesday, October 17, 2001, at 6:00 p.m.
Page 5 of 6

DISCUSSION/INFORMATION/REPORTS	Placed on Agenda by	Disposition	Page(s)
8:30 p.m.			
21. Presentation of the Third Annual Report on the District's Early Literacy Plan	C.Lim		69-94
22. Report on 2001 Day & Extended School Year Programs	C.Lim		95-114
23. Notice and Advertisement Concerning Personnel Commission Vacancy	D.Gomez		115-117

9:30 p.m.	Placed on Agenda by	Disposition	Page(s)
PUBLIC HEARING AND AUTHORIZATION			
24. Public Hearing on District Reopener Proposals for Public Employees Union Local One and Authorization to Develop Negotiations Proposals	D.Gomez		118-119

ADDITIONAL PUBLIC TESTIMONY - 10 Minutes

BOARD MATTERS
25. Board Committee Appointments/Reports <ul style="list-style-type: none"> • Berkeley Arts Education Steering Committee • Berkeley School Financing Corporation • Citizens Advisory Committee on Diversity • Citizens Budget and Finance Advisory Committee • Citizens Construction Program Advisory Committee • Facilities Maintenance and Security Advisory Committee • Music Program Committee • Peace and Justice Commission • Student Assignment Advisory Committee • Surplus Facilities Advisory Committee • Two-by-Two Committee • Youth Commission

**Regular Meeting of the Board of Education – Agenda
Wednesday, October 17, 2001, at 6:00 p.m.
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BOARD REQUESTS

ADJOURNMENT

Board of Education Meetings are Broadcast live on KPFB/FM 89.3
and
Cable Television Channel 25
Guidelines for Speakers at Board of Education Meetings

You are invited to participate in the Meetings of the Board of Education and make your views known at these meetings.

WHEN YOU WANT TO TALK ABOUT AN AGENDA ITEM OR A NON-AGENDA ITEM:

Please fill in a **REQUEST TO ADDRESS THE BOARD OF EDUCATION CARD** (located on the side of the Speaker's stand) and give it to the Board Recorder. Your card must be submitted before the Presiding Officer calls for the item—**PUBLIC TESTIMONY.**

You will be called on to speak by the Presiding Officer.

A speaker has three minutes in which to make his/her remarks. (The Presiding Officer will extend the time allocation for those with special speech needs).

Any subject related to the District or its educational programs may be discussed at Board of Education Meetings **except matters pertaining to individual employees of the Berkeley Unified School District.** There is an established procedure for making such complaints. You may obtain information about this procedure from a school or from the Superintendent's Office.

NEXT BOARD OF EDUCATION MEETING DATES: November 14, 2001 and December 5, 2001
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BERKELEY UNIFIED SCHOOL DISTRICT

OFFICIAL BUT UNADOPTED MINUTES

MINUTES, SPECIAL MEETING

Page 1

Saturday, September 29, 2001

1921 San Antonio Avenue

Berkeley, CA 94707

CALL TO ORDER

President Doran Called the Meeting to Order at 9:05 a.m.

1. **BOARD ROLL CALL:**

MEMBERS PRESENT: President Terry S. Doran
Vice President Shirley Issel
Director Joaquin J. Rivera
Director Ted Schultz
Director John T. Selawsky

Administration: Superintendent Michele Lawrence, Secretary

MEMBER EXCUSED Student Director Sarena M. Chandler
(The Student Director does not attend Closed Session)

PUBLIC TESTIMONY

At this time, President Doran called for Public Testimony.

There was no one to address the Board at this time.

2. Recess to Closed Session

a. Public Employment Performance Evaluation: Superintendent

RECONVENE IN PUBLIC SESSION

The Board returned to Public Session at 1:10 P.M.

President Doran stated no action was taken in Closed Session.

ADJOURNMENT

President Doran declared the Special Meeting of September 29, 2001, adjourned at 1:10 p.m.

APPROVED:

ATTEST:

President, Board of Education
Berkeley Unified School District

Secretary, Board of Education
Berkeley Unified School District

qeg

BERKELEY UNIFIED SCHOOL DISTRICT

OFFICIAL BUT UNADOPTED MINUTES

MINUTES, REGULAR MEETING

Page 1

Wednesday, October 3, 2001

District Administrative Offices
Board Meeting Room
2134 Martin Luther King Jr. Way
Berkeley, CA 94704-1180

CALL TO ORDER

President Doran Called the Meeting to Order at 6:00 p.m.

1. **BOARD ROLL CALL:**

MEMBERS PRESENT:

President Terry S. Doran
Vice President Shirley Issel
Director Joaquin J. Rivera
Director Ted Schultz
Director John T. Selawsky
Student Director Sarena M. Chandler*

Administration: Superintendent Michele Lawrence, Secretary

2. Prior to Closed Session, as necessary, staff/employee comments are taken per Government Code Section 54957

No one addressed the Board at this time.

3. **Recess to Closed Session – Board Conference Room**

- a. Conference with Legal Counsel—Existing Litigation (Government Code Section 54956.9(a)
[] Service of Process [x] Existing Settlement Negotiations
- b. Collective Bargaining (Government Code Section 3549.1(d)
- c. Public Employee Discipline/Dismissal/Release (Government Code Section 54957)
- d. Public Employment and Appointments (Government Code Section 54957)

RECONVENE IN PUBLIC SESSION

The Board returned to Public Session at 7:45 p.m.

*The Student Director does not attend Closed Session.

REPORT OF ACTION TAKEN IN CLOSED SESSION

President Doran stated that there was nothing to report from Closed Session.

Motion: Directors Selawsky/Rivera and approved unanimously on voice vote:

That the agenda is approved as printed.

PUBLIC TESTIMONY

Four students from Youth Together addressed the Board.

Ms. Kalina Rose, Ms. Stephanie Allen, Mr. Arthur Stokes, III, Mr. Mark Coplan, Mr. Michael Miller, Ms. Beebo Turman and Mr. Fred Lupke, addressed the Board regarding various issues.

UNION REPRESENTATIVES

Mr. Barry Fike, President, Berkeley Federation of Teachers, addressed the Board.

ADVISORY COUNCILS

Ms. Mary Reiter, Co-Chair, Berkeley Schools Excellence Project (BSEP) and Ms. Yolanda Huang, Co-Chair, Maintenance Advisory Committee, addressed the Board.

SUPERINTENDENT'S REPORT

Superintendent Lawrence introduced Ms. Suzanne McCulloch, Coordinator, Visual and Performing Arts and Mr. Greg John, Vice Principal, Willard Middle School.

BOARD MEMBERS' COMMENTS

Board Members commented regarding **International Walk to School Day**, which was October 2, 2001 and Small Learning Communities.

APPROVAL OF CONSENT CALENDAR

The Board pulled, for separate consideration, Items 5, 7, 8, 9, 10, 11, 13, and 14.

Motion: Directors Schultz/Selawsky and approved unanimously on voice vote:

That Items 6 and 12 are approved.

5. Approval of Minutes: September 19, 2001

Please see page 3 of these minutes for action on this item.

6. Approval of Personnel Report

7. Approval of Purchases in Excess of \$15,000

Please see page 4 of these minutes for action on this item.

8. Approve change order with Vicenti, Lloyd and Stutzman for school business consultant services

Please see page 5 of these minutes for action on this item.

9. Authorization to Enter into Contract for Berkeley Unified School District Safety Health and Environmental Compliance Program

Please see page 5 of these minutes for action on this item.

10. Approval of Listing of Warrants issued in August 2001

Please see page 5 of these minutes for action on this item.

11. Receive and Approve Information on the issuance of payroll warrants for Employee Services for June 2001, July 2001 and August 2001

Please see page 6 of these minutes for action on this item.

12. Approval of Resolution No. 7287: Authorization to Bid Landscape Maintenance Services for the Calendar Year (December 1, 2001-November 30, 2002)

APPROVAL OF CONSENT CALENDAR (continued)

13. Authorization to Award Required Asbestos Hazard Emergency Response Act (AHERA) Inspection to Robert Gils and Associates (RGA)

Please see page 6 of these minutes for action on this item.

14. Resolution Supporting the Berkeley City Council in making the City of Berkeley a Hate-Free Zone

Please see page 6 of these minutes for action on this item.

5. Approval of Minutes: September 19, 2001

Motion: Directors Selawsky/Issel and approved unanimously on voice vote:

That the Minutes of September 19, 2001 be approved as amended. The amendment is on page 7 under Board Requests. The sentence now reads:

Director Selawsky requested a status report on the use of identification badges and **security** at Berkeley High School, **as well as District monitoring and a report on any possible targeting of specific groups of students (i.e., Arabs, Muslims) following the September 11 attacks.**

7. Approval of Purchases in Excess of \$15,000

Motion: Directors Doran/Selawsky and approved unanimously on voice vote:

Approval of Purchases in Excess of \$15,000 as amended. The amendment is to table item #8 on page 16.

APPROVAL OF CONSENT CALENDAR (continued)

8. Approve change order with Vicenti, Lloyd and Stutzman for School Business Consultant Services

Director Selawsky asked if this is a month-to-month consultant contract?

Motion: Directors Selawsky/Doran and approved unanimously on voice vote:

That this item be approved.

9. Authorization to Enter into Contract for Berkeley Unified School District Safety Health and Environmental Compliance Program

President Doran expressed concern that there is an unplanned budgetary cost attached to this contract. Vice President Issel requested more information regarding chemical hygiene especially in the Berkeley High School laboratories. She asked if oversight/supervision and training of students and staff are included in this contract?

Superintendent Lawrence reported that the District will be reimbursed \$20,000 through mandated cost funds to help defray the cost of this contract.

Motion: Directors Rivera/Schultz and approved unanimously on voice vote:

Authorization to Enter into Contract for Berkeley Unified School District Safety Health and Environmental Compliance Program.

10. Approval of Listing of Warrants issued in August 2001

Motion: Directors Schultz/Rivera and approved unanimously on voice vote:

Approval of Listing of Warrants issued in August 2001.

APPROVAL OF CONSENT CALENDAR (continued)

11. Receive and Approve Information on the Issuance of Payroll Warrants for Employee Services for June 2001, July 2001 and August 2001

Motion: Directors Doran/Selawsky and approved unanimously on voice vote:

Approval of this item.

13. Authorization to Award Required Asbestos Hazard Emergency Response Act (AHERA) Inspection to Robert Gils and Associates (RGA)

Motion: Directors Doran/Selawsky and approved unanimously on voice vote:

That Item #13 is approved.

14. Resolution Supporting the Berkeley City Council in making the City of Berkeley a Hate-Free Zone

President Doran read the Resolution.

Motion: Directors Doran/Selawsky and approved unanimously on voice vote:

That Item #14 is approved.

DISCUSSION/INFORMATION/REPORTS

18. Facilities Department Strategic Plan

Superintendent Lawrence said a comprehensive strategic plan could become a framework on which an Annual Maintenance Plan can be developed, approved, and measured. She discussed five ideas and concepts she developed regarding a Facilities Department Strategic Plan. Mr. Lewis Jones, Manager, Facilities Planning and Mr. Gene LeFevre, Director, Maintenance, Grounds, Custodial Services, expressed their support of the proposed plan.

Superintendent Lawrence said she will solicit more input from Facilities, Maintenance and Security Advisory Committee and principals regarding the proposed plan.

Some comments from Board Members included the following:

- The Board requested that staff submit an updated list and timeline of tasks that the maintenance staff has already completed this year and the same information for the remainder of the school year.
- Board Members requested that staff submit the number of FTE's that have been hired in the Maintenance Department to date, by position, and the ultimate FTE for the Maintenance Department.
- They requested that the proposed plan be submitted on a disk and posted on the District's web page.

Superintendent Lawrence said at the next Board Meeting, she will present a specific timeline and organizational structure of the proposed Facilities Department Strategic Plan.

ADDITIONAL PUBLIC TESTIMONY

Ms. Yolanda Huang and Ms. Stephanie Allen, Co-Chairs of the Facilities Maintenance and Security Advisory Committee, addressed the Board regarding the proposed Facilities Strategic Plan.

At this time, President Doran made the following announcements:

- The next Board of Education meetings will be held Wednesday, October 17, 2001, Wednesday, November 14, 2001 and Wednesday, December 5, 2001.
- He congratulated Ms. Thelette A. Bennett, Vice Principal, Longfellow Arts & Technology Magnet Middle School, for being recognized by the BERKELEY COMMUNITY FOUNDATION. Ms. Bennett will receive an Achievement Award for an Individual. The Berkeley Community Foundation Award Dinner will be held at the Radisson Hotel on Thursday, October 25, 2001, at 6:00 p.m.

AGENDA REORDER

APPROVAL OF ACTION ITEMS

15. Accept Proposal from Modular Information Systems (MIS) Data General for replacing the existing Micro Data Computer with a Hewlett Packard Computer

Superintendent Lawrence said even though the District currently intends to transfer to QSS software using the Pleasanton Unified School District computer, the purchase of the Hewlett Packard computer will increase stability and productivity of the Business Department during the months of conversion.

Motion: Directors Rivera/Schultz and approved unanimously on voice vote:

That this item be approved.

16. Approval of Modifications to Board Policy 6146.1: Graduation Requirements/Standards of Proficiency—Second Reading

Ms. Christine Lim, Associate Superintendent, Instruction, said she incorporated the suggestions the Board made at the September 5, 2001 Board Meeting. She also met with the Berkeley High School leadership team and department chairs. Ms. Lim reported that these standards are aligned with the Education Code. She stated that this is an interim solution and staff will come back to the Board after reviewing the high school exit examinations.

Board Members said they would like for the District's graduation requirements to align with the University of California and California State, Hayward requirements.

APPROVAL OF ACTION ITEMS (continued)

16. Approval of Modifications to Board Policy 6146.1: Graduation Requirements/Standards of Proficiency—Second Reading (continued)

Board Members requested that the term “foreign language” be changed to either “other than your native speaking language” or “a language other than English.”

Motion: Directors Rivera/Schultz and approved unanimously on voice vote:

That this item be approved, as amended.

AGENDA REORDER

DISCUSSION/INFORMATION/REPORTS

17. Disapproval of Budget—AB1200

Superintendent Lawrence distributed a letter from Ms. Sheila Jordan, Superintendent, Alameda County Office of Education, regarding the District’s budget. She highlighted two issues listed in the letter: (1) disapproval of the District’s budget; and (2) that the District may not be able to meet its financial obligations. Superintendent Lawrence and Mr. Jerry Kerr, Business Services Consultant, responded to Board questions and comments.

One of the questions that Board Members asked is if staff has a system of tracking retirees when they reach the age of 65?

AGENDA REORDER

BOARD MATTERS

19. Board Committee Appointments/Reports
- Berkeley Arts Education Steering Committee
 - Berkeley School Financing Corporation
 - Citizens Advisory Committee on Diversity
 - Citizens Budget and Finance Advisory Committee
 - Citizens Construction Program Advisory Committee
 - Facilities Maintenance and Security Advisory Committee
 - Music Program Committee
 - Peace and Justice Commission
 - Student Assignment Advisory Committee
 - Surplus Facilities Advisory Committee
 - Two-by-Two Committee
 - Youth Commission

There were no appointments/reports at this time.

BOARD REQUESTS

There were no Board Requests at this time.

