



**NAPA VALLEY
UNIFIED SCHOOL DISTRICT**

Contract No. _____

3-2-20
SPC 12349

**NAPA VALLEY UNIFIED SCHOOL DISTRICT
CONTRACT FOR CONSULTANT SERVICES**

The NAPA VALLEY UNIFIED SCHOOL DISTRICT, hereinafter "District", and Frye's Consulting, hereinafter "Contractor", do hereby agree as follows:

1. **Description of Service:** The Contractor will provide the following service: **Construction Management**
2. **Term of Agreement:**
Consultant work will commence beginning 7/01/2019 and be completed by 6/30/2020.
3. **Compensation:**
The district will pay for services rendered on:
(a) A fixed fee basis of:
(b) A time and expense basis of: **\$105 per hour**
(c) A total cost basis not to exceed: **\$218,000**
4. **Expenses:**
Description and amount of any costs in addition to compensation:
5. **Method and Times of Payment:** **Within 45 days of receipt invoice.**
6. **Performance:**
List specific persons or profession classifications that will perform work:
Construction Management of projects District Wide (see attached).
7. **District Contract Administrator:**
Jennifer Gibb
8. **Funding Source and Account:** Including but not limited to Funds: **01, 21, 25, 35 and 40.**
9. **Contract Documents:**
This contract consists of the Consultant Services, the General Provisions for Consultant Services Contracts, any specifications, drawings and attachments. **W-9 Form:** ☒ On file ☐ Attached
10. **State Retirement**
Are you retired from STRS / PERS ☐ Yes ☒ No If yes, date _____

AGREED TO AND SIGNED THIS _____ DAY OF _____, 2019.

Signature
Frye's Consulting
Tracy Frye
2599 Harvest Lane
Napa, CA 94558
(707) 275-6512

Signature
Contract Administrator:
Jennifer Gibb
Facilities Financial Analysis

Social Security or IRS Tax ID MUST BE ON FILE WITH ACCOUNTING

Contracts over \$1000 and all categorically funded contracts must receive the following approvals:	Date
Assistant Superintendent or Director: _____	_____
Assistant Superintendent, Human Resources: _____	_____
Board Approval: _____	_____



NAPA VALLEY UNIFIED SCHOOL DISTRICT

GENERAL PROVISIONS

1. **ASSIGNMENT/DELEGATION:** Neither party hereto shall assign, sublet or transfer any interest in this agreement or any duty thereunder without the written consent of the other.
2. **INDEPENDENT CONTRACTOR:** The parties intend that Consultant shall act as an independent contractor and is not to be considered an agent or employee of District. Therefore, the District is interested only in the results to be achieved. The Contractor is expected to use his or her special expertise, discretion and professional judgment in carrying out the duties of this Agreement. The Contractor has the responsibility and discretion to make appropriate decisions in planning and implementation of the contract duties. The Contractor shall devote his or her best efforts to rendering the requested services on behalf of the District, but may also be engaged in the rendering of such services or in any other business opportunity on his or her own behalf as long as such additional services do not create a conflict of interest or unreasonably interfere with the satisfactory performance of his or her duties pursuant to this Agreement.
3. **INDEMNIFICATION:** Consultant shall indemnify and hold District harmless from any liability, claim, action, cost, damage or loss for injury, including death, to any person or damage to any property arising out of Consultant's activities under this agreement, or from acts or omissions of any person(s) employed by Contractor.
4. **INSURANCE:** Consultant agrees, during the term of this agreement, to maintain at Consultant's sole expense all necessary insurance for its officers, agents and employees, including but not limited to, workers' compensation, disability, unemployment and liability insurance, and to provide District with certification upon request. Contractor acknowledges that the District is not Contractor's employer and that he/she is not covered by the District's Workers' Compensation insurance since Contractor is an independent contractor.
5. **METHOD/PLACE FOR NOTICE, BILLING AND PAYMENTS:** All notices, invoices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, invoices, bills and payments sent by mail shall be addressed as follows:

