

## **2021–2022 San Joaquin County Grand Jury**



### **Stockton Unified School District: A Failing Grade in Public Trust Case #0121**



### **Summary**

The 2021-2022 Grand Jury received complaints alleging the Stockton Unified School District's (SUSD) management and Board of Trustees were not adhering to policies and procedures regarding financial transactions and funds were not being used in the best interest of students, families, staff and District.

The investigation included over 30 interviews with complainants, District staff (current and former) at all levels, Board of Trustees, State and local education departments, and professional entities that had conducted operational assessments. Documentation reviewed included SUSD Board

documents, California Education Code, SUSD contracts and billings, correspondence, government codes, the 2022 Fiscal Crisis Management Assistance Team (FCMAT) Work Study Report, portions of the California Education and Government Codes, and many other documents pertinent to the investigation.

The Grand Jury found multiple examples supporting the conclusion of poor business practices, inadequate duty of care by the administration and Board, and lack of transparency to the public and Board, potentially risking the District's solvency.

SUSD and FCMAT project that the District is headed toward at least a \$30 million deficit by fiscal year 2024-2025. As a result of this projected deficit, the San Joaquin County Office of Education (SJCOE) has hired FCMAT, the State agency charged with conducting fiscal oversight of public education, to conduct an AB139 Extraordinary Audit, a comprehensive examination of the fiscal issues of the District. This is the first such audit of a public school district in San Joaquin County since 2015 and only the second since conception of AB 139 in 2001. The 2015 AB139 Extraordinary Audit involved a small Independent Charter School. The current Extraordinary Audit of SUSD is the first such audit of a public school district in San Joaquin County.

If SUSD continues to operate as is, the District deficit will likely escalate. The Grand Jury recommends the following actions by the SUSD Board of Trustees to avoid a possible State-ordered takeover by SJCOE due to fiscal mismanagement and poor District leadership:

- align the Business Services Department (BSD) software to that used by SJCOE;
- follow established Board policies regarding duty of care, purchasing, Request for Qualifications (RFQ), Request for Proposal (RFP), contract terms, change orders, acquisition of legal services and transparency;
- develop new policies to address specific issues in purchasing;
- reinstate the Grant Development Office;
- complete fully and accurately all forms that are submitted to the Board of Trustees;
- complete all California School Board Association (CSBA) Masters in Governance (MIG) trainings;
- avoid real or perceived conflicts of interest;
- shift the salaries of essential department directors, teachers and support staff from one-time money to the appropriate General Fund category to better reflect the status of solvency; and
- follow staff recommendations and matrix scores on contracts submitted to the Board of Trustees.

Among other issues found to be of concern were deficiencies in duty of care by senior administration and the Board of Trustees and lack of transparency to the public and Board. The Grand Jury uncovered issues with Board agenda items having minimal information and limited discussion by Trustees, Board of Trustee conflicts of interest, Board lack of preparedness for meetings and the inability of Trustees to recall how they voted on major contracts. In addition, the

Grand Jury had difficulty reviewing Board actions as many Board meeting minutes were not publicly posted and the District did not fully comply with a subpoena for minutes and recordings.

## Glossary

- **AB139 Extraordinary Audit:** A comprehensive review or audit of expenditures and internal controls to determine fraud, misappropriation of funds or other illegal fiscal practices. An AB139 audit is requested by a county superintendent of schools as stipulated by California Education Code Section 1241.5 (b) and (c).
- **ADA:** Average Daily Attendance. California uses a school district's ADA to determine its funding.
- **Alliance:** A vendor that provides ultraviolet equipment for indoor air quality. See also **IAQ**.
- **Allowance:** An amount specified and included in a construction contract for a certain item where exact costs are not determined at the time of contracting.
- **BAI:** Board Agenda Item.
- **BB:** Board Bylaw.
- **Board of Trustees (Board or Trustee):** The members of a board of trustees, commonly known as the school board, are elected representatives of their community. Putting the interest of students' futures first, they are charged with making decisions about the local public school system based on the community's expectations, goals and needs.
- **BP:** Board Policy.
- **BSD:** Business Services Department. Business services provides non-instructional services to district schools and departments. Though most of the activities occur behind the scenes, the services are essential to the smooth delivery of classroom instruction.
- **Brown Act:** Ralph M. Brown Act "requires local government business to be conducted at open and public meetings, except in certain limited situations. The Brown Act is based upon state policy that the people must be informed so they can keep control over their government." California Government Code beginning at Section 54950.
- **CARB:** California Air Resource Board.
- **CARES:** The Coronavirus Aid, Relief, and Economic Security Act or, CARES Act, was passed by Congress on March 27th, 2020. This bill allotted \$2.2 trillion to provide fast and direct economic aid to the American people negatively impacted by the COVID-19 pandemic.
- **CASBO:** California Association of School Business Officers.
- **CBO:** Chief Business Officer. Under the general direction of the Superintendent, the Chief Business Officer provides leadership and management over the business and financial operations of the District office and serves as chief financial officer.
- **CDE:** California Department of Education.
- **COE:** County Office of Education.
- **CSBSA:** California School Boards Association.
- **Consent Agenda:** Groups routine, procedural, informational and self-explanatory **non-controversial** items into a single agenda item so that the grouped items can be approved in one action.

- **Contingency:** A designated amount of money within a construction budget that can be used to pay for unexpected costs that may occur while completing the project.
- **Duty of Care:** A fiduciary duty requiring directors and/or officers of a board to make decisions that pursue the public's interests with reasonable diligence and prudence.
- **ESSER:** Elementary and Secondary School Emergency Relief Fund (Federal).
- **FCMAT:** Fiscal Crisis and Management Assistance Team. A California State agency, FCMAT's mission is to help California's local educational agencies fulfill their financial and management responsibilities by providing fiscal advice. FCMAT provides audits to help avert fiscal crises and promote sound financial practices; supports the training and development of chief business officials; and helps to create efficient organizational operations. FCMAT's data management services are used to help local educational agencies (LEAS) meet state reporting responsibilities, improve data quality and make informed decisions.
- **Fiduciary:** An individual in whom another has placed the utmost trust and confidence to manage and protect property or money.
- **Fiduciary Responsibility:** Board members act as trustees of the district's assets and must exercise due diligence and oversight to ensure that the district is well managed and that its financial situation remains sound.
- **GDO:** Grant Development Office.
- **General Fund:** This fund is the primary operating fund of the school district. It is used to account for all financial resources of the school district except those accounted for and reported in a categorical fund. A district may have only one general fund.
- **Governance Norms:** Agreed-upon behavioral expectations and protocols.
- **Government Code § 1090:** Prohibits an officer, employee or agency from participating in making government contracts in which the official or employee within the agency has a financial interest. Section 1090 applies to virtually all state and local officers, employees, and multimember bodies, whether elected or appointed, at both the state and local level.
- **HVIP:** Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project.
- **IAQ:** Indoor Air Quality, a vendor contracted by the SUSD Board of Trustees to provide indoor air quality equipment and installation. See also **Alliance**.
- **IFB:** Invitation for Bid.
- **LCAP:** Local Control and Accountability Plan. The LCAP is a three-year projection tool for local educational agencies to set goals, plan actions and prioritize resources to meet those goals to improve student outcomes.
- **MOU:** Memorandum of Understanding.
- **MYFP:** Multi-Year Financial Projections.
- **PRA:** California Code Government Code Title 9-Political Reform Act 87100. Amended January 1, 2022. A public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.
- **RAISE Grant:** Rebuilding American Infrastructure Sustainability and Equity. This is the first discretionary funding program to accept applications as directed by President Biden's Bipartisan

Infrastructure Law. The \$1.5 billion in available funding for 2022 represents a 50% increase in available funds compared to last year.