ADJOURNMENT

President Doran declared the Regular Meeting of October 3, 2001, adjourned at 11:30 p.m.

APPROVED:

ATTEST:

President, Board of Education
Berkeley Unified School District

Secretary, Board of Education
Berkeley Unified School District

qeg

TO: Michele Lawrence, Superintendent
 FROM: David A. Gomez, Ph.D.
 Associate Superintendent, Administrative Services
 DATE: October 17, 2001
 SUBJECT: PERSONNEL REPORT 01-06

Following is Personnel Report 01-06 which reports details of personnel assignments, employment and terminations.

CERTIFICATED PERSONNEL				EFFECTIVE	
NAME	POSITION	LOCATION	FTE & SALARY	FROM	TO
<u>RESIGNATION</u>					
Jorge Garcia	Teacher	Rosa Parks	1.0	11/1/01	
<u>SUBSTITUTES</u>					
Amalia Alvarez		District	\$115.48	10/18/01	6/13/02
Ian Berzon		District	\$115.48	10/18/01	6/13/02
Thomas Brown		District	\$115.48	10/18/01	6/13/02
Bill Dane		District	\$115.48	10/18/01	6/13/02
Jennifer Dieges		District	\$115.48	10/18/01	6/13/02
Per Eisenman		District	\$115.48	10/18/01	6/13/02
Gloria Elissa		District	\$115.48	10/18/01	6/13/02
Fay Ferency		District	\$115.48	10/18/01	6/13/02
Jennifer Flanzer		District	\$115.48	10/18/01	6/13/02
Meghan Fults		District	\$115.48	10/18/01	6/13/02
Jessica Grant		District	\$115.48	10/18/01	6/13/02
Brian Grieb		District	\$115.48	10/18/01	6/13/02
Stephan Gruen		District	\$115.48	10/18/01	6/13/02
Hanna Hammer		District	\$115.48	10/18/01	6/13/02
Leo Harju		District	\$115.48	10/18/01	6/13/02
Joan Heidenfeldt		District	\$115.48	10/18/01	6/13/02
Andrea Henderson		District	\$115.48	10/18/01	6/13/02
Jonah Hendirckson		District	\$115.48	10/18/01	6/13/02
Justine Holmes		District	\$115.48	10/18/01	6/13/02
Maijastina Hourula		District	\$115.48	10/18/01	6/13/02
Carson Hyde		District	\$115.48	10/18/01	6/13/02
Lori Kasle		District	\$115.48	10/18/01	6/13/02
Heidi Langius		District	\$115.48	10/18/01	6/13/02
Sean Lightholder		District	\$115.48	10/18/01	6/13/02
Jean Liu		District	\$115.48	10/18/01	6/13/02
Nancy McDonald		District	\$115.48	10/18/01	6/13/02
Susan Mickiewicz		District	\$115.48	10/18/01	6/13/02
Stephen Neat		District	\$115.48	10/18/01	6/13/02
Julie Pabian		District	\$115.48	10/18/01	6/13/02
Jeff Pitcher		District	\$115.48	10/18/01	6/13/02
Nivesh Rajbhandari		District	\$115.48	10/18/01	6/13/02
Lewis Ramey		District	\$115.48	10/18/01	6/13/02
Dahlia Silvers		District	\$115.48	10/18/01	6/13/02
Isaiah Singer		District	\$115.48	10/18/01	6/13/02
Caroline Standley		District	\$115.48	10/18/01	6/13/02
Karen Thompson		District	\$115.48	10/18/01	6/13/02
Corrie Werlin		District	\$115.48	10/18/01	6/13/02
Karen Wilson		District	\$115.48	10/18/01	6/13/02
John Wright		District	\$115.48	10/18/01	6/13/02

PERSONNEL REPORT 01-06
October 17, 2001
CLASSIFIED PERSONNEL

							EFFECTIVE
NAME	POSITION	LOCATION	BUDGET	CLASS RANGE STEP	FTE & SALARY	FROM	TO
<u>RESIGNATION</u>							
Abaz Abey	School Safety Officer	Berkeley High School				10/01/01	
Chris Veiga	Instructional Assistant	District				6/14/01	
<u>SUBSTITUTES</u>							
Carlos Acevedo	School Safety Officer	District		44/1	1.0 \$16.62/hr	9/28/01	10/31/01
Antonia Smith	School Secretary II	King		44/1	As Needed \$16.62/hr	8/27/01	6/14/02
Gracie Munoz	Bilingual Instructional Assistant	District		29/1	18 hrs/wk \$11.48/hr	10/8/01	11/15/01
Marco A. Villa	Intramural Director	King Extended Day Program		N/A	7 hrs/wk \$11.45/hr	10/1/01	6/14/02
Juan Buendia	School Safety Officer	Berkeley High School		44/1	.50 \$16.62/hr	9/20/01	10/31/01
Marcus Guery	Student Worker	Adult School			As Needed \$6.25/hr	9/25/01	6/14/02
Margretha Chacona Johnson	Tutor	King Extended Day Program		N/A	8 hrs/wk \$11.45/hr	9/10/01	6/14/02
Norma Gage	Noon Director	LeConte		N/A	2 hrs/day \$11.45/hr	9/24/01	6/14/02
Samantha Miller	Clerical Assistant II	District		32/2	18 hrs/wk \$12.99/hr	9/18/01	10/31/02
Akili Banjo	Tutor	King Extended Day Program		N/A	\$11.45/hr 8 hrs/wk	9/24/01	6/14/02
D'Mario D. Rogers	Student Worker	Adult School		N/A	As Needed \$6.25/hr	9/24/01	6/14/02
Taryn Clark	Professional Expert	Longfellow		N/A	7.5 hrs/wk \$24.71/hr	9/4/01	12/1/01
Jeronomo Carlos	Tutor & Coach	King Extended Day Program		N/A	Stipend \$1200.00	10/1/01	11/30/01
Patrick Sewell	Intramural Director	King		N/A	As Needed \$11.45/hr	8/29/01	6/14/02

PERSONNEL REPORT 01-06
October 17, 2001
CLASSIFIED PERSONNEL

						EFFECTIVE	
NAME	POSITION	LOCATION	BUDGET	CLASS RANGE STEP	FTE & SALARY	FROM	TO
Mary Ann Reynolds	School Safety Officer	Berkeley High School		44/1	1.0 \$16.62/hr	9/20/01	10/31/01
Juanita Romero	Noon Director	LeConte		N/A	5 hrs/wk \$11.45/hr	9/24/01	6/14/02
Ginny Johnson	Noon Director	Malcolm X		N/A	180 hrs/year \$11.45/hr	10/1/01	6/14/02
Carol Hacker	Noon Director	City of Franklin		N/A	As Needed \$11.45/hr	10/1/01	6/14/02
Gloria Sanchez	Noon Director	City of Franklin		N/A	As Needed \$11.45/hr	10/1/01	6/14/02
Georgia McNeal	Noon Director	City of Franklin		N/A	As Needed \$11.45/hr	10/1/01	6/14/02
Bertha Lockin (Reed)	Noon Director	City of Franklin		N/A	As Needed \$11.45/hr	10/1/01	6/14/02
Jack Coglizer	Instructional Technician	Berkeley High School		34/1	35 hrs/wk \$12.99/hr	9/1/01	8/1/02
Vitaline Briggs	Instructional Assistant Special Education	District		31/1	As Needed \$12.06/hr	9/11/01	6/14/02
Norman Brown	Instructional Technician	Malcolm X		34/1	As Needed \$12.99/hr	9/17/01	6/14/02
Andrew Jokelson	Instructional Specialist	Longfellow		51/1	6 hrs/wk \$19.79/hr	9/11/01	6/14/02
Elliot Cohen	Instructional Assistant	District		31/1	As Needed \$12.06/hr	9/10/01	6/14/02
Sierra Lanier-Cook	Noon Director	Berkeley Arts Magnet		N/A	5-10 hrs/wk \$11.45/hr	10/1/01	6/14/02
Jenifer Steele	Instructional Assistant Special Education	King		31/1	As Needed \$12.06/hr	9/27/01	6/14/02
Fele Upersa	Instructional Technician	King		34/1	20 hrs/wk \$12.99/hr	8/28/01	6/14/02
Dan McGarry	Assistant Boys Swimming & Diving Coach	Berkeley High School		N/A	Stipend \$959.20	Spring Sports Season	
Shahab Bayat	Student Worker	Adult School		N/A	As Needed \$6.25/hr	9/1/01	6/14/02

PERSONNEL REPORT 01-06
October 17, 2001
CLASSIFIED PERSONNEL

EFFECTIVE							
NAME	POSITION	LOCATION	BUDGET	CLASS RANGE STEP	FTE & SALARY	FROM	TO
Kayla Bell	Student Worker	Jefferson		N/A	20 hrs/wk \$6.25/hr	9/26/01	6/14/02
Javier Cepeda	Student Worker	Adult School		N/A	As Needed \$6.25/hr	9/1/01	6/14/02
Karen Hughes	Noon Director	Berkeley Arts Magnet		N/A	As Needed \$11.45/hr	10/1/01	6/14/02
Michael Crystal	Tutor	King Extended Day Program		N/A	<20 hrs/wk \$11.45/hr	9/10/01	6/14/02
<u>PROBATIONARY</u>							
Tina Lee	Instructional Assistant Special Education	Emerson		31/1	.80 \$12.06/hr	9/18/01	3/18/01
Nicola East	Instructional Assistant Special Education	Berkeley High School		31/1	.73 \$12.06/hr	9/4/01	3/4/02
Rita Pettit	Instructional Assistant Special Education	Malcolm X		31/1	.80 \$12.06/hr	9/3/01	3/3/02
Maria Navarro	Instructional Assistant Special Education	Hopkins		31/1	.53 \$12.06/hr +10% Differential	10/1/01	4/1/02
Nick Furuzawa	Instructional Assistant Special Education	Thousand Oaks		31/1	.80 \$12.06/hr + 10% Differential	10/1/01	4/1/02
Carlo Mogavero	Instructional Technician	Emerson		34/2	.80 \$13.64/hr	8/27/01	2/27/02
Pauline Bondonno Cross	Health Educator	Berkeley High School		58/1	.40 15 hrs/wk \$23.54/hr	9/17/01	7/31/02
Betty Easley	Instructional Technician	Berkeley High School		34/1	1.0 \$12.99/hr	10/3/01	6/14/02
Allison Downing	Attendance Coordinator	Berkeley High School		31/1	1.0 \$12.06/hr	9/3/01	3/3/01
Rachel Freeburg	Instructional Assistant Special Education	Rosa Parks Special Day Class		31/1	.80 \$12.06/hr + 5% Differential	9/1/01	3/1/02
Anthony Beroecio	Instructional Technician	Thousand Oaks		34/1	.60 \$12.99/hr	8/28/01	2/28/02

PERSONNEL REPORT 01-06
October 17, 2001
CLASSIFIED PERSONNEL

						EFFECTIVE	
NAME	POSITION	LOCATION	BUDGET	CLASS RANGE STEP	FTE & SALARY	FROM	TO
Jean Kane	Instructional Assistant Special Education	Hopkins Special Education		31/1	.40 \$12.06/hr + 10% Differential	9/1/01	3/1/02
Audrey Moon	Instructional Assistant Special Education	Berkeley High School		31/1	.73 \$17.06/hr	9/12/01	3/12/02
<u>PROVISIONAL</u>							
Debra Jack	Senior Personnel Assistant	Personnel Office		42/1	1.0 \$15.83/hr	8/29/01	11/29/01
Chris Robison	Instructional Technician	Willard		34/1	.80 \$12.99/hr	8/29/01	2/29/02
John Crockett	Landscaping Supervisor	Plant Operations		65/1	1.0 \$24.97/hr + 5% Differential	9/24/01	12/24/01
Pusadee Berreman	Account Clerk	Accounting Department		36/1	1.0 \$13.64/hr	10/1/01	1/1/02
Matie May	Locker Room Attendant	Berkeley High School		33/1	3 hrs/day \$12.67/hr	8/28/01	11/28/01
Charlene Powell	Instructional Assistant (Interpreter for Deaf)	John Muir		45/1	.19 \$17.05/hr	10/1/01	1/1/02
John January	High School Operations Supervisor	Berkeley High School		45/5	1.0 \$20.79/hr	10/1/01	1/1/02
Kathryn Sullivan	Home School Liaison	Berkeley High School		45/4	.80 \$19.79/hr	10/1/01	6/14/02
<u>LIMITED TERM</u>							
Christopher Brague	Instructional Specialist	Berkeley Arts Magnet		51/1	.51 \$19.79/hr	10/1/01	3/29/02

Berkeley Unified School District

TO: Michele Lawrence, Superintendent
FROM: David Gomez, Ph.D., Associate Superintendent, Admin. Services
DATE: October 17, 2001
SUBJECT: Liability claims submitted to Berkeley Unified School District

BACKGROUND INFORMATION:

The following claims for damages to person or property have been filed against Berkeley Unified School District:

1. Claim filed by an employee for damage and reimbursement of expenses to his vehicle allegedly caused by Longfellow students.
2. Claim filed by a parent for reimbursement of medical expenses and possible pain and suffering for her child when she allegedly fell at Emerson School.
3. Claim filed by a parent for reimbursement of medical expenses and possible pain and suffering for her child when he allegedly scratched his face on a nail at Arts Magnet.

POLICY/CODE:

Government Code Section 910

FISCAL IMPACT:

None

STAFF RECOMMENDATION:

Deny all claims presented.

Supplement to Board Agenda October 17, 2001

APPROVAL OF CONTRACTS/PURCHASE ORDERS

ROLL: Motion Recommend: That the Board Authorized the Associate Superintendent, Business or Purchasing Manager to execute the following contracts and purchase orders.

EXPENSE:

SERVICES CONTRACTS IN EXCESS OF FIFTEEN THOUSAND DOLLARS (\$15,000)

Request by	Vendor	Funding	Amount	MBE*
I.L. Jones Manger Facilities	Mobile Modular Mgmt. Corp. 5700 Las Positas Road Livermore CA	Bond Fund (increase of \$578,628)	\$1,111,715	

Continue lease of sixteen portable classrooms, two portable restrooms, and four portable administration trailers ramps and decking, cost includes dismantling and return delivery for Berkeley High School for the period September 24, 2001 through May 24, 2005. The original purchase order was for the period July 21, 2000 through September 23, 2001 in the amount of \$532,790, charged to fire insurance budget, board approved on May 3, 2000, this increase of \$578,628 will be charged to the bond budget.

2.L. Jones Manager Facilities Planning	GE Capital Modular Space 21201 Cabot Boulevard Hayward CA	Bond Fund (increase of \$80,441)	\$374,041	
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Continue lease of three portable health center trailers for the period October 15, 2001 through June 15, 2005, cost includes dismantling and return delivery for Berkeley High School. The original purchase order was for the period April 18, 2000 through October 14, 2001, in the amount of \$293,600, \$79,000 board approved on May 3, 2000, increase of \$108,196.41 no board approval, increase of \$37,803.59 board approved on October 4, 2000 and \$68,600 board approved on March 7, 2001, charged to the fire insurance budget, this increase of \$80,441 will be charged to the bond budget.