DISTRICT: Napa Valley Unified School District 2425 Jefferson Street Napa, CA 94558	CONSULTANT Frye's Consulting Tracy Frye 2599 Harvest Lane, Napa
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6. **TERMINATION:** District may terminate this agreement by giving thirty (30) calendar days written notice to Consultant. In the event District elects to terminate the agreement without cause, it shall pay Consultant for services rendered to such date. If either party fails to perform any of its obligations under this agreement, within the time and in the manner provided, either party may terminate this agreement, without giving thirty (30) days notice, merely by giving written notice of termination, stating the reason for termination. Consultant shall receive payment for all services satisfactorily rendered to such date.
7. **EXTRA/CHANGED WORK:** Only the Superintendent may authorize extra (and/or changed) work. The parties expressly recognize that District and school personnel are without authorization to order extra/changed work or waive contract requirements. Failure of the Consultant to secure proper authorization for extra work shall constitute a waiver of any and all right to adjustment in the contract price or contract time due to such unauthorized extra/changed work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed by Consultant without the express and prior written authorization of the Superintendent.
8. **AMENDMENT:** This agreement may be modified or amended at any time by written mutual agreement of the parties.
9. **WORK PRODUCT:** District shall be owner of and shall be entitled to immediate possession of accurate reproducible copies of any design computations, plans, correspondence or other pertinent data and information gathered or computed by Consultant prior to termination of this agreement by District or upon completion of work pursuant to this agreement.
10. **TAXES:** Consultant agrees to file federal and state tax returns and pay all applicable state and federal taxes on amounts paid pursuant to this agreement. In case District is audited for compliance regarding any applicable taxes, Consultant agrees to furnish District with proof of payment of taxes on those earnings.
11. **NONDISCRIMINATION:** Consultant shall comply with all applicable federal, state and local laws, rules and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, disability or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this agreement are incorporated by this reference.
12. **MERGER:** This writing is intended as the final expression of the agreement between the parties with respect to the terms of the agreement.
13. **NO THIRD-PARTY BENEFICIARIES:** There are no intended third-party beneficiaries of this Agreement.
14. **NO WAIVER OF BREACH:** The waiver by District of any breach of this agreement shall not be deemed a waiver of any subsequent breach of the agreement.
15. **ENFORCEMENT:** This Agreement shall be subject to the laws of the State of California.
16. **DISPUTES:** It is mutually agreed between the parties that arbitration shall be the sole and exclusive remedy to redress any and all disputes, claims or controversies arising out of or related to this contract including without limitation the interpretation of the Agreement, its terms and conditions, breach of the Agreement, termination of this Agreement and all claims alleging discrimination prohibited by law, such as, but not limited to, the Age Discrimination and Employment Act, Title VII, and the Fair Employment and Housing Act. It is the intention of the parties that an arbitration decision or award will be final and binding and that a judgment on the award may be entered in any court of competent jurisdiction and enforcement may be had according to its terms. It is understood that by electing to use final binding arbitration to resolve any disputes, the parties are waiving voluntarily their rights to a jury trial or resolution through any applicable administrative remedy. The parties will split the expense of arbitration equally.

Note: Federal Internal Revenue Service regulations require the District to report all payments to individuals for contract services.

Contractor

Date

Original-Contract Administrator

Copy-Contractor

Tracy Frye
Frye's Consulting LLC
2599 Harvest Lane
Napa, CA 94558
707-257-6512
Tracy@fryesconsulting.com

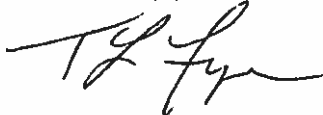
May 21, 2019

Jennifer Gibb
Napa Valley Unified School District
1616 Lincoln ave.
Napa, CA 94558

Dear Jennifer,

Thank you for the opportunity to work for the school district and the community on the many projects this coming year to better our schools. My consultant fees for the year to work as a Project manager/ Construction manager for the school district is \$105.00 per hour.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Tracy Frye', with a stylized, flowing script.