- **RFP:** Request for Proposal. A formal document that outlines an organization's intent to purchase goods and/or services and used to determine the best provider of product or service.
- **RFQ:** Request for Qualifications. An RFQ determines the best fit for a job based on the qualifications of the applying vendor.
- **SJCOE:** San Joaquin County Office of Education.
- **SUSD:** Stockton Unified School District.
- **Scoring rubric:** A rubric is a scoring tool that describes performance expectations for an assignment or piece of work. A rubric divides the assigned work into parts and provides clear descriptions of the characteristics of the work associated with each part, at varying levels of performance.
- **Superintendent:** The superintendent is the top executive in the school district. The role is to promote the success of all students and support the efforts of the board of trustees to keep the district focused on learning and achievement. The superintendent is hired and evaluated by the board of trustees.
- **TSS:** Total School Solutions is a private firm serving the interests of school districts and students that offers comprehensive services in the areas of education, budget and finance, facilities and planning, human resources, leadership and governance, operations, technology, professional development and legal compliance training.
- **UVC:** UVC light technology is a radiation method that makes use of a specific wavelength of ultraviolet light to neutralize microorganisms.
- **WestEd & Partners:** A nonpartisan, nonprofit research, development and service agency which works with education to promote excellence, achieve equity and improve learning.

## Background

### Stockton Unified School District Mission

Our Mission is to graduate every student college, career, and community ready. In doing so we lift all youth out of circumstances of poverty and scarcity.

Stockton Unified School District (SUSD) has served students and families since 1852. SUSD currently employs 1,585 full-time classroom teachers and over 1,500 support staff. The District serves 37,559 students at 54 school sites and is the 15<sup>th</sup> largest school district in California. SUSD has an annual budget of \$585 million. The District has one of the highest rates of minority enrollment in California at 94%. With an overall graduation rate of 78%, SUSD is in the lower 50% of all districts in California.

## **Reason for Investigation**

The 2021-2022 Grand Jury received public and staff complaints alleging dysfunction of the Stockton Unified School District regarding financial management, transparency, Board conduct and the historic influx of one-time money, totaling more than \$250 million, being used for long-term spending commitments.

## **Method of Investigation**

The 2021-2022 Grand Jury concentrated on SUSD's financial management, Board transparency and Board duty of care. Preparation for this report included conducting more than 30 interviews, attending virtual Board meetings and listening to recordings of Board meetings, and reviewing relevant documents, websites and newspaper articles.

### **Materials Reviewed**

- AB139 Extraordinary Audit
- Applicable federal and California state laws
- Board minutes from 13 school districts in San Joaquin County
- California Education Code
- California school district surveys
- California Secretary of State Department nonprofit filings
- Complaints against SUSD
- FCMAT Indicators of Risk or Potential Insolvency 8/14/2019 (Appendix A)
- FCMAT Work Study Report requested by SUSD
- Financial records, including audits, budget projections, purchase orders, warrant ledgers and invoices
- Health and Environmental Impacts of Diesel Exhaust, Oklahoma Department of Environmental Quality
- Newspaper articles regarding SUSD and SUSD personnel
- Scoring rubrics
- State and federal Government Codes
- SUSD Board meeting agendas, minutes and recordings
- SUSD bylaws and Board policies
- SUSD charter school documents
- SUSD consultant contracts, proposals and memoranda of understanding
- SUSD contracts for legal services, investigations and mediation

- SUSD correspondence
- SUSD LCAP progress reports
- SUSD State and federal grants (air quality, construction, program development, etc.)
- Total School Solutions Facility and Planning Efficiency Study
- WestEd report

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- *ESSER I Funding - Federal Stimulus Funding (CA Dept of Education).* www.cde.ca.gov. Retrieved May 10, 2022, from <https://www.cde.ca.gov/fg/cr/esser.asp>.
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## Discussions, Findings and Recommendations

### 1.0 Finance

#### **Elementary and Secondary Emergency Relief (ESSER) Fund (Appendix B)**

SUSD received allocations of approximately \$15 million ESSER I funds; \$70 million ESSER II funds; and \$156 million ESSER III funds for a total of more than \$241 million. These funds must be expended by 2024 or will revert to the federal government. Use of these funds is subject to internal audits by the District as well as audits by the Federal Office of the Inspector General.

#### **SUSD ESSER FUNDS**

	CARES/ESSER I	CRRSA/ESSER II	ARP/ESSER III
Funding for K-12	\$15,082,312	\$69,724,874	\$156,704,513
Obligation Deadline	Sep 2022	Sep 2023	Sep 2024
Uses	Summer Learning Providing mental health Services Educational technology including hardware and software Activities to address the unique needs of various subgroups, including students with disabilities, BIPOC students, English learners, as well as students experiencing homelessness, low income, or in foster care Preparedness and continuity of services	Same as CARES plus: Activities to address "learning loss" Preparing schools for reopening Projects to improve air quality in school buildings	

## 1.1 Business Services Department

The Business Services Department (BSD) is directly responsible for all financial management of the District:

- accounting
- budgeting
- compliance with State and federal reporting requirements
- insurance policies
- investments
- payroll
- purchasing.

Due to the retirement and separation of numerous long-term employees, including the Chief Business Officer in the past year, there has been a loss of institutional knowledge and experience in this department. Key budget and management personnel have been in their positions for only a short time. SUSD is the **only** district of the 14 in San Joaquin County not using the same software as SJCOE. SUSD staff who are new and unfamiliar with the District's software system are not able to seek SJCOE assistance and training needed to access key financial reports necessary for budget analysis and projections.

The BSD is not able to provide the data and accounting for key reports such as the Local Control Accountability Plan (LCAP), ESSER or grant expenditures. The most recent mid-year LCAP report was submitted to SJCOE but lacked completed data and ancillary reports. The BSD staff lacks understanding of and training in the requirements of the LCAP report. The deficiencies in the report resulted in the rejection and return of the LCAP to SUSD by SJCOE, calling it "dramatically incomplete." The corrective action taken by the BSD was to request another SUSD department correct the report to bring the SUSD LCAP into alignment with County and State standards and regulations.

On March 27, 2020, Congress set aside approximately \$13.2 billion of the \$30.75 billion allotted to the Education Stabilization Fund through the Coronavirus Aid Relief and Economic Security (CARES) Act for the ESSER Fund (Appendix B). Congress required that school districts spend at least 20% of the funding to address lost instructional time during the pandemic due to school closures and distance learning and to address students' social, emotional and mental health needs. Based on testimony, the Grand Jury was unable to determine specifically how spending of relief money or the budgeting process for those funds was conducted.