3.D. Gomez Assoc. Supt., Admin. Services	Kaiser Foundation Health Plan P O Box 1169 Oakland CA	General Fund (increase of \$550,000)	\$625,000	
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Annual premium for two hundred and twenty seven retirees for the period July 1, 2001 through June 30, 2002. The cost for FY00 was \$657,900.48 and the cost for FY99 was \$666,515.46. A purchase order was approved by the Board of Education on July 5, 2001 in the amount of \$75,000 for the retirees of the Berkeley Unified School District participating in the Kaiser Permanente Health Plan. However, that was in error and should have been for \$625,000 which was budgeted.

4.D. Gomez Assoc. Supt. Admin. Services	Arthur J. Gallagher Inc. P O Box 6000 San Francisco CA	Insurance Fund	\$233,368	
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Insurance loss adjustment for the policy periods December 31, 1998-99, in the amount of \$22,766 and December 31, 1999-00 in the amount of \$210,602.

APPROVAL OF CONTRACTS/PURCHASE ORDERS

5.L. Jones	Wulfsberg Reese Ferris	Bond Fund	\$800,000
Manager	Sykes Professional Corp	(increase of \$400,000)	
Facilities	300 Lakeside Drive		
	Oakland CA		

To provide professional legal services on general bond construction matters and litigation as needed for the period July 1, 2001 through June 30, 2002. The original purchase order in the amount of \$400,000 board approved on August 15, 2001.

6.F. Lynch	Michael's Transportation	General Fund	\$20,000
Principal	140 Yolano Avenue		
Berkeley High	Vallejo CA		

To provide transportation services for the Berkeley High School Athletic Department for the 2001-2002 school year.

7.F. Lynch	City of Berkeley	General Fund	\$35,918
Principal	Health & Human Services		
Berkeley High	Public Health Division		
	2344 Sixth Street		
	Berkeley CA		

Registered nurse services at Berkeley High School for the period January 1, 2001 through June 30, 2001.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence, Superintendent
FROM: Christine Lim, Associate Superintendent, Instruction
DATE: October 17, 2001
SUBJECT: Approval of Contract Between Berkeley Unified School District and Hatchuel, Tabernik and Associates

BACKGROUND INFORMATION:

Since 1999, BUSD has been the Local Educational Agency (LEA) for the Region 4 Training and Technical Assistance Center for Healthy Start and After School Learning Programs. BUSD operates the Region 4 California Department of Education (CDE) Training and Technical Assistance Center through a contract with Hatchuel, Tabernik and Associates (HTA). Over the last three years, four multi-year grants have been awarded to the District and administered by HTA. The following breakdown represents the grant awards for 2001-2002 and 2002-2003:

1. After School Technical Assistance Grant- \$103,420 for each year.
2. After School Technical Assistance Augmentation - \$55,800 (2001-02 only)
3. Healthy Start Business Partnership - \$145,745 (2001-02 only)
4. Healthy Start Technical Assistance - \$50,000 for each year.

The total grant amount for 2001-02 is \$354,965 and for 2002-03 is \$153,420.

HTA administers all aspects of the Region 4 Training and Technical Assistance Center, in coordination with the BUSD Manager of School Linked Programs. The Manager of School Linked Programs assures that the contracts are adhered to in accordance with state funding guidelines and contractual agreements.

POLICY/CODE:

Board approval needed for contracts over \$15,000.

FISCAL IMPACT:

\$333,490 in 2001-02 and \$144,215 in 2002-03 in restricted funds and approximately \$21,475 in 2001-02 and \$9,205 in 2002-03 generated for indirect costs.

STAFF RECOMMENDATION:

Approve the contract of \$333,490 for 2001-02 and \$144,215 for 2002-03 between BUSD and Hatchuel, Tabernik and Associates to administer the Region 4 CDE Training and Technical Assistance Program for Healthy Start and After School Learning Programs.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence, Superintendent
FROM: Christine Lim, Associate Superintendent, Instruction
DATE: October 17, 2001
SUBJECT: Approval of Contract Between Berkeley Unified School District and the Bay Area Community Resources (BACR).

BACKGROUND INFORMATION:

Since 1999, Bay Area Community Resources (BACR) has been the Fiscal Agent for the Willard After School Program. This year, the Willard After School Program entered its third year of the California Department of Education After School Learning and Safe Neighborhood Partnership Program (ASLSNPP). At Willard, the ASLSNPP is \$100,000 per year for three years. During the first two years of this grant, BACR managed components of Willard's After School Program, specifically in the areas of sports and arts programming. This year Willard will continue its partnership with BARC with a contract for services totaling \$34,000 for sports and arts programming. BARC agrees to administer financial aspects in accordance with the funding guidelines and the District contract.

POLICY/CODE:

Board approval needed for contracts over \$15,000.

FISCAL IMPACT:

There is no fiscal impact to the General Fund.

STAFF RECOMMENDATION:

Approve the contract of \$34,000 between BUSD and the Bay Area Community Resources.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence, Superintendent
FROM: Chris Lim, Associate Superintendent, Instruction
DATE: October 17, 2001
SUBJECT: Placement of Two Special Education Students in Non-Public Schools

BACKGROUND INFORMATION:

A. Student AJ, Birthdate 6/19/86

The student is in 10th grade at BAHS and is emotionally disturbed. She has received an AB3632 determination and day treatment has been recommended. The District has secured a placement at La Cheim.

For the time period: 10/01/01 to 06/30/02 (170 days)

Daily rate:	\$	180.00
Related Services:	\$	5,000.00
Total estimated cost:	\$	35,600.00

B. Student KJ, Birthdate 09/30/87

The student, who is emotionally disturbed, was moved from KMS to WMS and an AB3632 referral was made in the spring as he became a danger to himself and others. Alameda County Mental Health determined that day treatment was in order and we would like to place him at Seneca.

For the time period: 09/28/01 to 06/30/02 (171 days)

Daily rate:	\$	147.00
Related Services:	\$	5,000.00
Total estimated cost:	\$	30,137.00

POLICY/CODE:

Education Code: 56365 (a)
Education Code: 56361 (e)
Education Code: 56366

TOTAL FISCAL IMPACT:

AB602 Funding:	\$65,737.00
Unreimbursed Total Cost From General Fund:	\$65,737.00

STAFF RECOMMENDATIONS:

Approve the placement of the students in the Non-Public Schools noted above.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence
FROM: John Malone
DATE: October 17, 2001
SUBJECT: Approve Memorandum of Understanding (MOU) between the City of Berkeley and the Berkeley Unified School District related to architectural and engineering services for the Warm Water Pool and Old Gymnasium project at Berkeley High School

BACKGROUND INFORMATION

The Old Gymnasium and Warm Water Pool projects at Berkeley High School are interrelated because of the physical location of each of the projects. In order to reduce the cost of the development of these projects, the two components should be designed together.

An agreement has been negotiated with the City of Berkeley for the architectural and engineering services for the joint project. The agreement allows for joint input to the design process. Costs are proportionately shared with the City based on the costs of each component. The share established is 12.2% for the City and 87.8% for the District. After the completion of the design phase the construction of the projects can be amended into the agreement, if practical. This amendment would require Board action.

Copies of the information that was presented to the Berkeley City Council relating to this project is attached.

POLICY/CODE

Government Code 6500 et seq.

FISCAL IMPACT

None

STAFF RECOMMENDATION

Approve the agreement previously approved by the City of Berkeley



Office of the City Manager

CONSENT CALENDAR

July 24, 2001

To: Honorable Mayor and
Members of the City Council

From: Weldon Rucker, City Manager

Subject: MEMORANDUM OF UNDERSTANDING: WARM WATER POOL

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a Memorandum of Understanding with Berkeley Unified School District for the design of improvements to the Warm Water Pool at Berkeley High School and authorizing the City Manager to make any necessary payments to the School District for design and management services under that MOU.

BACKGROUND

The Warm Water Pool is a therapeutic pool located in a structure adjacent to the Gymnasium on the campus of Berkeley High School. The School District and the City jointly operate the pool under an existing Memorandum of Understanding (MOU). The pool has deteriorated and is in need of significant repairs. In November 2000, Berkeley voters approved Measure R, which provided \$3,000,000 in funding to renovate the Warm Water Pool. At the same time, Berkeley voters also approved Measure AA, which provided \$116,000,000 to renovate various school facilities including the old gymnasium at Berkeley High School. Since the old gymnasium building includes the Warm Water Pool, joining with the School District to proceed together on the design and construction effort has some advantages to both parties. Due to the proximity of the work on these two projects, the need for a common set of plans and specifications to address the necessary interfaces between the projects, and the common state approval process, it is best for the City and the School District to collaborate, at least in the preparation of the construction documents.

Attachment 1 is an MOU that has been prepared to address the issues involved in jointly proceeding to develop the construction documents. At this point, it is not clear if similar advantages will exist for the construction process and so a final decision on that issue has been postponed until the design is further developed. The MOU will be amended in the future to include a joint construction process if that proves feasible.

The construction documents for this project must be reviewed and approved by the State Architect since the pool is located on school property. That process will add 6-9 months to the design/development process, but that approval is necessary whether the City collaborates with the School District or not. It is anticipated that a pool design properly coordinated with the old gymnasium design will expedite the State approval process. Using the collaborative design process should permit construction to begin in May 2003 and be completed in November 2004.

As the MOU is structured, the School District will be responsible for preparing and entering into contracts with consultants for design and project management using District procedures, contracting rules, and contract forms. Since the School District will have the majority of the contract costs and work, the City's contracting rules and restrictions will not be included in the contracts with the consultants. The City will be responsible for reimbursing the School District for pool related expenses based on an estimated proportional cost of the Warm Water Pool as compared to the total project. That ratio has been established as 12.2% for the basic design and management services required. The School District will bill the City on a monthly basis for the City's share of costs.

Attachment 2 is the current cost breakdown for the project.

FINANCIAL IMPLICATIONS

Total Project Funding is \$3,300,000. There is \$300,000 available from Capital Improvement Fund (610-5451-463-3038-XX9R40) and \$3,000,000 available as approved by the passage of Measure R.

Contract Management System #FTFD2

CONTACT PERSONS:

Rene Cardinaux, Director of Public Works	981-6300
John Rosenbrock, Manager of Capital Projects.....	981-6331
Hamid Kondazi, Project Manager.....	981-6335

Approved By:

John Rosenbrock, Manager of Capital Projects

Rene Cardinaux, Director of Public Works

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT made and entered into this _____ day of _____, 2001 by and between the CITY OF BERKELEY, a body of politic and a municipal corporation of the State of California, hereinafter called CITY and the BERKELEY UNIFIED SCHOOL DISTRICT hereinafter called DISTRICT.

WHEREAS, in November 2000, the voters of the City of Berkeley approved Measure R which provided \$3,000,000 in funding to renovate the existing Warm Water Pool at Berkeley High School

WHEREAS, in November 2000, the voters in the Berkeley Unified School District approved Measure AA which provided \$ 116,000,000 to renovate various school facilities including the old Gymnasium at Berkeley High School; and

WHEREAS, the old Gymnasium building includes the Warm Water Pool within its general boundaries; and

WHEREAS, due to the proximity of the work on these two projects and the need for a common set of plans and specifications to address the necessary interfaces between the projects and the State approval process it is the best interest of both the CITY and the DISTRICT to collaborate in the preparation of the construction documents,


Now, THEREFORE, the two parties agree to the following terms and conditions pertaining to the Warm Water Pool at Berkeley High School.

1. DISTRICT shall enter into written contracts with an Architect/Engineer (A/E) to prepare the construction documents and a Construction Management (CM) firm to manage the project.
2. The CITY shall have the right participate in the selection of the A/E and CM firms and to approve the terms of those contracts. CITY shall indicate approval of the selection and terms in writing to the DISTRICT prior to award of the contracts.
3. This AGREEMENT is solely for the design of the projects through approval of the construction documents by Division of State Architect (DSA). If the parties subsequently agree to have the construction performed jointly under one construction contract, this AGREEMENT shall be modified to reflect the parties' responsibilities with respect to a common contractor.
4. Any amendments to the A/E or CM contracts that will affect CITY costs must be approved in writing by the CITY.
5. The share of CITY cost for A/E and CM shall be based on the ratio of CITY construction cost to DISTRICT construction cost, as computed herein. That ratio shall be used to establish the CITY share of any A/E or CM invoices for basic services. For additional or special services beyond the basic services, CITY or DISTRICT will pay the full costs of

any of those services that they request and that are specific to their portion of the project. If there are special or additional services that benefit the entire project, those services shall be paid using the ratio established herein, unless a different ratio is agreed upon in advance by both parties.

6. DISTRICT shall bill CITY and attach copies of the A/E and CM bills as backup. Payment shall not be more often than once per month.
7. DISTRICT shall supply 15 copies of a monthly progress report on the status of the projects to the CITY.
8. CITY may send a delegate to site committee meeting to represent CITY.
9. A project committee shall be established consisting of a representative from DISTRICT, CM, CITY, and A/E. The committee shall meet at least once a month.
10. DISTRICT shall obtain the approval of Division of State Architect (DSA) for the construction documents.
11. In Design of said PROJECT, representatives of CITY and DISTRICT will cooperate, consult, and work toward the earliest completion of the work
12. Maintenance of the PROJECT shall be covered under a separate Agreement.
13. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
14. This AGREEMENT shall terminate 90 days after final approval of the contract documents by DSA, or on December 31, 2003, whichever is earlier in time.
15. Any disputes arising out of this AGREEMENT shall be referred to, the CITY Manager and District Superintendent whose decision shall be final

BERKELEY UNIFIED SCHOOL DISTRICT CITY OF BERKELEY

By: 

By: _____
Mayor

Attest: _____
City Clerk

Approved as to form:

City Attorney

COST ESTIMATE BREAKDOWN

<u>DESCRIPTION</u>	<u>TOTAL</u>	<u>CITY</u>	<u>BUSD</u>
Preliminary Eng./ Design	\$1,888,000	\$230,350	\$1,657,650
Consultant	\$800,000	\$97,600	\$702,400
Construction Cost	\$18,000,000	\$2,196,000	\$15,804,000
Staff Cost	TBD	\$299,150	TBD
Contingency (8%)	\$1,450,000	\$176,900	1,273,100
Total Cost	\$22,138,000	\$3,000,000	\$19,437,150

Notes:

In the above table, some of the values may have been rounded off to simplify the presentation.

Share of City costs of the above presentation is 12.2% (city construction cost/total construction cost = 2,196,000/18,000,000), which shall prevail over the dollar amounts derived there from.

District Staff cost has no bearing on the project cost distribution.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence, Superintendent
FROM: Christine Lim, Associate Superintendent, Instruction
DATE: October 17, 2001
SUBJECT: Approval of Expenditure Plan for Governor's Performance Award for Willard Middle School

BACKGROUND INFORMATION:

All public schools in the state of California that met their Academic Performance Index (API) growth targets for the 1999-2000 school year have received two separate monetary awards from the State Department of Education. Education Code section 52057 requires that the School Site Councils and the Governing Boards of school districts have agreement on an expenditure plan for the Governor's Performance Award prior to any expenditures. The Governor's Performance Award (GPA) was funded at \$63 per pupil and is unrestricted.

Willard Middle School

The attached form indicates the expenditures approved by Willard Middle School Site Council for a total of \$37,773.48 on September 12, 2001.