Tracy Frye

1) Construction Management – for individual projects, as needed, under Funds 21, 25, 35 & 40

- a) **Construction Phase Management:** The Construction Manager is on site every day to make sure the District's interests are well represented. The Construction Manager is the hub of communication for all involved parties within the project.
- i) Coordinate the scheduling and the scope of work for inspection.
 - (1) Inspector of Record
 - (2) Special Inspection / Materials Testing
 - (3) Geotechnical Testing
 - ii) Chair OAC weekly meeting
 - (1) Ensure attendance by Design team, Contractor, Inspector, District (as needed)
 - (2) Maintain meeting minutes
 - (3) Document decisions made
 - (4) Track action items for the District and other team members
 - (5) Bring new issues up for discussion
 - (6) Foster a team environment
 - (7) Coordinate site walks between Design Team and Contractor to make sure issues are resolved and Design Team is up-to-speed with progress on site.
 - iii) Track RFI's
 - (1) For swift response by the Design Team
 - (2) For cost impacts
 - (3) For consistence with the District's intent for the project
 - (4) For schedule impacts
 - (5) For pro-active / solution-based questions and responses.
 - iv) Track Submittals
 - (1) For swift response by the Design Team
 - (2) For coordination as needed with M&O team
 - (3) For changes to the original design
 - (4) For changes with cost impact
 - (5) Coordinate with Contractors schedule to see if submittals are completed prior to work on site and with consideration for product lead times.
 - v) Review General Contractor Base Line Schedule and subsequent updates (Monthly)
 - (1) For a single / logical critical path
 - (2) For meeting project milestones
 - (3) For changes in logic that may have unseen impacts
 - (4) For successful completion
 - (5) For coordination with District IT and M&O Staff
 - (6) For coordination with FF&E Procurement
 - (7) For coordination with OFCI items
 - vi) Review of General Contractor's Schedule of Values and subsequent Pay Applications (Monthly)
 - (1) For consistency with the contract
 - (2) For sufficient break-down by trade/scope of work
 - (3) For consistency with progress on site
 - (4) For associated documentation

- (a) Conditional Waivers
 - (b) Unconditional Waivers
 - (c) Certified Pay Roll Submission
- (5) For up-to-date As Builts
- vii) Coordinate Review of As Builts with Contractor and IOR (Monthly)
- viii) Review/Track/Report all Construction Change Orders
 - (1) Review each PCO for validity, accuracy and consistency with the market.
 - (2) Negotiate PCO's as needed
 - (3) Make recommendations to the District for approval or rejection of PCO's after a full vet.
 - (4) Package PCO's into Change Orders for District approval
 - (5) Track Change Order costs against Project contingency
 - (6) Make recommendations to District and work with Design Team to mitigate PCO's whenever possible.
 - (7) Foster a strong working relationship with Contractor to help with negotiations and fair pricing.
- ix) Communicate status of the project's construction to
 - (1) District Management
 - (2) Program Manager
 - (3) M&O Staff
 - (4) IT Staff
 - (5) Campus Admin
 - (6) User Groups (as needed)
 - (7) Governing Agencies
- x) Host tours of the construction site to interested parties.
- xi) Plan/Procure/Coordinate Delivery of FF&E items.
- xii) Plan/Procure/Coordinate Delivery of OFCI items.
- xiii) Coordinate the activation of site utilities.
 - (1) Domestic water
 - (2) Power
 - (3) Sanitary Sewer
 - (4) Storm Drain
 - (5) Communication/Data
- xiv) Coordinate/Schedule/Receive/Document information associated with building commissioning.
- xv) Provide a communications link between the District and Contractor.
- xvi) Field neighbor questions/concerns associated with the project.
- b) **Project Close Out:** the quick and through closeout of a project is critical to the success of the construction program.
 - i) Ensure all parties associated with the project file close out documentation with DSA.
 - ii) Coordinate the submission of Contractor as builts
 - iii) Coordinate the review of Contractor as builts by the Design Team and their conversion to final record documents.
 - iv) Coordinate the submission of Contractor's Maintenance and Operations manuals.

- v) Coordinate the review of Contractor's Maintenance and Operations manuals by the Design Team.
- vi) Coordinate the submission of Contractors warranties.
- vii) Coordinate the review of Contractor's warranties by the Design Team.
- viii) File all of the above close out documentation within the District file system.
- ix) Schedule and document training for all systems within the new facility for M&O Staff and Campus (as needed).
- x) Coordinate with user group for any issues after move in.
 - (1) Additional FF&E needs.
 - (2) Warranties issues
 - (a) Schedule contractor repairs
 - (b) Track their completion

2) ***Additional District Assistance***

- a) Assist District, as needed, with local municipality coordination.
- b) Assist District, as needed, with M&O construction coordination.
- c) Attend, as needed, CBOC and BOE meetings as it relates to the given task/project.