The BSD is currently unable to produce required and requested operational budget reports for regular day-to-day operations and has hired a consulting firm for assistance. The January 11, 2022, Board Agenda Item (BAI) 6.4 states, "The District is currently experiencing difficulty in recruiting an experienced Fiscal Services Director to help manage our \$800+ million budget. District staff in our fiscal services department are feeling **overwhelmed** and are in need of additional support, expertise, and training." The contract was initially approved using ESSER funds in the amount of

\$39,000 in January 2022 and was amended on April 12, 2022, to \$89,000 because of the need for additional training and support.

A lack of communication exists between BSD staff and the office of the Chief Business Officer (CBO). Some key department heads have not been provided their operational budgets and have concerns about how to manage and move forward in their respective departments. The FCMAT study team noted similar issues in their report. Inefficiencies in the BSD caused at least one delay in payroll.

Selection of the current CBO was made contrary to Board Policy (BP) 4211.2. The CBO was hired without a search, screening process or interviews.

The District shall engage in ***fair and sound personnel practices in the appointment of all employees***. The administration shall be responsible for establishing recruitment, selection and appointment procedures which ***include***:

- a. Assessment of the District's needs to determine those areas where specific skills, knowledge and abilities are lacking.
- b. Development of job descriptions which accurately portray the position.
- c. Dissemination of vacancy announcements to ensure a ***wide range of candidates***.
- d. Screening procedures which will identify the best possible candidates for ***interviews***.

SUSD Board Policy (BP) 4211.2

## Findings

**F1.1.1** Stockton Unified School District does not utilize financial software that aligns with the San Joaquin County Office of Education software, making analysis and review by the San Joaquin County Office of Education difficult.

**F1.1.2** Stockton Unified School District Business Services staff lacks necessary training and guidance to execute complex District business needs, resulting in the need to hire outside consultants at an increased cost to the District.

**F1.1.3** The current Chief Business Officer was hired without following Board Policy 4211, creating an appearance of partiality and creating diminished internal and external confidence.

## Recommendations

**R1.1.1** By January 1, 2023, the Stockton Unified School District Board of Trustees direct the Superintendent to assess the current financial software to be compatible with the San Joaquin County Office of Education software.

**R1.1.2** By December 1, 2022, Stockton Unified School District Board of Trustees, in conjunction with the Business Services Department, develop, adopt and implement training policies with protocols consistent with California Association of School Business Officers best practices.

**R1.1.3** By December 1, 2022, the Stockton Unified School District Board of Trustees publicly commit through a Board resolution to adhere to Board Policy 4211.2 in recruitment efforts, candidate screenings and interview processes for all open positions.

## 1.2 Change Orders

Change orders are an inevitable part of construction projects. Most projects will require a change order over time due to increased project costs, delays in hitting contract milestones, interruption of workflow and not completing a project on time. Change orders that are not properly managed can quickly derail the progress of a project and delay senior management and the Board learning of cost-overruns in a timely manner.

Project and program-wide budget management can be a relatively simple process. As noted in the FCMAT Work Study Report, “The master program budget and all project and program wide budget and expenditure reports should be updated monthly for maximum ability to respond to unexpected costs, budget overages, and issues such as changes in budget assumptions. These reports are relatively simple to maintain and update using Excel spreadsheets. A best practice is to have an accounting position in the Facilities and Planning Department to complete the reports, with at least two people cross trained to ensure that the reports are updated in a timely manner when employees are absent or leave the district.”

TSS conducted an SUSD Facility and Planning Efficiency Study in the fall of 2021. The Grand Jury conducted separate interviews and reviewed construction contracts. SUSD failed to follow up on the receipt of change orders and to appropriately administer change orders. According to Public Contract Code §21152, the contractor is required to submit all change orders to the Board. This requirement, according to TSS, should be met even if the change order is being charged to the project’s contingency account. SUSD agenda items have included contract amendments, but change orders and an accounting for allowances have not been included. Change orders are not presented to the appropriate District administrators for review, and few change orders are presented to the Board. Change orders are not complete when submitted to the Board for ratification or approval. Most do not contain a complete description of the change or resulting cost adjustment. These details are critical to ensure proper oversight of construction projects, many of which are funded by bonds. For example, athletic facility projects at Franklin High School had an overrun of approximately \$6 million. No change order was submitted to the Board for approval.

Of the 31 contracts reviewed, TSS found that only one change order was taken to the Board for information, approval, or ratification. While not submitting change orders may expedite the process, it conflicts with best practices. Change orders, as set forth in the California Code, Public Contract Code §10126, are to have a separate contingency budget outside of the construction contract which is drawn down as changes occur.

When allowances are used, the best practice is to provide funds for conditions known to exist but for which the quantity and cost are unknown. Scope changes, agency requirements, errors and omissions, and unforeseen conditions should be treated as change orders. The use of allowances in the contract amount expedites the authorization of change orders and minimizes time spent in obtaining SUSD and Board approval on change orders prior to the execution of work.

According to TSS, professional service contracts, construction contracts, contract amendments and construction change orders should be presented to the Board as distinct agenda items. Professional services and construction projects are controlled by the California Code, Public Contract Code §21152.

## Finding

**F1.2.1** Not all change orders are brought to the Board of Trustees for approval or ratification, leaving the Board and senior management unaware of overruns and total cost of projects and causing possible cost overages and budget deficits.

## Recommendations

**R1.2.1** By August 30, 2022, the Stockton Unified School District Board of Trustees develop, adopt and implement a policy with procedures for tracking adjustments to contracts.

**R1.2.2** By August 30, 2022, the Stockton Unified School District Board of Trustees develop, adopt and implement a policy to require the Facilities and Planning Department to submit all construction change orders to the Board for review, approval and ratification under one standard agenda heading.

**R1.2.3** By August 30, 2022, the Stockton Unified School District Board of Trustees direct the Director of Facilities and Planning to designate an individual to monitor and update change orders monthly and to ensure other employees in the department are cross trained in this process.

## 1.3 Grants

There are many reasons why school districts should and do apply for grants. Grants provide opportunity for a district to bring in new funding and allow for creation or expansion of programs. Grant funds, when used as authorized, do not require repayment of funds. The process of collecting and reviewing data on areas of need, reviewing resources, forming goals, and then generating a responsive action plan is beneficial in identifying grant opportunities. Applying for a grant, whether awarded or not, is an opportunity to reach out to other organizations with similar goals and to develop valuable community partnerships.

It is a standard practice to utilize a grant tracking system to handle applications and monitor grants in progress. Centralizing grant data facilitates report generation and effective grant management.

Grant management can identify key performance indicators and generate standardized reports to maintain compliance with the terms of the grant.