POLICY/CODE:

California Education Code, Chapter 6.1 – Public Schools Accountability Act of 1999 (§ 52057)

FISCAL IMPACT:

None.

STAFF RECOMMENDATION:

Approve the Governor's Performance Award expenditure plan for Willard Middle School.

Berkeley Unified School District
Governor's Performance Award
Expenditure Plan
2000-2001

SITE: Willard Middle School AWARD AMOUNT: \$37,773.48

EXPENDITURE	RATIONALE	DISTRICT GOAL	AMOUNT
UC Berkeley tutors to work in classrooms and in the after school program	Tutors will support teachers in raising test scores by providing academic help to underachieving students	Raise grades and test scores of Title One students	\$13,000
UC Berkeley tutors to work in classrooms and in the after school program	Tutors will support teachers in raising test scores by providing academic help to underachieving students	Raise grades and test scores of English Learner Students	\$7,000
Math & English Tutors for the Intervention Program	Tutors will assist teachers with underachieving students	Raise grades and increase test scores of underachieving students	\$10,000
Grade Pro – Grading system	Minimize paper waste, provide systematic grading procedure	Increases and clarifies home-school communication	\$1,000
Teacher Hourly – Certificated staff person to supervise the after school tutorial program	To provide supervision and support to tutors and students in the after school tutorial program	Provide a safe learning environment for students.	\$2,500
Materials for after school program.	Instructional support items to implement program	Increase student achievement	\$2,500
Technology Materials—ink jet cartridges etc.	Staff has access to materials to support the functioning of technology equipment.	Computer literacy for BUSD staff.	\$1773.48

Note: Sites are strongly discouraged from using these funds for on-going staffing salaries, as the funds are one-time, not ongoing basis. Revised 4/19/01

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence, Superintendent
FROM: Christine Lim
Associate Superintendent, Instruction
DATE: October 17, 2001
SUBJECT: Approval of Out-of-State Travel Requests

BACKGROUND INFORMATION

The follow out-of-state travel requests are being made:

1. Carla Basom, Program Manager, State and Federal Projects, Ann Hiyakumoto, Teacher on Special Assignment, State and Federal Projects, Joyce Sutton-Hamilton, Program Coordinator, State and Federal Projects and Irving Phillips, Director Magnet Programs, are requesting to travel to Reno, Nevada on November 13-15, 2001 to attend the annual Improving America's Schools Conference. The costs are to be paid from District level School Improvement Program and Magnet Program funds.
Estimated Costs: \$600.00 per person
2. Cheryl Chinn, Principal, Sarah Waggoner, Site Magnet Coordinator, Tara Easily and Dyanthe McDougal, Teachers, all from Malcolm X School are requesting to travel to New Orleans, Louisiana on October 31- November 2, 2001 to attend the 2001 Visual and Performing Arts Network Conference. The costs are to be paid from site Magnet funds.
Estimated Costs: \$800.00 per person
3. Ratification for Travis Smith from the BUSD Nutrition Network Program, and Nancy D Waters, Principal of John Muir School, are requesting travel to New York, New York on Oct 10-14 for a science/nutrition curriculum training at Teachers College, Columbia University. The majority of the costs are to be paid by the Center for Ecoliteracy and \$250.00 will come from the California Nutrition Network Program contract.
Estimated Costs: \$250.00 per person of restricted District funds, \$1,450 per person provided by the Center for Ecoliteracy

POLICY/CODE

Board Policy DJD – Travel Expense Reimbursement Policy

FISCAL IMPACT

As indicated above.

STAFF RECOMMENDATION

Approve the out-of-state travel requests.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence, Superintendent
FROM: John Malone, Interim Associate Superintendent of Business
DATE: October 17, 2001
SUBJECT: Adopt Resolution A331 - Authorization to Accept Completion
of the Electrical Conduit Project at Multiple Sites

BACKGROUND INFORMATION

In November 2000, the Berkeley Unified School District entered into a contract with Younger Wunar, Inc. of El Cerrito, California for completion of electrical conduit work at multiple sites throughout the District. The project has been on going. The project construction manager has indicated that the work is complete and has recommended to the Manager of Facilities Planning that the notice of completion be approved for filing on this project.

POLICY/CODE

Public Contract Code 20111

FISCAL IMPACT

None

STAFF RECOMMENDATION

Approve the notice of completion for Electrical Conduit Project at Multiple Sites and adopt Resolution A331.

RESOLUTION NO. A331

AUTHORIZATION TO ACCEPT COMPLETION of the ELECTRICAL CONDUIT PROJECT at MULTIPLE SITES

WHEREAS, **YOUNGER WUNAR, INC.**, a contractor licensed and Exiting Under and by virtue of the laws of the State of California, and having offices at 2107 Kearney Street, El Cerrito, CA entered into a contract dated **22nd day of November, 2000**, with Berkeley Unified School District of Alameda County, State of California to secure all labor, materials, mechanical workmanship, transportation, equipment and services necessary for the Electrical Conduit Project at Multiple Sites and

WHEREAS, Project Construction manager employed by this Board to Prepare plans and specifications and to supervise the work has certified in writing to the Board That said contractor has completed the work of said contract in workerlike and satisfactory manner as of **October 17, 2001** and that warrant period begin on this date for this work.

NOW, THEREFORE, BE IT RESOLVED, that said written certification of said Supervisor's recommending the acceptance of the work listed above of said contract be and the same is hereby approved and adopted, and said work of said

PASSED AND ADOPTED by Board of Education of the Berkeley Unified School District this 17th day of OCTOBER 2001.

AYES:

NOES:

ABSENT:

ABSTAIN:

Michele Lawrence, Superintendent
Secretary of the Board of Education
Of the City of Berkeley and of
Berkeley Unified School District of
Alameda County, State of California
Contract be same is hereby accepted.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence
FROM: John Malone
DATE: October 17, 2001
SUBJECT: Receive and Approve Information on the issuance of payroll warrants for Employee Services for September 2001

BACKGROUND INFORMATION

On a regular basis the Board receives information, which indicates the total amount paid during a monthly processing cycle for payroll services. The attached represents pay warrants from various funds for the months of September 2001.

POLICY/CODE

Educational Code 41010 et seq.

FISCAL IMPACT

None

STAFF RECOMMENDATION

Approve payroll payments made in September 2001.

BERKELEY UNIFIED SCHOOL DISTRICT
District Payroll -- Accounting Department
BUSD PAYROLL ISSUES FOR SEPTEMBER 2001

COMPUTER GENERATED	AMOUNT
GENERAL FUND	\$ 2,683,841.22
MEASURE BB FUND	\$ 109,401.82
ADULT FUND	\$ 213,702.78
CAFETERIA FUND	\$ 118,283.10
CHILD DEVELOPMENT FUND	\$ 303,238.54
MEASURE A +AA (BOND FUND)	\$ 20,788.20
SCHOOL ENRICHMENT FUNDS	\$ 116,682.21
SELF INSURANCE FUND	\$ 4,940.91
TOTAL DISTRICT PAYROLL	<u>\$ 3,570,878.78</u>

Approved by : *K. Nelson* 10/3/01

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence, Superintendent
FROM: John Malone, Interim Associate Superintendent of Business
DATE: October 17, 2001
SUBJECT: Consulting related to operations of the District's Business Information System for the period October 17, 2001 to January 31, 2002

BACKGROUND INFORMATION

The Berkeley Unified School District Business Management Information System (BIS) has been operating for several years using existing hardware and software. In December 2000, the District entered into an agreement with Modular Information Systems (MIS) of San Ramon, California to assist the District's staff in the operation of the BIS. BIS provides accounting, payroll and personnel information.

The BIS functions are expected to begin transfer soon to new software operated by Pleasanton Unified School District. The new software will be QSS. That transition is expected to begin with the development of the 2002-2003 budget. Prior to the complete transition of the District to the QSS software, Berkeley Unified School District will need to continue to process payroll and accounting using the existing software. For fiscal year 2001-2002 we will also need to close the books during the summer of 2002. The District should now enter into the new contract with MIS to more clearly define the functions to be performed. That contract would expire in three months on January 31, 2002. The Board will be updated every three months on the system progress prior to renewal.

Complete copies of the proposal have been made available to the Board of Education for their review. Copies are available from the Business Services Department at 510-644-8593 upon request.

POLICY/CODE

Government Code 53060

FISCAL IMPACT

Estimated Cost for this three month contract is \$150,000.

STAFF RECOMMENDATION

Approve Contract

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT (this "Agreement"), made and entered into as of September 27, 2001 ("Effective Date"), is by and between Modular Information Systems, Inc., with its principal place of business at 3160 Crow Canyon Place, #100, San Ramon, California ("Consultant"), and Berkeley Unified School District, with its principal place of business at 2134 Martin Luther King, Berkeley, California ("District"):

WHEREAS, both Consultant and District desire to set forth in writing the terms and conditions of their agreement;

NOW THEREFORE, in consideration of the premises and the mutual covenants in this Agreement and other good and valuable consideration, the parties, intending to be legally bound, agree as follows:

1. SCOPE OF SERVICES

1.1. **Services.** Consultant shall provide consulting services for District, as more fully described in Exhibit A ("Services"). The Services will be performed pursuant to the Billing Option selected in Exhibit A or the applicable Work Statement:

B. Weekly. Consultant will provide the Services on an 'as available' basis, and District's requests for Services will be processed by Consultant in the order received.

1.2. **Conduct of Services.** All Services shall be performed in a workmanlike and professional manner by Consultant, its employees and/or contractors, having a level of skill commensurate with the requirements of this Agreement. Consultant shall require its personnel and/or subcontractors at all times to observe security and safety policies of District.

1.3. **Work Statement(s).** Consultant shall provide Services to District on a project by project basis. Each project shall be specified in detail, with appropriate milestone deliverables and projected costs, in a statement of work, each of which, upon signing by both parties, shall be deemed a part of this Agreement ("Work Statement(s)"). The parties will use Work Statement(s) substantially in the form of Exhibit A.

1.4. **Changes to Work Statements.** District may revise or change its requirements in any Work Statement by executing a Work Statement(s) specifying change orders. In the event such changes impact the time needed for deliverables or the cost estimated in the original Work Statement, Consultant shall not be liable for any delayed delivery or increased cost.

1.5. **No Restriction.** Provided Consultant complies with the provisions of Section 8. (Proprietary Information), District acknowledges and understands that Consultant may perform similar services from time to time for other third parties. District hereby agrees that nothing contained in this Agreement shall prevent Consultant from performing such similar services.

2. METHOD OF PERFORMING SERVICES

2.1. **Method of Performing Services.** Consultant shall have the right to determine the method, location, details, and means of performing the Services. District shall have no right to, and shall not, control the manner or determine the method of accomplishing the Services. District may, however, require Consultant's personnel at all times to observe security and safety policies of District. In addition, District shall be entitled to exercise broad general power of supervision and control over the results of work performed by Consultant's personnel to ensure satisfactory performance, including the right to inspect, the right to stop work, the right to make suggestions or recommendations as to the details of the work, and the right to propose modifications to the work.

2.2. **Scheduling.** Consultant will try to accommodate work schedule changes where possible. Should any personnel of Consultant be unable to perform scheduled services because of illness, resignation, or other causes beyond Consultant's reasonable control, Consultant will attempt to replace such individual within a reasonable time, but Consultant shall not be liable for delays resulting from factors beyond its control.

3. DISTRICT RESPONSIBILITIES

3.1. District is responsible for:

1. Identifying the District's needs for hardware, software and reports, and communicating these to Consultant,
2. Determining whether the computer hardware and software proposed by Consultant will achieve the results District desires;
3. Providing a proper environment and proper utilities for the hardware and software to operate, and reports to be created and run;
4. Selecting and training of District's personnel to familiarize them with the operation of the hardware and software, and with the creation and running of reports;
5. Establishing adequate operational back-up provisions in the event of a defect or malfunction that renders the computer systems non-operational;
6. Providing Consultant such timely access to District's premises, hardware, software, data, and databases as may be necessary for Consultant to perform the Services under this Agreement, and
7. Providing Consultant the prompt assistance from, and cooperation by, District's employees necessary for Consultant to perform the Services pursuant to the applicable Work Statement.

4. TERM AND TERMINATION

4.1. **Term.** The initial term of this Agreement shall commence on the Effective Date and shall be for the number of months or years stated in Exhibit A. The term shall continue through the completion of the Services set forth in Exhibit A attached hereto and any Work Statement(s) entered into between Consultant and District. This Agreement may be renewed, thereafter, by mutual agreement of the parties.

4.2. **Termination.** This Agreement may be terminated by either party upon written notice. This Agreement may also be terminated if either party materially breaches any obligation provided under this Agreement, and the breaching party fails to cure such breach within thirty (30) days of receipt of written notice of such breach. Notwithstanding the foregoing, the cure period for any failure of District to pay fees and charges due hereunder shall be fifteen (15) days from the date of receipt by District of notice of such failure.

4.3. **Remaining Payments.** Within thirty (30) days of termination of this Agreement for any reason, Consultant shall submit to District an itemized invoice for any fees or expenses accrued under this Agreement. District, upon payment of all accrued amounts so invoiced, shall thereafter have no further liability or obligation to Consultant whatsoever for any further fees or expenses arising under this Agreement. In the event Consultant terminates this Agreement because of District's breach, Consultant shall be entitled to a pro rata payment for work in progress based on the percentage of work then completed, plus the full amount of payment attributable to Services already furnished by Consultant.

4.4. **Survival.** Notwithstanding any termination of this Agreement, the terms of Sections 5. (Fees), 7. (Ownership Rights), 8. (Proprietary Information), 9. (Warranties), 10. (Limitation of Liability), 11. (Indemnification), 12. (Miscellaneous) shall continue in full force and effect.

5. FEES, EXPENSES, AND PAYMENT

5.1. **Fees.** In consideration of the Services to be performed, District shall pay Consultant the fees set forth in Exhibit B or in accordance with any executed Work Statement thereafter. Consultant shall invoice District in accordance with the Service option identified in the applicable Work Statement, as follows:

A. Monthly: Consultant will invoice District on the first day of each month for the number of Service hours agreed in the applicable Work Statement.

B. Weekly: Consultant shall invoice District weekly for the actual number of hours of Services performed during the seven-day period ending at 12 midnight on each Saturday.

5.2. **Reimbursement of Expenses.** In addition to the foregoing, District shall pay Consultant its actual out-of-pocket expenses, as reasonably incurred by Consultant and approved by District in advance, in furtherance of its performance under this Agreement within thirty (30) days after Consultant has submitted an itemized invoice to District. Consultant agrees to provide District with access to such receipts, ledgers, and other records as may be reasonably appropriate for District or its accountants to verify the amount and nature of any such expenses.

5.3. **Invoicing.** District shall pay each invoice in accordance with the payment terms in Exhibit A or the applicable Work Statement. Consultant shall attach to each invoice a copy of the Hourly Billing Log for the Services performed during the period invoiced.

5.4. **Fee Increases.** The fees are subject to change, provided that Consultant will give District at least thirty (30) days prior written notice of such increase.

5.5. **Late Charges.** If any fees are not paid when due, Consultant may, at its option, charge a service charge of \$10, and interest at a rate of one and one-half percent (1 1/2%) per month or, if less, the maximum interest rate allowed by law from the due date of such fee.

6. TREATMENT OF PERSONNEL

6.1. **Compensation of Consultant's Personnel.** Consultant shall bear sole responsibility for payment of compensation to its personnel for performing the Services. Consultant shall pay and report to the appropriate state and federal authorities, for all personnel assigned to District's work, federal and state income tax withholding, social security taxes, and unemployment insurance applicable to such personnel as employees of Consultant. Consultant shall bear sole responsibility for any health or disability insurance, retirement benefits, or other welfare or pension benefits, if any, to which such personnel may be entitled.

6.2. **Worker's Compensation.** Consultant shall procure and maintain workers' compensation coverage sufficient to meet the statutory requirements of every state where Consultant's personnel assigned to District's work are located.

6.3. **State and Federal Taxes.** As neither Consultant nor its personnel are District's employees, District shall not take any action or provide Consultant's personnel with any benefits or commitments inconsistent with any of such undertakings by Consultant. In particular:

1. District will not withhold FICA (Social Security) from Consultant's payments.
2. District will not make state or federal unemployment insurance contributions on behalf of Consultant or its personnel.
3. District will not withhold state and federal income tax from payment to Consultant.
4. District will not make disability insurance contributions on behalf of Consultant.
5. District will not obtain workers' compensation insurance on behalf of Consultant or its personnel.

6.4. Hiring Consultant's Personnel. District shall not solicit or hire any of Consultant's personnel either during the term of this Agreement, or for twenty-four (24) months after the conclusion of Consultant's provision of the Services under this Agreement.

6.5. Liquidated Damages For Hiring Personnel. In the event District breaches Section 6.4. (Hiring Consultant's Personnel), above, District agrees to pay liquidated damages to Consultant in the amount of 300 hours of Services. Such liquidated damages shall be payable within fifteen (15) days of the date of employment of such personnel by District.

7. OWNERSHIP RIGHTS

7.1. Ownership. As between District and Consultant, except as set forth below in this Section 7.1. (Ownership Rights), all right, title, and interest, including copyright interests and any other intellectual property rights, in and to any deliverables created by the Services, including but not limited to any data or materials produced or provided by Consultant, alone or in combination with District and/or its employees, under this Agreement shall be the property of District. Upon completion of the Services and payment in full for the Services, Consultant agrees to assign to District the ownership of such works, including copyright interests and any other intellectual property in such works, without the necessity of any further consideration.

7.2. District Data. All right, title, and interest in and to any data relating to District's business are and shall remain the property of District, whether or not supplied to Consultant.

7.3. Residuals. It is mutually acknowledged that, during the normal course of Consultant's performance of Services, Consultant and its personnel may become acquainted with ideas, concepts, know-how, methods, techniques, processes, skills, and adaptations pertaining to the Services. Consultant shall be entitled to use, disclose, and otherwise employ any ideas, concepts, know-how, methods, techniques, processes, skills, and adaptations, including generalized features of the sequence, structure, and organization of any works of authorship, in conducting its business (including providing services or creating programming or materials for other customers of Consultant). District shall not assert against Consultant or its personnel any prohibition or restraint from so doing, provided that the rendering of such services does not conflict with Consultant's rendering Services under this Agreement, or is in breach of Section 8., below.

7.4. Preexisting Materials. Consultant may include in the deliverables preexisting work or materials only if either they are provided by Customer or if they are owned or licensable without restriction by Consultant. To the extent that preexisting work or materials owned or licensed by Consultant are included in the deliverables, Consultant shall identify any such work or materials prior to commencement of the Services involving such work or materials. Consultant grants to Customer (as an exception to the transfer and assignment provided in Paragraph 7.1.) an irrevocable, nonexclusive, worldwide, royalty-free right and license to use, execute, reproduce, display, perform, and distribute (internally and externally) copies of, and prepare derivative works based on, such work and materials, and the right to authorize others to do any of the foregoing.

7.5. Third-Party Interests. District's interest in, obligations with respect to, and warranties for any computer hardware or software to be obtained from third-party vendors, regardless of whether obtained with the assistance of Consultant, shall be determined in accordance with the agreements and policies of such vendors.

8. PROPRIETARY INFORMATION

8.1. Trade Secrets. The parties acknowledge that, in order to perform the Services, it shall be necessary for the parties to disclose to each other certain Trade Secrets that have been developed by the parties at great expense and that have required considerable effort of skilled professionals. The parties acknowledge that the Services and any services under Work Statement(s), will of necessity incorporate such Trade Secrets. The receiving party agrees that it shall not disclose, transfer, use, copy, or allow access to any such Trade Secrets to any employees or to any third parties, excepting those who have a need to know such Trade Secrets in order to give effect to the parties' rights

hereunder and who have bound themselves to respect and protect the confidentiality of such Trade Secrets. In no event shall either party disclose any such Trade Secrets to any competitors of the other.

8.2. Scope of Restriction. As used herein, the term "Trade Secrets" shall mean any scientific or technical data, information, design, process, procedure, formula, or improvement that is commercially valuable to District or Consultant and not generally known in the industry.

9. WARRANTIES

9.1. Warranties of District. District warrants that it owns all right, title, and interest in and to, or has full and sufficient right and authority to use, in the manner contemplated by this Agreement, any materials, specifications, designs, or data furnished by District to Consultant in connection with this Agreement.

9.2. Warranties of Consultant. Consultant warrants that Consultant's performance of the Services does not and shall not violate any applicable law, rule, or regulation; any contracts with third parties; or any third-party rights in any patent, trademark, copyright, trade secret, or similar right.

9.3. Liability for Third Party Hardware and Software. Consultant may select certain third party computer hardware and/or software for use in the performance of the Services. In no event shall Consultant be held liable for any problems or delays that arise from, or relate to, such third party hardware or software. Consultant does not provide any warranty for third party hardware or software.

10. LIMITATION OF LIABILITY

10.1. EXCEPT FOR THE WARRANTY IN SECTION 9.2. (WARRANTIES OF CONSULTANT), CONSULTANT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES. THE SERVICES ARE RENDERED ON AN "AS IS" BASIS. CONSULTANT DISCLAIMS ALL SUCH WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CONSULTANT DOES NOT WARRANT OR PROMISE THAT THE SERVICES OR PRODUCTS OF THE SERVICES WILL BE ERROR FREE.

10.2. NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGE, WHETHER ARISING IN CONTRACT OR IN TORT IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED HEREUNDER. A PARTY'S LIABILITY WITH RESPECT TO THIS AGREEMENT, FROM ALL CAUSES OF ACTION IN THE AGGREGATE SHALL NOT EXCEED THE AMOUNTS PAID BY DISTRICT HEREUNDER.

11. INDEMNIFICATION

11.1. Indemnification by District. District shall defend, indemnify, and hold harmless Consultant from and against any finally awarded damages resulting from any claims arising under this Agreement as a result of infringement of any third party's intellectual property rights by Consultant's use of software provided by District in accordance with this Agreement other than those arising out of or relating to Consultant's negligence, willful misconduct or bad faith.

11.2. Indemnification by Consultant. Consultant shall defend, indemnify, and hold harmless District from and against any finally awarded damages resulting from any claims (i) arising out of or relating to the Services, or (ii) arising under this Agreement as a result of infringement of any third party's intellectual property rights by District's use of software provided by Consultant in accordance with this Agreement other than those arising out of or relating to District's negligence, willful misconduct or bad faith.

11.3. District Decisions. Notwithstanding Section 11.2. (Indemnification by Consultant), in no event shall Consultant be liable for any decision made by District, irrespective of whether Consultant provided information to District with respect to such decision or whether Consultant agreed with District's decision. District agrees to indemnify Consultant for District's decisions, pursuant to Section 11.1. (Indemnification by District).

11.4. **Conditions for Indemnification.** The foregoing indemnities are conditioned on (1) prompt written notice by the party seeking indemnification; (2) cooperation in the defense of the claim, demand, or action; and (3) obtaining the prior written approval by the indemnifying party of any settlement or offer of settlement.

12. MISCELLANEOUS

12.1. **Insurance.** During the term of this Agreement, Consultant will maintain commercial general liability insurance, and, if applicable, automobile liability insurance, with per occurrence limits of one million dollars (\$1,000,000). Consultant will provide District with a certificate of insurance naming District as a loss payee on the policy.

12.2. **Entire Agreement.** This Agreement is intended by the parties to be the final expression of their agreement, and it constitutes the full and entire understanding between the parties with respect to the subject of this Agreement. This Agreement may be amended only in writing signed by the parties to this Agreement.

12.3. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

12.4. **Severability.** In the event that any provision hereof is found invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms. WITHOUT LIMITING THE FOREGOING, IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT, IN THE EVENT ANY REMEDY HEREUNDER IS DETERMINED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE, ALL OTHER LIMITATIONS OF LIABILITY AND EXCLUSION OF DAMAGES SET FORTH HEREIN SHALL REMAIN IN FULL FORCE AND EFFECT.

12.5. **Modifications, Amendments, and Waivers.** This Agreement may not be modified or amended, including by custom, usage of trade, or course of dealing, except by an instrument in writing signed by duly authorized officers of both of the parties hereto. Performance of any obligation required of a party hereunder may be waived only by a written waiver signed by a duly authorized officer of the other party, which waiver shall be effective only with respect to the specific obligation described therein. The waiver by either party hereto of a breach of any obligation of the other shall not operate or be construed as a waiver of any subsequent breach of the same provision or any other provision of this Agreement.

12.6. **No Set Off.** Notwithstanding anything to the contrary in this Agreement, District hereby waives its right to suspend or set off any payment obligation to Consultant on any basis whatsoever.

12.7. **Independent Contractors.** The parties are and shall be independent contractors to one another, and nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between District and either Consultant or any employee or agent of Consultant.

12.8. **Parties in Interest.** This Agreement is enforceable only by Consultant or District. The terms of this Agreement are not a contract or assurance regarding compensation, continued employment, or benefit of any kind to any personnel assigned to District's work, or any beneficiary of any such personnel, and no such personnel (or any beneficiary thereof) shall be a third-party beneficiary under or pursuant to the terms of this Agreement.

12.9. **Presumption.** This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against either of the parties hereto.

12.10. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California. The parties agree that venue for any dispute under this Agreement shall be Contra Costa County, California.

12.11. **Force Majeure.** Neither party shall be responsible for any failure to perform due to unforeseen circumstances or to causes beyond the parties' reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, or shortages of transportation, facilities, fuel, energy, labor, or materials. In the event of any such delay, either party may defer any delivery dates for a period equal to the time of such delay. Notwithstanding the foregoing, if either party is in default under this Section for more than forty five (45) days, the non defaulting party may terminate this Agreement.

12.12. **Notices.** Unless otherwise specifically provided, all notices required or permitted by this Agreement shall be in writing and may be delivered personally, or may be sent by certified mail, return receipt requested, to the addresses at the top of this Agreement, unless the parties are subsequently notified of any change of address under the terms of this Agreement. Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt; and (2) by certified mail, five (5) business days after delivery to the U.S. postal authorities by the party serving notice.

12.13. **Taxes.** Unless otherwise agreed between Consultant and District, Consultant and District shall each have sole responsibility for collecting, reporting, and/or paying all income, sales, excise, property, value-added tax, and other taxes imposed by any governmental authority as they pertain to Consultant's and District's respective duties, obligations, and performance hereunder.

12.14. **Mediation.** The parties agree that they shall endeavor to settle any dispute that arises under this Agreement by mediation in the County of Contra Costa, California. The parties shall in good faith select a third party neutral to conduct the mediation. In the event that the parties cannot agree on a third party neutral to conduct the mediation, the parties hereby agree to use a third party neutral referred by the American Arbitration Association who will conduct the mediation in accordance with its Rules for Mediation. The cost of the mediation shall be equally divided between the parties.

12.15. **Arbitration.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, that has failed to settle under mediation, shall be settled by arbitration in the County of Contra Costa, California, administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator may award monetary damages, punitive damages, injunctive relief, rescission, restitution, costs and attorney's fees. The arbitration award shall be final and binding regardless of whether one of the parties fails or refuses to participate in the arbitration. The arbitrator shall not have the power to amend this Agreement in any respect.

12.16. **Attorneys' Fees.** In the event of any dispute with respect to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and other costs and expenses incurred in resolving such dispute.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, on the date and year first above written

BERKELEY UNIFIED SCHOOL DISTRICT
[DISTRICT]:

By: _____
Signature

Print Name and Title

MODULAR INFORMATION SYSTEMS, INC.
[CONSULTANT]:

By: _____
Signature

Print Name and Title

EXHIBIT A
WORK STATEMENT

Work Statement Number. 1

Date: October 9, 2001 ("Effective Date").

Term of Services: Through January 31, 2002 or with required 30 day notice of termination.

Names of Technical Coordinators (Name and Title):

Kenn Cooperman, Account Manager for Modular Information Systems

Jerry Kurr, Interim Data Processing Manager for District

1. SUMMARY OF WORK TO BE PERFORMED:

- A. Maintain Legacy system as defined in monthly Project Estimates. Project Estimates for October to December, 2001 and January, 2002 are attached.
- B. Assist Berkeley Unified School District prepare and run the reports identified in the applicable monthly Project Estimate.
- C. As identified in the project estimates, prepare an Operation Manual which includes detailed steps to perform a number of operational tasks including:
 - a. Payroll
 - b. Bill warrant run book
 - c. Year-end closing processes
 - d. Quarterly tape processes
 - e. W-2 creation
 - f. 1099 creation
 - g. End-of-year processes, clearing files, setting flags
 - h. Balancing D9M and D2M files
- D. Provide operational backup to BUSD staff
 - a. Facilitate training of Consultant on BUSD payroll procedures.
 - b. Provide operational backup when needed.

2. CONSULTANT RESOURCES:

Work A, B and C combined: as needed, not to exceed monthly Project Estimates without District's prior approval. Monthly Project Estimates are attached.

Work D: as needed, not to exceed a total of \$22,020 for training. As needed for continuing support, not to exceed the applicable monthly Project Estimate.

3. TRAINING, EQUIPMENT, FACILITIES, CODE OR PROGRAMMING TO BE PROVIDED BY DISTRICT:

Sufficient number of active modem connections to Microdata computer.

At least 2 active modem connections to HP server running Reality X.

4. DESCRIPTION OF DELIVERABLES:

Reports as needed.

5. SPECIAL TERMS, IF ANY:

6. SCHEDULE AND PERFORMANCE MILESTONES:

<u>Performance Milestone</u>	<u>Responsible Party</u>	<u>Target Date</u>
Remain current with STRS/PERS/Fringe Benefits processing	Consultant	Monthly
Prepare and Send 3 rd Quarter tapes to State	Consultant	11/30/01
Prepare W-2s	Consultant	1/31/02
Prepare 1099s	District	1/31/02
Operational Manual	Consultant	1/31/02

7. TESTING ("SQA"):

Component tests: As needed

System tests: As needed

8. LOCATION OF WORK FACILITIES:

Substantial work will be conducted by Consultant at its corporate offices.

District will provide office space and support as it agrees may be appropriate at its Berkeley facility.

9. FEES AND PAYMENT: As stated in Exhibit B to the Consulting Agreement, unless stated otherwise in this Work Statement.

Services Option: (Select one):

☐ Option A: Monthly Billing and Commitment. Maximum number of Service hours per week _____ hours multiplied by 4 weeks per month, at the rates described in Exhibit B.☒ Option B: Weekly Billing for Actual Hours at the rates described in Exhibit B.