Until the February 20, 2021 District reorganization, SUSD grants were overseen by the Grant Development Office (GDO). The GDO played a key role in assisting and supporting sites and/or departments in the acquisition of grant funding to improve student achievement, enhance professional development and advance District goals. The GDO's primary responsibilities included researching grant opportunities, preparing proposals for public and private sources, providing technical assistance in grant development and performing the technical and analytical work needed to ensure compliant program implementation. The loss of the GDO following the reorganization created numerous concerns. This loss has caused department staff, directors and teachers to write and submit grant proposals with little to no guidance. Frequently, District leadership has no knowledge of the submissions. Currently no single individual or department staff oversees SUSD's grant process, resulting in:

- missed opportunities,
- lack of monitoring,
- poor data collection for grants, LCAP and bonds,
- possible misuse of funds, and
- inability to track the progress of grants and compliance with grant terms.

SUSD has not always taken advantage of grant opportunities. A prime example may be found in how SUSD leadership and the Board of Trustees addressed approval of a grant application supporting the conversion from gas/diesel to electric equipment.

The State mandate on electric vehicles requires the entire SUSD bus fleet to be electric by 2040. The mandate requires that SUSD bus purchases be at least 25% electric from 2023-2025 and then 50% in 2026-2028. All purchases starting in 2029 must be electric.

The savings on fuel costs can be significant. For example, the use of electric buses by Modesto City Schools is expected to save their District over \$250,000 per year in fuel costs (April 2022). In addition to the cost savings, there are health benefits to be achieved by accelerating the conversion to electric power as mandated by the State. According to the California Energy Commission, in California nearly 50% of greenhouse gas emissions come from the transportation sector. The California South Coast Air Quality Management District recently estimated that nearly 71% of the cancer risk from air pollutants in the area is associated with diesel emissions. One study showed that a child riding inside a diesel school bus may be exposed to as much as four times the level of diesel exhaust as someone riding in a car ahead of it. Diesel school buses also pollute neighborhoods and school yards, releasing particulate matter pollution, toxic air pollutants, and heat-trapping carbon dioxide. Diesel fumes from idling school buses exacerbate asthma, allergies and chronic bronchitis and contribute to a compromised immune system. These effects are worse in children because they breathe at a faster rate than adults and have been shown to have a direct effect on absenteeism.

The Rebuilding American Infrastructure Sustainability & Equity (RAISE) grant for conversion to electric buses was for up to \$7 million and required SUSD to add matching funds of \$2 million over a three-year period.

At the June 30, 2021, Board meeting, SUSD staff recommended approval for submission of application for the \$7 million RAISE grant (BAI 8.1). The agenda item was prepared by the CBO and reviewed by the Superintendent. The agenda item specified that General Funds would be used as the source for the matching funds, although department staff had indicated federal guidelines permitted the use of ESSER funds. In discussion prior to Trustees voting, the Superintendent twice clarified that General Funds would be the funding source; the Superintendent also reminded the Board that the General Fund is “where we have most of our gaps,” a reference to the anticipated budget shortfall. There was no need to use General Funds for the grant application. Contrary to the staff recommendation, the Board voted against applying for the grant, thus missing an opportunity to leverage one-time ESSER funds to address the mandate for conversion to electric vehicles.

## **Findings**

**F1.3.1** The elimination of the Stockton Unified School District Grant Development Office in a February 2021 District reorganization resulted in grants no longer being monitored by a specific department or individual, risking additional and unnecessary spending from the General Fund.

**F1.3.2** Stockton Unified School District does not identify and pursue all grant opportunities due to a lack of coordinated leadership, potentially resulting in unnecessary spending from the General Fund, contributing to a budget shortfall and missing opportunities for additional funding for the benefit of the students.

## **Recommendations**

**R1.3.1** By December 30, 2022, the Stockton Unified School District Board of Trustees reinstate the Grant Development Office to identify grant opportunities and apply for and monitor all grant applications. Reinstatement of the Grant Development Office will facilitate project and cost management.

**R1.3.2** By December 30, 2022, the Stockton Unified School District Board of Trustees approve the reinstatement of a grant writer position within the Grant Development Office to explore grant opportunities for programs, facilities and services to assist in minimizing the risk of a Stockton Unified School District budget deficit.

## **1.4 Purchasing Inconsistencies**

There are three primary means by which goods and services may be purchased:

- IFB: An Invitation for Bid, also called an invitation to bid or sealed bid, is a call to contractors to submit a bid for a specific product or service.
- RFQ: A Request for Qualifications usually refers to the **pre-qualification stage** of the procurement process. Only those proponents who successfully respond to the RFQ and meet the qualification criteria will be included in the subsequent Request for Proposals (RFP) solicitation process.
- RFP: A Request for Proposal is a business document that announces a project, describes it, and solicits detailed proposals from **qualified** contractors to complete it.

SUSD School Bid Guidelines and Exceptions, published October 26, 2021, states both an IFB and RFP are used in the District purchasing process. The use of an RFQ is not mentioned in that document; however, a pre-qualification process is being utilized for the Arthur Coleman Jr. Administrative Complex Renovations Project. While basic steps are listed for both IFB and RFP, it is difficult to locate these steps as they are listed in Bid Guidelines but not in Purchasing Policies. Use of these documents reflect an inconsistency in policies and procedures.

## **Request for Proposal Process**

The use of an RFP is considered a best practice in the procurement process by the California Association of School Business Officers (CASBO). RFP notices are published in local media and on appropriate websites. Responses to the RFP detail the specifics of the purchase or project including work to be done, products to be furnished, time requirement, cost and any contingency provisions. Through the RFP process, vendors offer an array of potential solutions and prices. The organization evaluates the competing solutions, picking the one that best provides for the business need. In accordance with CASBO best practices, consistent use of an RFP, regardless of dollar amount, can lead to better solutions.

In March 2021, SUSD hired FCMAT to conduct a review of the District's budget and District-selected Facility Department projects. This FCMAT report states it is a best practice to procure professional services through a qualifications-based selection process. Besides an RFP, the process should also include the use of a Request for Qualifications (RFQ). FCMAT noted, "The district is not consistent in its use of a qualifications-based selection process. The district recently hired a firm to provide a financial management and bond accounting and reporting system, including installation, set up, training and monthly consulting services. FCMAT found no evidence of a qualifications-based selection process for these services. The district did not follow its policies that require the completion of a Consultant Utilization Form, which provides information on qualifications, reasons for needing the service, and funding source."

The District's Board Policy 3600 requires use of the Consultant Utilization Form (Appendix C) for all non-instructional consultants. The form is to be included in all Board agenda items recommending use of a consultant.

FCMAT found little evidence of a qualifications-based selection process for consultant services. FCMAT also found the District did not consistently follow its own policy requiring the completion of the Consultant Utilization Form. For example, a completed Consultant Utilization Form was

included in the Board agenda item regarding approval of TSS services. However, there is no evidence that a qualifications-based selection process was employed for these services.

Neither SUSD Board Policy 3310–Purchasing Procedures (BP3310) nor Administrative Regulation 3310 – Purchasing Procedures identify the procedures or use of an RFQ or RFP for purchasing products and services. BP 3310 states, “The Superintendent or designee shall maintain effective purchasing procedures in order to ensure that maximum value is received for money spent.”