Consultant requires its personnel to record their daily time on time sheets, maintain expense reports, and send copies of these documents to District weekly. In the event District does not, within five (5) business days of receipt of a time sheet, notify Consultant that District does not approve the hours reflected in such time sheet, then the services performed in such time sheet shall be deemed accepted.

Payment Terms: Net 15.

IN WITNESS WHEREOF, and in acknowledgment that the parties hereto have read and understood each and every provision hereof, the parties have executed this Work Statement on the date first set forth above.

BERKELEY UNIFIED SCHOOL DISTRICT
[DISTRICT].MODULAR INFORMATION SYSTEMS, INC.
[CONSULTANT]:By: _____
SignatureBy: _____
Signature_____
Print Name and Title_____
Print Name and Title

EXHIBIT B **CONSULTING AND SUPPORT SERVICES RATE SCHEDULE**

Service rates and categories will normally be quoted in advance. Where the consultant is providing services falling in multiple categories, the client will be billed for all time at the highest qualification level, absent an agreement in advance.

SOFTWARE or EQUIPMENT PURCHASING SUPPORT

B. Procurement, Administrative: Buyer provides sourcing, pricing, quote preparation and order processing; client has all needed Vendor or Manufacturer Part #. Access to Modular distributor costs is included. 80.00

CONSULTING & SUPPORT SERVICES

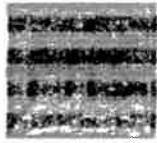
1. On site User Support, Workstation, Printer, or Peripherals Installation, Setup, Administration and Support.	105.00

Procurement assistance, Technical. Consultant will configure, research the Interface, version compatibility, options, etc, to determine part# or model. Usually requires distributor, Internet or manufacturer contacts.	
2. Applications Programming, Design, & Maintenance (Un/Verse or Pick, Basic) Senior Consultant	110.00
Web site development, interface to internal databases	
3. Network & Communications Design, Installation, Problem Analysis or Resolution Support	125.00
4. UNIX, AIX, DG-UX, HP-UX, or NT Operating Systems Installation & Support	135.00

Project Management, Database Installation or Maintenance	
5. High Availability Systems Support/Data Warehousing	175.00

SPECIFIC CHARGES & SERVICE RATES

	<u>Minimum</u>	<u>Maximum</u>
1. On site Support	2.0 Hours	8.0 Hours per day
Charges include reasonable and usual portal-to-portal time.		
2. Telephone Support	0.5 Hours	Actual time
Routine Help Desk or User Support Inquires		
3. On Call Guarantee (Charged in addition to billable services provided). All calls returned within 2 hours, remote support connection within 4 hours, regular business hours only.	1.0 Hour per day	plus actual time
4. After hours and Weekend, On Site or Remote Support (May be waived by prior planning & agreement)	2.0 Hours at 160%/hr	8.0 Hours at 160%/hr
5. 7x24 Help Desk Support (Charged in addition to actual billable Services provided). Available only after prior planning and scheduling agreement.	3.0 Hours per day	



Modular
Information Systems

Project Estimation
for Berkeley Unified School District
Maintenance of Microdata for October 2001
10/5/01

Project Description

This project is specified in the attached document entitled **Description of BUSD Data Processing Services Estimate for October 2001 revised 10/5**

Estimate does not include taxes and shipping charges.

Functional Specification	0	2	\$110.00	\$0.00
Analysis	18	2	\$110.00	\$1,980.00
Technical Spec & Schedule	0	2	\$110.00	\$0.00
Programming	255	2	\$110.00	\$28,050.00
Test Plan	0	2	\$110.00	\$0.00
Testing	2	2	\$110.00	\$220.00
Documentation	105	2	\$110.00	\$11,550.00
Installation	0	2	\$110.00	\$0.00
Training	10	2	\$110.00	\$1,100.00
Project Management	125	4	\$136.00	\$16,875.00
Totals	615			\$59,775.00

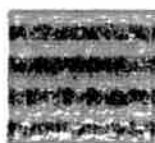
Approval Signature

Date

Description of BUSD Data Processing Services Estimate for October 2001 - 10/5 revision

October tasks:

- Fiscal year End Close – Completing the editing of the DBS900M records and continued ad hoc requests for data from Business Services – 100 hours
- STRS/PERS/Fringe benefits processing – 35 hours of processing & 5 hours for additional documentation. Another 15 hours for revising and enlarging payroll menu to accommodate newly created programs for STRS Cash Balance & Name and Address and other procs as well. Total – 55 hours
- Payroll processing – 50 hours because of salary adjustments on variable payroll; another 80 hours to complete and document the new BFT step and salary adjustment as an example of a “tiered” adjustment. Another 10 hours to develop technique for e-mailing salary schedule data from Microdata for Terri. Total 60 hours.
- Automated upload of check balances – 2 hours of testing and 10 hours training and updating documentation. Total - 12 hours
- Documentation – 80 hours - Using Richard’s comments as a guide we will begin compilation of the operators manual. Another 20 hours for Eydie to compile her notes into documents. Total – 100 hours
- Process third quarter tapes for state – 25 hours
- Programming changes needed to program that creates the 3 quarterly tapes and the W2 tape. This is mandated by government changes to the record layout but this also allows us to modify program so that batch record is written on the first rather than the third iteration of the program - 10 hours.
- Research on Gross Wages report – 3 hours.
- Cleaning up archaic “comp codes” so the payroll update process works correctly – 20 hours.
- Research and/or design on modifying the payroll stub to a more user friendly format – 5 hours
- Dealing with the Computer Exchange -- 30 hours under project management
- Writing documentation of the split payroll process – 30 hours under project management.
- Project management – coordinating the efforts of BUSD DP staff, Modular staff and independent consultants Don Abare and (hopefully) Roger Duhem. This goal is reached through daily and weekly status meetings with both the personnel listed above and with BUSD’s and Modular’s upper management. Additionally, written status reports are issued periodically and e-mails and calls are made daily. There is usually a weekly meeting at BUSD for Business Services staff and representatives of Personnel.



Modular
Information Systems

Project Estimation
for Berkeley Unified School District
Maintenance of Microdata for November 2001
10/7/01

Project Description

This project is specified in the attached document entitled *Description of BUSD Data Processing Services Estimate for November 2001 revised 10/7*

Estimate does not include taxes and shipping charges.

Functional Specification	0	2	\$110.00	\$0.00
Analysis	0	2	\$110.00	\$0.00
Technical Spec & Schedule	0	2	\$110.00	\$0.00
Programming	195	2	\$110.00	\$21,450.00
Test Plan	0	2	\$110.00	\$0.00
Testing	25	2	\$110.00	\$2,750.00
Documentation	120	2	\$110.00	\$13,200.00
Installation	0	2	\$110.00	\$0.00
Training	0	2	\$110.00	\$0.00
Project Management	120	4	\$135.00	\$16,200.00
Totals	460			\$53,600.00

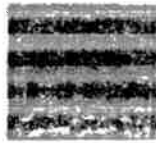
Approval Signature

Date

Description of BUSD Data Processing Services Estimate for November 2001 -
10/7/01 revision

November tasks:

- Fiscal Year End Close – Clean up any last requests or questions – 20 hours plus 20 hours of documentation. Total – 40 hours
- STRS/PERS/Fringe benefit processing – 35 hours
- Payroll processing – 25 hours & 40 hours documentation. Total – 65 hours
- Documentation – adding the documentation still being produced to the operator's manual and reviewing other material for the volume of background material 60 hours
- Changes to W2 and quarterly state tapes – 75 hours
- Programming and 25 hours testing new payroll stub and gross wages report. Total – 65 hours
- Finalizing documentation for split payroll – 15 hours out of project management
- Creating other documentation – 25 hours out of project management
- Project management – coordinating the efforts of BUSD DP staff, Modular staff and independent consultants Don Abare and Roger Duhem. This goal is reached through daily and weekly status meetings with both the personnel listed above and with BUSD's and Modular's upper management. Additionally, written status reports are issued periodically and e-mails and calls are made daily. There is usually a weekly meeting at BUSD for Business Services staff and representatives of Personnel.



Modular
Information Systems

Project Estimation
for Berkeley Unified School District
Maintenance of Microdata for December 2001
10/10/01

Project Description

This project is specified in the attached document entitled **Description of BUSD Data Processing Services Estimate for December 2001 revised 10/10**

Estimate does not include taxes and shipping charges.

Functional Specification	0	2	\$110.00	\$0.00
Analysis	0	2	\$110.00	\$0.00
Technical Spec & Schedule	0	2	\$110.00	\$0.00
Programming	230	2	\$110.00	\$25,300.00
Test Plan	0	2	\$110.00	\$0.00
Testing	0	2	\$110.00	\$0.00
Documentation	80	2	\$110.00	\$8,800.00
Installation	0	2	\$110.00	\$0.00
Training	60	2	\$110.00	\$6,600.00
Project Management	100	4	\$135.00	\$13,500.00
Totals	470			\$54,200.00

Approval Signature

Date

10/10/01

Description of BUSD Data Processing Services Estimate for December 2001

December tasks:

- STRS/PERS/Fringe benefit processing – 35 hours processing and 35 hours training Richard Hobbs.
- Payroll – 25 hours processing & 25 hours training Richard Hobbs.
- Establishment of test accounts for split payroll and W2 tape testbed. – 30 hours
- Split payroll – 100 hours processing
- W2 and quarterly tapes changes – 40 hours programming
- Split payroll – 25 hours out of project management
- Documentation for 1099 process as well as other projects due in December – 80 hours
- Project management – coordinating the efforts of BUSD DP staff, Modular staff and independent consultants Don Abare and Roger Duhem. This goal is reached through daily and weekly status meetings with both the personnel listed above and with BUSD's and Modular's upper management. Additionally, written status reports are issued periodically and e-mails and calls are made daily. There is usually a weekly meeting at BUSD for Business Services staff and representatives of Personnel.



Modular
Information Systems

Project Estimation
for Berkeley Unified School District
Maintaining Business Systems on Microdata
10/9/01

Project Description

Description of BUSD Data Processing Services Estimate for January 2002

- Split payroll execution and resetting the payroll files to new calendar year – 50 hours
- W2 forms and tape production. Seventy five hours processing and twenty five hours training – Total 100 hours
- Payroll - 25 hours
- STRS/PERS processing – 15 hours
- Producing 4th quarter tapes for state – 25 hours
- Documentation project – Incorporating last few new documents, final review of product. 50 hours
- Project management – 125 hours

Estimate does not include taxes and shipping charges.

Functional Specification	0	2	\$110.00	\$0.00
Analysis	0	2	\$110.00	\$0.00
Technical Spec & Schedule	0	2	\$110.00	\$0.00
Programming	190	2	\$110.00	\$20,900.00
Test Plan	0	2	\$110.00	\$0.00
Testing	0	2	\$110.00	\$0.00
Documentation	50	2	\$110.00	\$5,500.00
Installation	0	2	\$110.00	\$0.00
Training	25	2	\$110.00	\$2,750.00
Project Management	125	4	\$135.00	\$16,875.00
Totals	390			\$46,025.00

Approval Signature

Date

054

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Board of Education
FROM: Michele Lawrence, Superintendent
DATE: 10/09/01
SUBJECT: Budget Review Team Wavier – AB 1200 Requirement

BACKGROUND INFORMATION

Now that the District has received formal notification from the Alameda County Office of Education that our budget has been disapproved, the additional requirements under AB 1200 are being planned and implemented.

A “disapproved” budget puts in place a review process to determine the accuracy of the County’s declaration. In as much as the District and County are in agreement that the District’s budget could not be submitted and thus could only be “disapproved”, an impartial review team is unnecessary to certify the budget condition. The law allows, by mutual consent of both the County and the District, the application of a waiver to the State which will suspend the review team visit and move the process into the “going concern” provision of AB 1200.

Now, under “going concerns” the County will form an assistance team, using the services of FCMAT, to analyze and recommend changes to the budget. The cost for such services is born 25 percent by the County Office of Education and 75 percent by the District.

Tonight, the County Superintendent, Sheila Jordan, will introduce to the Board, the chair of the FCMAT Team, Tom Henry, and discuss the next steps in Alameda County’s responsibilities to implement AB 1200.

POLICY/ISSUE

AB1200

FISCAL IMPACT

None

STAFF RECOMMENDATION

Direct the staff to work in concert with the Alameda County Office of Education to apply to the State to waive the Budget Review Team process.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence
FROM: Lew Jones and Gene LeFevre
DATE: October 17, 2001
SUBJECT: Facilities Department Strategic Plan

BACKGROUND INFORMATION

At the last Board meeting, the elements of a strategic plan for the Facilities Department was presented. Since then, there have been two meetings with the Facilities Maintenance and Security Advisory Committee, a discussion with the Local 1 Union presidents, a discussion with Principals as well as a number of District staff meetings. Attached to this cover memo are the results of that effort. If approved by the Board, staff will work with the Advisory Committee to develop a yearly plan for Measure BB. In accordance with the Measure, the plan must be published in draft form at least two weeks prior to Board Action. Our current goal is to publish that draft by the end of October. If we can meet this schedule, we will bring the yearly plan to the November Board Meeting.

The attached document provides a long range organizational chart, defines the reporting requirements for progress and expenditures, discusses the current status and outlines processes that will need to be developed to maximize District resources. The systemic issues in the plan form the basis of the recommendations and will be considered for the development of the first year plan.

We are requesting Board approval of the organizational chart and direction to develop the yearly plan with the input of the Facilities Maintenance and Security Committee in keeping with that organizational chart. Organizational charts are provided for the District's Facilities and Maintenance Department and for the Berkeley High School facilities function. Other functions not shown on charts are for the technology and accounting areas. Those staff members who are involved in the accounting, and billing for measures AA and BB restricted funds would report to the Business Department. The Technology Department is responsible for telephone and data wiring issues. The staff needed to perform this maintenance function is planned to be supervised by the Technology Manager.

Should the Board approve the organizational chart and the comprehensive plan, it is anticipated that first year elements would include the following:

- Completion of the emergency problems defined in the ABM Engineering Report, the Maintenance report on Safety Deficiencies and the Playground Inspection Report;
- Clarifying supervisor responsibilities;
- Training in the employee evaluation process;
- Refinement of additional training components for supervisors and staff;
- Interview of existing applicants to see if any of the candidates wish to work on a substitute basis until we can fill the permanent jobs;
- Development of job descriptions for the proposed new classifications. This includes a goal to establish a career ladder for the workers. Our plan is to have classifications for General Maintenance (unchanged), Maintenance Engineers (includes all other classifications except one locksmith), Security Engineer (current locksmith), Gardener (unchanged), Grounds Leadperson (unchanged), Trades Leadperson (unchanged);
- Final recommendation on the schedules and work hours;
- Final recommendation on reporting format for Measure BB expenditures.

Although the emphasis for the first year will be on the implementation of the maintenance issues, other areas described will need to be considered in the first year. The Facilities Maintenance and Security Committee has not had the opportunity to provide input to the yearly plan, so they may request revisions, additions or subtractions to the above list.