On February 1, 2022, the District revised the SUSD Districtwide Purchasing Guidelines. The Guidelines stipulate the formal bid threshold for 2022 to be \$99,100. Therefore, purchases of more than \$99,100 require an RFP and formal bidding process, but no explanation of RFP procedures is included in the Purchasing Guidelines.

Another SUSD document, School Bid Guidelines and Exceptions, published October 26, 2021, states both an IFB and an RFP are used in the District purchasing process. While basic steps are listed for both IFB and RFP, it is difficult to locate these steps as they are listed in bid guidelines but not in purchasing policies. These documents reflect an inconsistency in policies and procedures.

### Alliance/IAQ

At the January 12, 2021, Board meeting a Trustee introduced Alliance Building Solutions, Inc. as a vendor presenting on UVC disinfectant technology. The same Trustee suggested that the vendor be considered as a provider of that technology. The practice of a trustee recommending a vendor is unusual and may be considered or perceived as a conflict of interest. Furthermore, the initial Alliance proposal states, “**In working with your team**, we have been able to develop a customized sanitation strategy through analyzing the following...,” indicating potential evidence that the contractor was provided preconstruction or consulting services related to the project. As the terms and conditions (Section 2.2.3 Board and Staff Communications) of the RFP state, “Under no circumstances may any member of the District or any staff member, other than the contact permitted in Section 1.6, be contacted during this RFP process, by any entity intending to submit a response to this RFP. Failure to comply with the request will result in **disqualification**.”

At the Superintendent’s request, RFP No. 1047 was issued March 1, 2021, for “Ultraviolet Germicidal Irradiation.” The need for RFP No. 1047 had not been established. Systems and equipment already in place at SUSD sites had been tested and found to be effective against viruses and germs. No RFQ for RFP No. 1047 was issued. Alliance responded but was unable to meet the specifications of the RFP. Staff was directed to extend the submission deadline and revise the specifics.

When the staff reviewed vendors responding to the revised RFP, only one vendor was recommended for award of contract: Aerapy Solutions. With only one vendor meeting the criteria, staff recommended that all bids be rejected. A new RFP was prepared with revised specifications. On May 4, 2021, SUSD issued RFP No. 1051, the new RFP for “Ultraviolet Germicidal Irradiation.” Two vendors were recommended for advancing to the Board for consideration and possible

approval: Aerapy LLC and Pacific Metro Electric. Alliance was noted as “nonresponsive” and, therefore, not eligible for consideration.

An addendum was attached to RFP No. 1051 and again published to invite proposals; Alliance was again “nonresponsive,” but a new vendor, IAQ Distribution Inc., responded to the RFP. IAQ is a subsidiary of Alliance, the company that presented to the Board in January and failed to meet the criteria for consideration three times. With the change to the RFP, staff recommended two vendors, Aerapy LLC and Cello Lighting, to advance to the Board; IAQ Distribution Inc. was not recommended.

The Superintendent subsequently requested a pool of five vendors to make presentations to the Board. Staff produced a scoring summary for each of the five vendors. IAQ scored the lowest with 97.41 out of 150 points. A Special Board Meeting was held July 14, 2021. BAI 6.1 was for approval of a vendor to supply a UVC disinfection system. Each vendor made a five-minute presentation to the Board. After the presentations, the Board President moved to approve IAQ’s proposal for a \$7.3 million agreement. The motion carried. Minutes for this meeting have not been approved nor posted, but a recording of the meeting is available.

At the August 10, 2021, Board meeting, a motion to approve the contract with IAQ passed. Minutes for this meeting have not been approved nor posted, but a recording of the meeting is available. Terms of payment stated that IAQ could invoice SUSD for 50% of the contract value within 10 days of signing the contract. Documents show that SUSD paid IAQ \$2.9 million in August 2021. A May 26, 2022, search of the California Secretary of State website shows no listing of IAQ as registered to conduct business in California. The estimated delivery and installation schedule for the UVC units indicate a start date of October 25, 2021, and a completion date of January 24, 2022. However, installation did not begin until January 17, 2022, and was halted late March 2022 pending the resolution of IAQ’s registration status and possible labor violations. At the time of this report, 1,400 of the 2,000 units ordered had been delivered; only 802 had been installed.

### **Legal Services**

Board Bylaw 9124 states, “When the district is seeking legal advice or representation, the Superintendent or designee shall initiate an RFP to advertise and solicit proposals for legal services. The Board may also contract for temporary, specialized legal services without initiating an RFP when a majority of the Board determines that the **unique** demands of a particular issue or emergency situation so requires....” The District consistently does not use the RFP process, and the Board does not engage in discussion of justification to circumvent BB9124. The 2020-2021 Grand Jury Report also highlighted this concern relating to the selection process for legal services: “There was no RFP, no acceptance of multiple proposals, no interviews, and no scoring rubric. The contract was approved at a public meeting as required by law, however, according to public statements by some board members, they had not been informed of the details, and had not seen the contract before the special meeting.”

### **El Concilio**

RFP No. 1066 for expanded learning activities was issued on February 22, 2022. Proposals were due March 11, 2022. The April 12, 2022, SUSD BAI 14.1 listed a pool of vendors for approval. The only information provided was the scoring summary matrix completed by staff for the four vendors in the pool:

Supplier	Total Points	Proposed Plan (30 pts)	Vendor Capabilities (30 pts)	Financial Proposal (40 pts)
<b>Concilio</b>	76.5	29.5	224.5 ( <i>sic</i> )	22.5
<b>Carnegie</b>	90.5	30	28.75	31.75
<b>UOP</b>	87	30	28.75	28.75
<b>EDMO</b>	83.25	26.75	27	29.5

April 12, 2022, SUSD BAI 14.1

The BAI lacked any attachments of the program proposals such as descriptions of the programs and/or services and costs. The scoring matrix showed El Concilio as the lowest in two categories, Vendor Capabilities and Financial Proposal, and as the lowest in Total Points. The Board voted to approve the pool of vendors.

The April 26, 2022, BAI 6.38 requested approval of a Memorandum of Understanding (MOU) with El Concilio. The amount of the contract was \$18,000–\$500,000 with \$18,000 per group of 20 students and one staff member. Attachments included the original proposal and a document referred to as the MOU.

Six community members spoke regarding this item. All six spoke against approval, citing numerous concerns:

- the need to negotiate with SUSD bargaining units;
- paying for repairing/retrofitting the former site of the Stockton Boys & Girls Club site at 303 Olympic Circle, Stockton, California;
- the question of ownership of items purchased for the programs once the program “goes away”;
- El Concilio’s links to charter schools and charter school associations; and
- a possible Trustee conflict of interest.

Some Trustees also voiced concerns regarding the Olympic Circle site, the possible need to negotiate with District bargaining units, a preference for “in house” programs, and possible elimination of current SUSD after-school facilitators.

The District administrator who approved the recommendation of the agreement with El Concilio noted, “in the spirit of our LCAP 3..., it was desired to give El Concilio an opportunity to revise the MOU.” A Trustee mentioned that the same consideration should be given to other vendors. The motion to approve the MOU with El Concilio failed on a tie vote.

El Concilio’s original proposal listed the location of 303 Olympic Circle at least three times: as the El Concilio Community Resource and Education Center for SUSD, as the location of some of the after-school programs and services, and as the site for the summer day camp. The proposal stated that the site needs “minimal repairs and maintenance.” The proposed annual budget of \$8.2 million included the yearly rental of 303 Olympic Circle at \$120,000. An additional \$239,250, a one-time expenditure for start-up costs, was requested with approximately \$30,000 for the following improvements:

- alarm and security setup,
- facility repair and painting,
- gym floor repair and refinishing,
- electrical upgrades,
- door and lock re-key,
- clean up and garbage removal, and
- phone and internet installation.

Another \$45,635 was requested for purchase of equipment (25 computers and peripherals, TV monitors, pool and ping pong tables, and furniture).

An SUSD addendum to El Concilio’s proposal stated, “The contractor must be able to cover all costs of operation. No start-up funds or advanced payments will be provided.” Witnesses confirmed that providers must be ready to deliver proposed services, a standard practice expectation.

The next Board meeting, May 10, 2022, included BAI 6.48 for approval of a new MOU with El Concilio to provide enrichment activities; no other pool-approved vendor was brought to the Board for consideration. The MOU was vague and incomplete, lacking any mention of staff qualifications, daily schedule, hours of service, staff to student ratios, or projected number of students to be served. In the public comment portion of the meeting, at least 12 community members spoke against approval of the MOU with El Concilio; no speaker voiced support. A Trustee mentioned that SUSD had received a cease-and-desist letter from California School Employees Association regarding approval of El Concilio proposals and asked why the Board was even discussing approval. No details of the cease-and-desist were shared. The Board approved the MOU with El Concilio.

## **Findings**

**F1.4.1** Stockton Unified School District’s purchasing policies and procedures are not clearly defined, allowing for deviation from California Association of School Business Officers best practices by the Business Services Department.

**F1.4.2** Stockton Unified School District's purchasing policies and procedures are not clearly defined, causing inaccurate evaluations of actual cost and delivery of products and services.

**F1.4.3** Stockton Unified School District is inconsistent in use of Invitation for Bid, Request for Qualifications and Request for Proposal, resulting in providers not being strategically vetted and thereby allowing opportunity for misuse of funds and/or malfeasance.

**F1.4.4** Stockton Unified School District inconsistently uses a Request for Proposal for legal services as required by Board Bylaw 9124, potentially resulting in greater costs for legal services.

**F1.4.5** The Board of Trustees routinely disregards Stockton Unified School District staff recommendation and analysis of Request for Proposals, potentially causing the hiring of lesser qualified and/or more costly vendors.

## **Recommendations**

**R1.4.1** By September 30, 2022, Stockton Unified School District Board of Trustees develop, adopt, and implement a revised Board Purchasing Policy 3310 to include clear policies and procedures for use of Invitation for Bid, Request for Qualifications and Request for Proposal.

**R1.4.2** By November 1, 2022, Stockton Unified School District Board of Trustees develop, adopt, and implement a training program and training schedule for administration, department heads and purchasing staff on the use of Invitation for Bid, Request for Qualifications and Request for Proposal.

**R1.4.3** By September 30, 2022, Stockton Unified School District Board of Trustees publicly agree through a Board resolution to adhere to Board Bylaw 9124 by requiring a Request for Proposal for all legal services.

**R1.4.4** By September 30, 2022, Stockton Unified School District Board of Trustees publicly agree, through a Board resolution, to require and consider staff recommendations and scoring matrixes prior to voting on any Request for Proposal.

**R1.4.5** By September 30, 2022, The Board of Trustees pass a resolution affirming Board Policy 3310, SUSD Districtwide Purchasing Guidelines, and Administrative Regulation 3310 and direct the Superintendent to follow these Policies, Guidelines and Regulations.

## **1.5 Legal Services Billing**

SUSD uses several legal firms for litigation, investigations, Board services and miscellaneous legal services. According to the American Bar Association, the first two best practices for legal billing of services are "be descriptive and avoid block billing." ABA best practices recommend that invoices include the actual service performed, by whom (e.g., clerk, paralegal, lawyer), for how long and at

what monetary rate. SUSD invoices for legal services lack such details and provide only an accounting code and total dollar amount.

A review of legal contracts and invoices for SUSD over the past year shows that since July 1, 2021, the District has contracted with six firms for legal services. Invoices from those six firms cover the 10-month period from July 1, 2021, to April 30, 2022, and total \$1.2 million. It is reasonable to project that legal costs could reach a total of \$1.4 million by June 30, 2022. For comparison purposes, total legal costs for the fiscal year 2020-2021 were approximately \$900,000. Projected legal costs for the current fiscal year represent an approximate 59% increase over the prior fiscal year.

## **Finding**

**F1.5.1** Lack of detailed billing and incomplete invoices for Board review creates risks of paying for services not received.

## **Recommendation**

**R1.5.1** By October 1, 2022, the Stockton Unified School District Board of Trustees develop, adopt and implement a policy that requires legal firms to provide detailed billing information as prescribed by the American Bar Association.

## **1.6 Consulting Services**

The Grand Jury reviewed SUSD Board meeting agendas and agenda packets from July 1, 2021, to April 12, 2022, to analyze SUSD Consultant Utilization Form and Agreement to Furnish Consultant Services (Appendix C). Over 160 forms were reviewed and analyzed. Approximately 35% contained only the total amount of compensation with no terms of how or when payment would be made. Many of the remaining 65% lacked clear terms for when invoices would be submitted and when payment would be made.

SUSD staff and management routinely prepare and submit for Board approval agreements that lack clear specifications as to when and how invoices will be submitted and how payment will be made. Many consultant forms are incomplete, lack terms of payment, do not indicate other less expensive options or do not include a clear statement of potential impact on the District. Specificity regarding how services will be measured is often missing. When a signature is illegible, the identity of the signer is difficult to verify. There is no place on the document for a printed name.

On at least one occasion SUSD paid in full for services not rendered. The agenda for the September 14, 2021, SUSD Board meeting included BAI 11.6 for approval of a service agreement with Educational Consulting Services, Inc. to provide an attendance recovery program (Saturday school). Startup cost was \$150,000 from ESSER funds. The agenda stated a service date of October 1, 2021—June 30, 2022. The agreement was approved by the Board unanimously. Terms of payment

listed in an attachment state that the one-time \$150,000 implementation fee would be due no later than 30 days after Board approval.

Ten pages of documents completed by both the consultant and SUSD management contain numerous conflicting statements and omissions. Dates of the service on the agreement vary significantly from those shown on agendas. Omissions on some document pages included the name of the SUSD designee to review and monitor the performance and program, the total amount of funds to be spent, or a response to the availability of any internal or less expensive options.

According to the SUSD BAI 6.14 on December 14, 2021, ECS was paid the full implementation fee of \$150,000 in November 2021. Witnesses confirmed that services from ECS never occurred and indicated that payment to vendors prior to the receipt of service is not appropriate.