Since the immediate focus will be on the tasks needed to support a revised organizational chart. We see that the following steps (at a minimum) will be required:

October

Board approval of the organizational chart
Facilities Maintenance and Advisory Committee Meeting on yearly plan
Draft yearly plan developed
Draft yearly plan published
Negotiations with Local 1
Proposed job descriptions finalized and published

November

Merit Commission approval of job descriptions and salaries
Bidding by Local 1 members on available job slots
Announcement of Open and Promotional (new) jobs

December

Promotional tests held for the trades
Results of promotional tests published (confidential)
Training schedule developed by person (if needed)

January

Applications due for new/promotional hires
Merit Commission acceptance of results of the promotional test
Tests held for open and promotional candidates

February

Merit Commission approval of lists
Interview of candidates
Compilation of the lists of recommended hires for the Board
Board approval of candidates

The District is grateful for the support of the entire community, given through the passage of Measure BB. Although there is urgency in moving quickly to demonstrate our appreciation for the needed funds, giving consideration to a long-term strategic plan will better serve the public's interest.

POLICY/CODE

Measure BB, the Berkeley Schools Facilities Safety and Maintenance Act of 2000; Measures A and AA.

FISCAL IMPACT

No significant fiscal impact required by the planning process.

STAFF RECOMMENDATION

Approve the organizational structure and basic approach so that staff can work with the Committee and develop an annual plan.

BERKELEY UNIFIED SCHOOL DISTRICT FACILITIES STRATEGIC PLAN

Submitted to the Board of Education on October 17, 2001

GENERAL PURPOSE

In any departmental organization model, it must be developed in conjunction with other departments or units if it is to function effectively. In this instance, the Facilities and Maintenance Strategic Plan and Organizational Model must consider such things as: Custodial assistance, utility consumption, construction, community use, ancillary educational programs, plant security, waste management and disaster preparation.

In conjunction with a better-coordinated facilities model, the goals of this plan include increased community satisfaction, improved employee effectiveness and clear financial accountability. In addition, goals include coordination of disparate departments, better supervision, employee skills enhancement through training and improved services to schools.

This reorganization plan is intended to provide a broad overview of management objectives and list major objectives. The yearly plan will recommend specific areas to be addressed in the coming year. We are requesting that the organizational chart for maintenance and facilities and for the High School facilities structure be approved now so that we can begin to implement Measure BB effectively. The number of employees to be hired in the first year has not been determined; that discussion can occur with the approval of the yearly plan.

STATUS OF SERVICES

Maintenance Services.

The Maintenance Department has been in decline for almost thirty years. The biggest portion of that decline occurred in a ten-year period from about 1970 to 1980. The absolute number of staff has been relatively stable since then, but the actual numbers of specific trades have fluctuated almost every year. When the Board was examining cuts in the department, cuts were made in supplies and contracts rather than in personnel. This resulted in a department, which often was out of money for supplies early in the fiscal year, wasting the efforts of personnel who could not perform their work. In previous years, work at the end of the year might be performed at sites or for departments, which had supplies, rather than sites or departments that had critical maintenance needs.

The loss of staff and fluctuations in trade groups has caused a loss of corporate knowledge both in how specific tasks need to be carried out, as well as how the department fits into the overall District scheme. The scarcity of resources has made it hard for the department managers to

determine how to equitably allocate resources. Because the need has been so large, resource deployment has often been determined by the site, which lobbies the best or the hardest rather than on a systematic basis. In such a system, parents or community members are often enlisted to assist the school site in accomplishing basic needs, which makes task completion extremely hard and encourages a breakdown in the chain of command. The system that exists today primarily responds to requests rather than relying on the professional judgment of the maintenance experts to determine the priority of the needs. There needs to be a combination of both.

Ultimately this process frustrates both the site personnel and the maintenance staff and disempowers both groups. Adding resources and staff into a system without evaluating the purpose and mission may perpetuate a poor system. The District needs to create a pathway and timeframe to change the culture so that the entire system can function effectively. Just adding personnel will not serve the long-term purpose.

Custodial Assistance

The custodial and maintenance departments should be tightly linked. If a custodian is well trained and well supplied, the maintenance burden will decrease. If the custodian can spend his/her time performing daily cleaning rather than responding to site maintenance requests, the schools and classrooms will be cleaner and learning environments will improve.

The custodial allocation is by formula. That formula has not been adjusted to account for added programs, for after hours access, or new construction. In the past few decades, the number of custodians has decreased slightly, but there has been an increase in the hours of use of the facilities and the plant security now required by the custodian. The custodian's effectiveness has also been impacted by some decrease in the supply budgets and the lack of consistent training and supervision.

For most of the past thirty years, the principals or designee has been the prime evaluator of the site custodians with little training or guidelines for expected performance. During the summer, when principals leave, the Maintenance Department has been responsible for the supervision of custodians, and, for the past decade the Purchasing Manager has supported the supply ordering and delivery, but has not been involved in custodial evaluation or training.

Currently, we have hired a Custodian Supervisor. While the site administrator will retain the evaluation responsibility, the Custodian Supervisor should provide guidelines for evaluation and training of District custodians, a supervision model for the summer with specific tasks completed by a team of custodians and a report of progress at the end of this period. An examination needs to be done of the hours of use by our schools and determine whether the current hours of custodial time can maximize our efforts to keep our schools clean. Further, the development of a standard level of service to monitor and staff the department must be developed if we are to intelligently evaluate our employees.

Utility Consumption

The cost of our utility bills is very high, which includes: water, gas, electricity, garbage, recycling, and telephones/data. Historically we have done very little to encourage full analysis and savings in this area. On a few occasions, one-time effort has been undertaken which assisted the District in review of some utilities, but these efforts have often been discoordinated rather than institutionalized.

A comprehensive plan needs to designate a department or an individual responsible to analyze the utilities, costs and usage. With good data, programs can be developed to reduce costs, and conserve resources, and be a part of long-range financial planning.

Construction

The scale of the construction program in the past few years has been massive. Personnel and financial resources have been allocated to fulfill the desire for architectural, well-programmed masterpieces with long lasting and easy to maintain systems.

AS a result of this construction, the development of various design and purchasing standards began in 1993 and completed in 1996. However, many areas are only skeletal. By way of example, our design standards for locks and hardware are excellent, our standards for heating systems are weak, and our standards for technology are now dated. A strategic plan must define a timeline to re-evaluate our standards and cycle to revisit these standards so that we can combine our projects to the extent feasible in the low bid environment. Additionally training needs to be given to existing staff on laws and process related to bidding and purchasing. This must be frequent, on going and monitored.

The District has built a lot of beautiful schools. We have also provided a great deal of flexibility at sites to develop their unique requirements and unique setting. The Board should consider a modification in its project budgeting to allow for a portion of the budget to be reserved for items not covered in the construction. One possible approach would be to devote 0.5% of a project budget to be used only after the construction is completed. This approach would ensure a source of funds to minimize a future burden to the Maintenance Department. Such an approach should be considered in a strategic plan.

The District has experienced a large amount of litigation on its construction projects. This may be partly poor luck, but may also be more likely because of the type of project delivery (design/bid/build) approach. A strategic plan should consider alternate delivery methods for future projects as well as other methods to minimize litigation. A project, which concludes with litigation, not only costs the District legal fees, but also makes it difficult to fully enforce contract requirements. The responsibility for such requirements can get lost in the legal quagmire.

Community Use and Ancillary Programs

Berkeley has a highly educated and involved community. Our sites are used almost constantly for programs, meetings and events. In some cases, such as SAT testing, the District cannot cover its custodial costs to administer this test, and the wear and tear of our facilities is not factored in as a cost. Money received for the rentals are often deposited into the budget as general revenue rather than abating the additional revenue to the school or department for maintenance costs. The current process assumes that the site administer fully understands how their approval of facility use will impact the cleaning or maintenance schedule. A strategic plan needs to re-examine this assumption and develop ways to better integrate the requirements of custodial and maintenance into the equation of facility use permits. Income from long-term community rentals should offset the increased maintenance costs.

Ancillary and after school programs are extensive and a wonderful support to the instructional program. They need to be fostered and encouraged. However, approving a program or accepting a grant for program funds must be done with consideration of the facilities and their maintenance. Keeping this component in mind can guide the examination and approval of programs in balanced with the availability and maintenance of facilities resources. The indirect costs provided in most grants are insufficient to cover utility and maintenance costs.

Plant Security

Plant security has burgeoned in the past decade. The concern over potential theft, coupled with our technology changes has resulted in an increased demand on our security systems and our plant security personnel. Currently we do not generally permit our non-administrative site staff to be in our buildings when the Principal or custodian is not present. As such, we have security personnel assigned to work from 6 PM to 7 AM Monday through Friday and all day on Saturday and Sunday. The individuals answer alarm calls, open and close facilities for the entire District. This is an expensive model. We need to look at a comprehensive revision to the approach to reduce the need to assign security personnel to open doors and thus decreasing the hours when they need to be assigned.

Hazardous Waste Management

The District generates hazardous materials in its science laboratories, custodial department, maintenance department, and transportation facilities. We also are considered a generator of waste during many of our construction projects. Certain programs require a “responsible person” to be in charge of an area. Responsible individuals should be designated to develop training schedules, develop protocols and ensure compliance with the law. While we can often rely on contractors or consultants to deliver the services a designated individual and an identified process for monitoring must be developed.

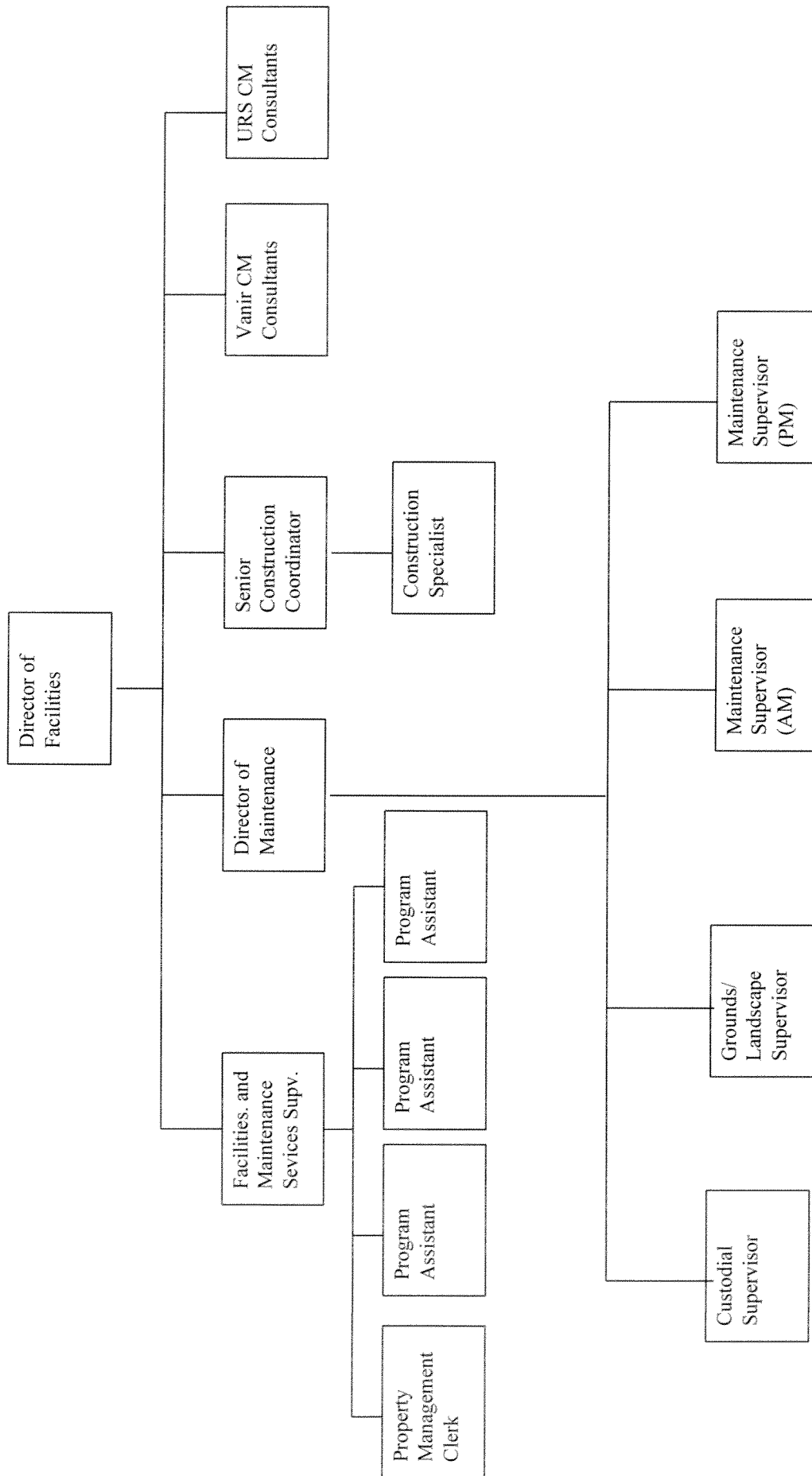
Disaster Preparation

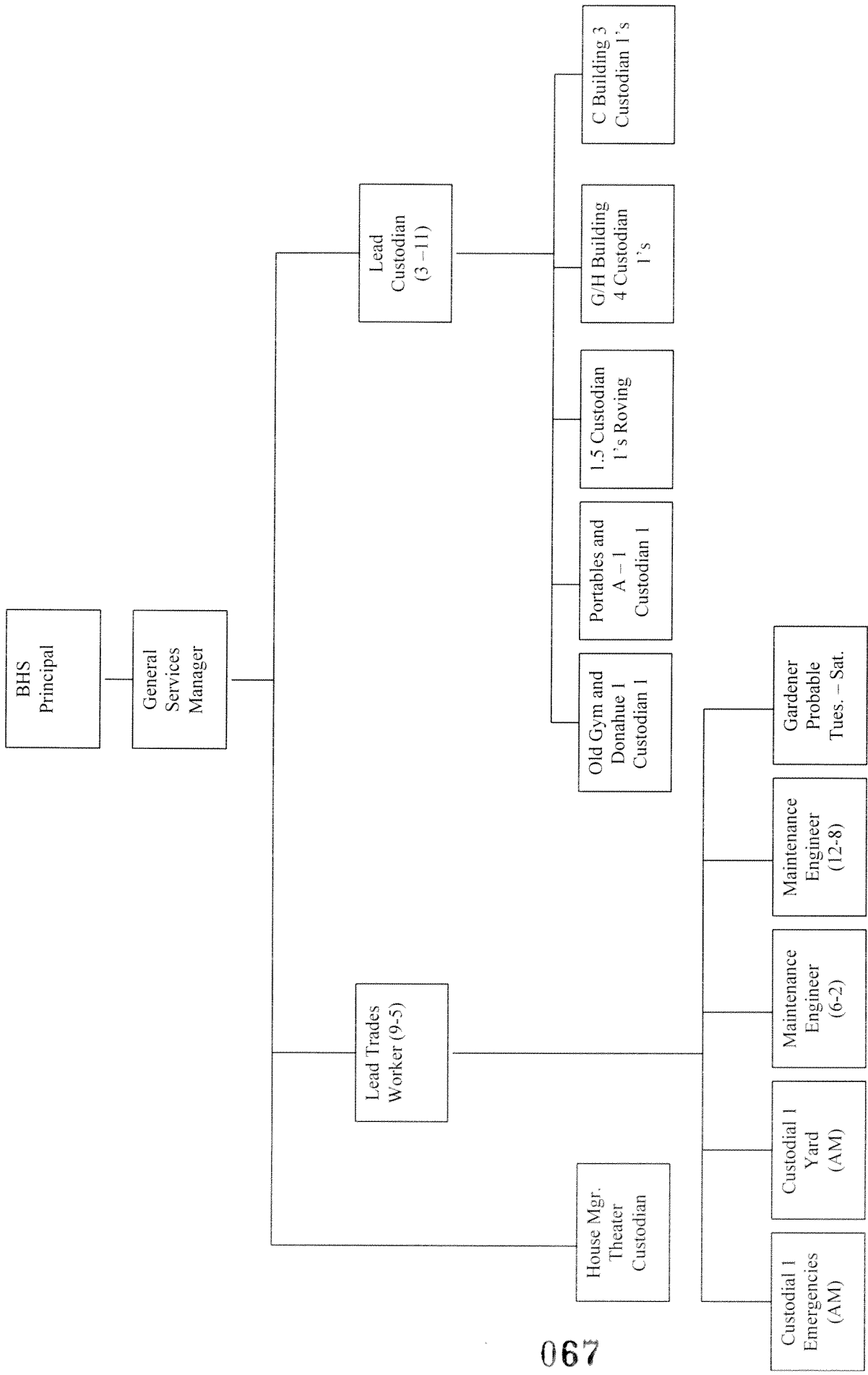
Disaster Preparation is a critical need in Berkeley. Many of our schools are located in the Alquist-Priola Special Studies zone and some are located very close to the Hayward Fault. The responsibilities for Disaster Preparation rest with the entire District. However, the strategic plan for the facilities area must include at least those elements, which are in that area of responsibility, such as utility shutoff maps, and drills for the facilities areas, radio repair and upkeep. The overall plan for disaster preparedness is in progress consequently, the maintenance and facilities division will feed into the Disaster Preparedness document.

Reporting

The passage of Measure BB requires a process to report on maintenance expenditures and progress. The Bond Measures A and AA are structured with a yearly plan, quarterly financial reports and periodic updates presented to the public. Measure BB could follow a similar sort of reporting strategy. In the future, we may need to consider a combined construction and maintenance report for the progress and periodic updates. The development of a public reporting structure and the evidence of completed safety and financial status reports can help assure

the community that work is in progress and we are moving forward with the much needed improvements.





Custodial
Supervisor

The Custodial Supervisor will supervise three people – the two security personnel and the custodian at the Plant Operations department. However, he also will evaluate all custodians during the summer and will assist in the evaluations performed by the principal or their designee at all the sites. In addition to this role, he will have the prime responsible for hazardous material reporting and coordination. Generally this individual will work the swing shift.

Grounds/
Landscape
Supervisor

The Grounds/Landscape Supervisor will supervise six people, one of who is a lead worker. He also has the responsibility to assist volunteer efforts to improve our landscaping, such as adopt a plot or cleanup days. This individual will not work Monday through Friday, but Tuesday – Saturday or Wednesday-Sunday.

Maintenance
Supervisor
(AM)

The Maintenance Supervisor (AM) will supervise 8 or 9 people, including one lead worker, one security engineer (current locksmith) two general maintenance workers and four or five maintenance engineers. The prime function of this team is to handle District emergencies as they arise. Each individual may be assigned separately on independent work requests. The supervisor will be responsible for overseeing the small maintenance contracts which may be needed. Work hours will be similar or identical to the current work hours.

Maintenance
Supervisor.
(PM)

The Maintenance Supervisor (AM) will supervise 12 to 16 people, including one lead worker, two general maintenance workers and nine to thirteen maintenance engineers. The prime function of this team is to handle District schedule work efforts. Coordination with school sites and planning of material needs will be a prime focus of the work. The workers will work in two or occasionally three teams and may work at a site for an extended period of time. Work hours will begin in the afternoon.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Michele Lawrence, Superintendent
FROM: Christine Lim
Associate Superintendent, Instruction
DATE: October 17, 2001
SUBJECT: 3rd Annual Report on the District's Early Literacy Plan

BACKGROUND INFORMATION:

In September 1998, the School Board approved the implementation of the K-3 Early Literacy Plan (ELP). The Early Literacy Plan states:

By the end of third grade, all students who have completed kindergarten through third grade in Berkeley schools...will read at or above grade level...as measured by a district-wide assessment system.

The Early Literacy Plan consists of four main components with supporting elements: Training, Classroom Implementation, Coordination, and Evaluation. A brief summary of our successes to date and next steps are:

Successes:

- 11/12 sites have received K-3 training in a research-based, classroom reading methodology.
- Classroom instruction has focused on the early literacy framework components.
- All sites have identified Literacy Teacher Leaders, K-5, who provide peer coaching and support in literacy practices, site training in district assessments, and staff development.
- Early Literacy Groups (small group reading instruction model) was implemented at 9 sites at the K-3 grade level.
- In working with BFT, K-5 district assessments were refined in spring 2001 that limits teacher time on assessment, and provides the necessary data to improve instruction.
- BSEP provided funding for K-5 guided reading book sets at all 12 sites.
- Sites conducted self-evaluations to identify and address literacy areas that need support.
- The bar was raised on the end-of-year grade level expectations for DRA and QRI district assessments.
- Comparison of spring 2001 DRA and QRI scores to 1999 and 2000 scores indicates greater consistency in assessment administration and accuracy in reporting scores.
- Grades 3-5 were assessed with expository text passages rather than narrative text passages from the QRI, which offers a better measurement of comprehension skills.

Next Steps:

- The remaining site that has not implemented a research-based balanced reading model at the K-3 level will do so under the direction of the newly appointed principal with support of the District Literacy Leader.
- Continue effective literacy classroom instruction.
- Increase hourly feedback time for coaching to 7 hours per teacher.
- Increase the number of Served, Graduated and Full Program students in Reading Recovery/Descubriendo La Lectura.
- Increase the number of students served in Early Literacy Groups.
- Improve site accountability for accuracy and timeliness in reporting DRA and QRI scores by implementing a certification form, signed by the principal, indicating that scores have been reviewed and approved.
- Decide what district text reading assessment should be used for dual immersion students at grades 3-5.
- Develop a Spanish high-frequency reading word list and spelling word list.
- Sites that do not currently have Reading Recovery at full implementation will begin to identify ways to increase the numbers of students served.
- The remaining three sites will implement Early Literacy Groups

Attached is the 3rd annual report on the Early Literacy Plan. Tonight several staff members involved in various portions of the Early Literacy Plan will be present to share the report in detail and answer any questions.

Berkeley Unified School District
Third Annual Report on the District's Early Literacy Plan

By the end of third grade, all students who have completed kindergarten through third grade in Berkeley schools ...
 ... will read at or above grade level ...
 ... as measured by a district-wide multi-assessment system.

Component	District's Mandate (<i>Italic/in Bold</i>) Actions to date (not bolded)	Recommendations
TRAINING: Research-Based Classroom Reading Model	<p><i>All K-3 teachers will receive initial training in research-based, classroom reading methodology by the year 2000. This training will be consistent with the state goals to provide a comprehensive, balanced reading program.</i></p> <p>Schools were grouped into a phased-in implementation model for a total of three phases. Both Phase I and Phase II schools began implementation of the Early Literacy Plan (ELP) in fall 1998. A summary of site implementation by phases is presented below. <u>Note:</u> In 1998, Phase II schools were already involved in research-based, classroom reading methodologies, and each site had one out-of-district trained Reading Recovery teacher on staff.</p>	
	<p>Phase I Schools</p> <ul style="list-style-type: none"> • Cragmont completed the second year of implementation of the RESULTS literacy program (California Reading and Literature Project) school wide. Training will continue in 2001-02. The staff participated in literacy professional development once a month led by the on-site literacy coach. This will continue in 2001-02. • LeConte has incorporated into its K-5 literacy program several elements from past research-based trainings: Early Literacy In-service Course (ELIC), Best Practices (Saint Mary's College of California), and the Open Court Phonics Program, K-3. Site expertise will be utilized for staff development in 2001-02. 	

Berkeley Unified School District
Third Annual Report on the District's Early Literacy Plan

Component	District's Mandate (<i>Italic/in Bold</i>) Actions to date (not bolded)	Recommendations
	<ul style="list-style-type: none"> • Jefferson has not implemented a research-based, classroom reading methodology. • Oxford completed the first semester of training in Best Practices (Saint Mary's College of California), K-3. The second semester of training will be completed by February 2002. • Rosa Parks received training in the K-3 California Early Literacy Learning (CELL) model four years ago and in the Extended Literacy Learning model (ExLL) at 4-5 three years ago. A .5 site-based CELL coordinator provided coaching services and has returned full time to the classroom in 2001-02. K-3 coaching will continue to be provided upon request by the former CELL coordinator who also serves as site Literacy Teacher Leader (LTL). The site-based reading specialist will provide coaching to 4-5 teachers upon request. • Washington continues training with a literacy consultant. Two teacher study groups read and discussed <i>Mosaic of Thought</i>. Reciprocal teaching, based on the Soar To Success model, has been implemented in many classrooms. 	<p>During 2001-02, Jefferson selects and implements a research-based, classroom reading methodology.</p>
	<p>Phase II Schools</p> <ul style="list-style-type: none"> • Berkeley Arts Magnet received K-3 training in the CELL model four years ago. A .5 site-based CELL coordinator provided coaching services. The CELL coordinator/coach position will not be available in 2001-02. Site-based staff development will take place once a month led by staff experts. Kindergarten teachers will provide co-workers with release time for observations and coaching. • Malcolm X continues to implement the K-3 CELL model. A site-based CELL coordinator provides coaching services and staff development. In 2001, grade 4-5 teachers attended the ExLL training; they also participate in the Cal Reads tutoring program and attend site-based CELL staff development meetings. • Thousand Oaks has incorporated into its K-5 literacy program 	

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	<p>several elements from past research-based trainings: Early Literacy In-service Course (ELIC) and Best Practices (Saint Mary's College of California). In 2001, site-based literacy leaders provided increased support to K-1 teachers in early literacy practices. Site-based staff development is ongoing.</p>	
	<p>Phase III Schools</p> <ul style="list-style-type: none"> • City of Franklin Microsociety completed training in Best Practices (Saint Mary's College of California), K-3, in fall 2001. • Emerson continues school-wide implementation of the RESULTS literacy program (California Reading and Literature Project). Site-based staff development is ongoing. • John Muir completed training in Best Practices (Saint Mary's College of California), K-3. Site-based literacy staff development is ongoing. 	
<p>TRAINING: Literacy Teacher Leaders</p>	<p>Teacher leaders at each site will be trained to provide peer coaching, additional methodology, parent education and assessment training to the site staff.</p> <ul style="list-style-type: none"> • All sites have identified Literacy Teacher Leaders (LTLs) K-5. • Monthly K-5 LTL meetings, facilitated by the K-5 District Literacy Coordinator, provide staff development on topics related to the ELP and to literacy support responsibilities district-wide (i.e., BSEP's guided reading book set ordering). 	<p>Increase "coached" teacher paid feedback time from two hours to seven hours, equal to one duty day per "coached" teacher.¹</p>

¹ Literacy Teacher Leaders receive a stipend of \$1,100 for attending monthly meetings and providing 20 hours of coaching services at their sites. Four sub days are provided to each LTL for demonstrating/observing/coaching activities. LTLs keep a log of the support provided during the year. Because most LTLs are classroom teachers, there is the on-going issue of release time to conduct observations, etc.

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<p><u>TRAINING:</u> Reading Recovery</p>	<p><i>Reading Recovery teachers at each site will be trained to provide service for at least 20% of the lowest-achieving first graders.</i></p> <p>Reading Recovery is an intensive-one-to-one literacy intervention for high-risk first grade students. Reading Recovery/Descubriendo La Lectura (RR/DLL) is the safety net intervention piece of the ELP. Data submitted to The Ohio State University for RR/DLL 2000-01 is presented as a 5-page attachment².</p> <p>2001 Results</p> <ul style="list-style-type: none"> • Reading Recovery teachers provided service at all twelve sites. • Six sites reached full implementation (that is, 20% of the lowest achieving first graders received RR service) in 2000-01: Berkeley Arts Magnet, Jefferson, John Muir, Oxford, Rosa Parks, and Washington. • Summary of results: <ol style="list-style-type: none"> 1. 110 students were served in RR/DLL 2. 55 graduated 3. 69% (7 out of 10) of students who received a full program were reading at grade level by the end of the year 4. Graduated students increased 15 levels in text reading 5. Students recommended for further instructional support increased 7 levels in text reading 6. Students who did not receive a complete RR program increased 4 levels in text reading 7. In 2000-01, 90% of those students receiving a full program graduated vs. 81% - 85% in prior years. 	<p>Increase number of Served, Graduated and Full Program students in RR/DLL.</p>

² BUSD Reading Recovery and Descubriendo La Lectura Research Questions

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	<p>Sustained Progress</p> <p>1. Of the 190 students who <u>graduated</u> from RR/DLL over the past 5 years, 76% are still in BUSD, and 66% are reading at grade level.</p> <p>2. Of the 377 students who were <u>served</u> in RR/DLL over the past 5 years, 80% are still in BUSD, and 42% are reading at grade level.</p> <p>Program Status: Graduated Students Graduated Students Over 5 Years</p> <table><tr><th>Year in RR/DLL and Grade Level in 2001</th><th># of Graduated Students</th><th># of Graduated Students Still in BUSD</th><th>% of Graduated Students Still in BUSD</th><th># of Graduated Students Still in BUSD at Grade Level</th><th>% of Graduated Students Still in BUSD at Grade Level</th><th>% of all BUSD Students at Grade Level</th></tr><tr><td>1996-1997 5th</td><td>13</td><td>8</td><td>62%</td><td>5</td><td>63%</td><td>72%</td></tr><tr><td>1997-1998 4th</td><td>17</td><td>11</td><td>65%</td><td>4</td><td>36%</td><td>72%</td></tr><tr><td>1998-1999 3rd</td><td>39</td><td>26</td><td>67%</td><td>15</td><td>58%</td><td>73%</td></tr><tr><td>1999-2000 2nd</td><td>66</td><td>45</td><td>68%</td><td>30</td><td>67%</td><td>76%</td></tr><tr><td>2000-2001 1st</td><td>55</td><td>55</td><td>100%</td><td>42</td><td>76%</td><td>71%</td></tr><tr><td>Total</td><td>190</td><td>145</td><td>76%</td><td>96</td><td>66%</td><td>73%</td></tr></table>	Year in RR/DLL and Grade Level in 2001	# of Graduated Students	# of Graduated Students Still in BUSD	% of Graduated Students Still in BUSD	# of Graduated Students Still in BUSD at Grade Level	% of Graduated Students Still in BUSD at Grade Level	% of all BUSD Students at Grade Level	1996-1997 5th	13	8	62%	5	63%	72%	1997-1998 4th	17	11	65%	4	36%	72%	1998-1999 3rd	39	26	67%	15	58%	73%	1999-2000 2nd	66	45	68%	30	67%	76%	2000-2001 1st	55	55	100%	42	76%	71%	Total	190	145	76%	96	66%	73%	
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