## **Findings**

**F1.6.1** Consultant forms are accepted and forwarded to the Board without all sections completed and/or answered appropriately, impairing the Board's ability to make informed decisions.

**F1.6.2** Stockton Unified School District paid at least one consultant for services not delivered, resulting in a misuse of public funds.

## **Recommendation**

**R1.6.1** By October 1, 2022, the Board of Trustees direct the Superintendent to adhere to Stockton Unified School District Board Policy E 3600 and require all Consultant Forms be complete and accurate prior to presentation to the Board.

## **1.7 District Deficit and Risk of Insolvency**

Per the FCMAT Work Study presented to the Board of Trustees on February 8, 2022:

“The district’s 2020-2021 unaudited actuals report shows deficit spending of \$5.8 million in the unrestricted general fund, and the MYFP (Multi Year Financial Projection) developed by FCMAT indicates deficit spending of \$9.9 million in 2022-2023. However, the district has moved many ongoing expenses, including salaries and benefits, into one-time funds.”

SUSD will face a significant budget deficit in the 2024-2025 fiscal year. FCMAT estimates that the District is currently spending \$26.3 million per year of ESSER funds on salaries, benefits and services that “**appear to be essential to the organization.**”

All one-time funds received from ESSER funding must be spent by January 28, 2025. Once ESSER funds are exhausted, the District will have to rely on recurring funding streams such as taxes, bonds and grants to support district operations.

There will be a significant budget deficit in fiscal year 2024-2025, although it is unknown what the actual budget deficit might be due to the limitations of the District's accounting system. As noted earlier, the BSD is not staffed to operational levels necessary to insure proper fiscal management.

The District faces other anticipated fiscal challenges that create additional concern:

- decrease in State funding based on average daily attendance,
- potential increases in costs for employee health and welfare benefits, and
- increased employer contributions for pension plans.

## **Findings**

**F1.7.1** Stockton Unified School District current budget projections indicate there will be a budget deficit of more than \$30 million in fiscal year 2024-2025, a deficit which could cause layoffs and elimination or reduction of student programs.

**F1.7.2** Stockton Unified School District has no plan in place to deal with deficit spending, putting Stockton Unified School District at risk of fiscal insolvency.

**F1.7.3** Stockton Unified School District Departments do not have clear operational budgets, decreasing the effectiveness of planning and implementation of student-focused decision making.

**F1.7.4** Stockton Unified School District has no defined and documented plan to pay for essential and on-going costs once one-time funds are depleted or unavailable, increasing the risk of General Fund depletion.

**F1.7.5** Stockton Unified School District has no Multi-Year Financial Projection to monitor the one-time fund expenditures as Stockton Unified School District moves into 2022-2023, potentially causing the projected deficit to occur earlier.

## **Recommendations**

**R1.7.1** By December 1, 2022, the Stockton Unified School District Board of Trustees, in conjunction with the Superintendent, develop, adopt and implement operational budgets that address projected deficit spending for the District and all departments.

**R1.7.2** By October 1, 2022, Stockton Unified School District Board of Trustees develop, adopt and implement a documented plan to identify the essential ongoing costs that are being funded by one-time money and revise the budget to reflect the impact to the General Fund.

## **2.0 Duty of Care**

"In laymen's terms, duty of care stands for the principle that the directors and officers of an association, in making decisions in their official capacities, must act in the same manner as a reasonably prudent person would for themselves under

similar circumstances. As such, every decision made by the board of directors should be (i) within the confines of the authority granted to the board by an association's governing documents (i.e., Declaration, Article of Incorporation, and/or Bylaws); (ii) made after reviewing all pertinent information and conducting reasonable due diligence; (iii) supported by advice of experts (where appropriate); and (iv) reasonably believed to be in the best interests of the association."

<https://www.caiddc.org/duty-of-care-and-what-it-really-means-for-board-members/>

Numerous Board agenda items from the last two years were reviewed to assess for Board "Duty of Care" proficiency. In some instances, only the RFP scoring matrix was included in the Board agenda with no other supporting documentation. The actual RFP, responses that showed the scope of the work and capabilities of the vendors, and SUSD staff analysis were not always included.

In numerous recordings of SUSD Board meetings where large contracts were awarded, there was minimal, if any, discussion regarding the advantages and disadvantages of the proposed item. In some cases, the discussion was cut short by the Board President or by a point of order. Many of these contracts were included in the agenda as consent items rather than discussion items.

The CSBA offers Masters in Governance Training, described as: "Masters in Governance program equips local education agencies with the knowledge and skills to build and support an effective governance structure." The five-part CSBA Masters in Governance Training consists of:

MIG Course 1: Foundations of Effective Governance | Setting Direction

MIG Course 2: Policy & Judicial Review | Student Learning & Achievement

MIG Course 3: School Finance

MIG Course 4: Human Resources | Collective Bargaining

MIG Course 5: Community Relations and Advocacy | Governance Integration.

Review of coursework revealed three Trustees have completed all five MIG courses, three Trustees have completed "some" MIG courses, and one Trustee did not attend the 2021 Brown Act CSBA training or complete any of the five MIG courses.

When asked about multi-million-dollar contracts approved since January 1, 2022, Trustees could not recall how they voted, what the services were, or if it was a one-year or multi-year contract.

## 2.1 Conflict of Interest

"The PRA (Government Code 87100-87500.1) requires all public agencies, including school districts and county offices of education (COEs), to adopt a conflict-of-interest code and to review that code biannually. The law requires that the conflict-of-interest code contain three components: 1. An incorporation statement, which states the terms of the code and incorporates relevant Fair Political Practices Commission (FPPC) regulations by reference. 2. Designated positions, which lists the specific positions in the district/COE that make or participate in making governmental decisions. 3. Disclosure categories, which specify the types of

investments, income and interests in property that must be disclosed by each person holding a designated position.”

CSBA Fact Sheet, July 2010

According to BB 9270, “no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.” According to filings on the California Secretary of State website, a Trustee was named as an officer of a local nonprofit board located at 303 Olympic Circle, Stockton, an address cited as a base of operation in the El Concilio proposal. During the Board meeting, the Trustee failed to disclose the perceived conflict of interest or to recuse themselves from the vote regarding the El Concilio MOU and RFP 1066.

## **Findings**

**F2.1** The Stockton Unified School District Board of Trustees has shown disregard for Board Bylaw 9270, Conflict of Interest, contributing to an appearance of impropriety that may diminish the integrity of the District.

**F2.2** Not all Stockton Unified School District Board of Trustee members have completed the California School Board Association Master in Governance training program, leaving them inadequately trained in Board duties and responsibilities.

## **Recommendations**

**R2.1** By October 1, 2022, all members of the Stockton Unified School District Board of Trustees complete all five of the California School Board Association Masters in Governance training courses.

**R2.2** By October 1, 2022, Stockton Unified School District Board of Trustees provide Board members' California School Board Association certifications of completion of Masters in Governance training to the public in accordance with the Freedom of Information Act.

**R2.3** By October 1, 2022, Stockton Unified School District Board of Trustees post Board members' California School Board Association certifications of completion of Masters in Governance training on the District website.

## **3.0 Lack of Transparency**

“Public transparency refers to how well school boards maintain open and honest lines of communication with citizens and keep them informed on decisions that are made in the best interests of the district. From the perspective of school boards of directors, the public is always watching and waiting to see how well they uphold their responsibilities of governance and oversight. In this position, school boards are expected to be as open as possible concerning board discussions and any decisions that will be made on behalf of the district. Especially because school boards determine and oversee initiatives focused around student success, concerned family members and community members are likely to feel untrusting of the district’s school board if they suspect that any business is being conducted behind closed doors.”

<https://www.diligent.com/insights/public-transparency-key-school-boards/>

SUSD receives public money; Trustees should hold themselves to the highest standard and expectation of transparency. There are difficulties reviewing Board actions because many Board meeting minutes are not publicly posted (Appendix D). According to Ed Code §35145a, “Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.” Furthermore, as SUSD BB 9324 states, “The Governing Board recognizes that maintaining accurate minutes of Board meetings helps foster public trust in Board governance and provides a record of Board actions for use by district staff and the public.” A comparison of Board minutes from the other 13 school districts in San Joaquin County to those of SUSD shows the SUSD Board minutes are not as comprehensive as all other County school districts. SUSD minutes include no general discussion regarding Trustee activity while all other districts’ minutes do. Additionally, not all SUSD Board minutes have been approved and/or posted for public review (Appendix D). SUSD did not fully comply with this Grand Jury’s subpoena for specific Board minutes and recordings.

On another occasion, a requested recording of the October 26, 2021, Board meeting was not available due to “technical difficulties.” A link was provided to the Grand Jury to listen to the recorded meeting; however, it was only available in Spanish. The Grand Jury utilized the services of a Certified Court interpreter. The interpreter was unable to accurately translate the recording due to the SUSD translators’ inability to identify who was speaking, the topic discussed and any Board action taken. While a transcript of the Board meeting was produced in English by a Certified Court interpreter, the SUSD Spanish translation made it difficult to understand.

The 2022 FCMAT report, cites similar difficulty in obtaining relevant documents:

“FCMAT requested but did not receive district documentation for all funding sources, so the team made some assumptions regarding revenues based on information found on the CDE website, analysis of prior year receipts, and district budget amounts.”

FCMAT SUSD Final Report 2022, page 9

Compared to similarly sized California school districts surveyed, only SUSD continued in a remote meeting format throughout 2021. It was not until April of 2022 that the Board of Trustees returned to in-person meetings. Board meetings are Zoom recorded and made available at a later date on YouTube, but livestreaming is no longer available.

## Findings

**F3.1** Lack of Stockton Unified School District Board of Trustee meeting minutes posted publicly and/or timely per Board Bylaw 9324, Minutes and Recordings, and Ed Code §35145a creates diminished public awareness of the actions of the Board of Trustees.

**F3.2** The absence of general discussion in Board minutes diminishes Board accountability and public transparency, leaving District constituents ill-informed of District issues that could have adverse effects on the students.

**F3.3** Board agenda packets are often missing important information, a violation of Board Bylaw 9324, Agenda/Meeting Materials, contributing to ill-informed decision making which could adversely impact students and constituents.

**F3.4** Lack of public discussion on Board agenda items creates an appearance of business being conducted “behind closed doors” and fosters mistrust among District staff and constituents.

**F3.5** Lack of certified translators for Board meetings causes inaccurate and nontransparent translations of public meetings.

## **Recommendations**

**R3.1** By September 1, 2022, Stockton Unified School District Board of Trustees agendize and approve Board minutes at the following Board meeting to optimize public information and transparency in accordance with Board Bylaw 9324.

**R3.2** By September 1, 2022, Stockton Unified School District Board of Trustees amend Board Bylaw 9324 Minutes and Recordings, to require posting Board minutes on the Stockton Unified School District website within 30 days of Board meetings to optimize transparency.

**R3.3** By August 15, 2022, Stockton Unified School District Board of Trustees follow Board Bylaw 9324.2 by including a summary of Board discussion in meeting minutes.

**R3.4** By August 15, 2022, Stockton Unified School District Board of Trustees adhere to Board Bylaw BB 9322 Agendas/Meeting Materials and direct the Superintendent to ensure all Board agenda packets have completed forms, with no blank spaces or incomplete details and information.

**R3.5** By October 1, 2022, Stockton Unified School District Board of Trustees utilize professional services of a certified Spanish translator for all Board meetings to insure accurate translation of all public meetings. This will ensure transparency.

**R3.6** By November 1, 2022, the Stockton Unified School District Board of Trustees, during a public meeting, discuss each finding and recommendation of this full Grand Jury report as a separate Board agenda discussion item.

## **Conclusion**

With deficits approaching \$30 million per year by fiscal year 2024-2025, the financial forecast for Stockton Unified School District is dire. Expenses that would normally be paid with ongoing funding sources are instead being covered by one-time ESSER funds; many of these expenses will continue once the limited-time funding expires in 2024. Grants, which can be a valuable tool in implementing key projects, are not being managed appropriately. Leadership and staff with the experience to address these critical issues are departing the District, necessitating the hiring of outside consultants to cover essential duties and train Business Services staff. The District has yet

to develop a master plan that indicates how the combined ESSER funds totaling \$241.5 million will be spent by 2024 and a master plan that addresses the challenge of the projected deficits.

The Board of Trustees, who are charged with the responsibility to make decisions in the best interest of the District, community, and students, often makes crucial decisions with minimal data, knowledge and consideration. A lack of transparency and apparent conflicts of interest exist. District, State and federal guidelines and policies are regularly overlooked. These multiple failures reduce District staff and public trust and confidence in the District.

At a time when SUSD is considering a bond measure for the November 2022 ballot, addressing the above issues promptly and decisively is essential.

The Stockton Unified School District Board of Trustees, in conjunction with the Superintendent and administration, must make difficult decisions and implement stringent policies and procedures to prevent deficit spending from rendering the District fiscally insolvent. According to FCMAT, the AB139 Extraordinary Audit will be completed in 12-18 months. If the results of the Extraordinary Audit indicate financial mismanagement, misuse of funds or insolvency, the result could place SUSD in State receivership administered by the San Joaquin County Office of Education. Receivership could include the termination of the Superintendent and suspension of the Board of Trustees as a decision-making body.

One-time funding can temporarily mask an ongoing operational deficit. The Board of Trustees needs to remove this mask, demonstrate genuine duty of care and proactively confront the challenges of managing the District with only ongoing funding sources. In order to best serve the students and families of the District, Stockton Unified School District must prepare for critical financial issues now and in the future.

## **Disclaimers**

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911. 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

This report was issued by the Grand Jury with the exception of one juror who, due to a potential conflict of interest, recused themselves from all parts of the investigations, including interviews, deliberations, and the writing and approval of the report.

## **Response Requirements**

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

Mail or hand deliver a hard copy of the response to:

Honorable Michael D. Coughlan, Presiding Judge  
San Joaquin County Superior Court  
180 E Weber Ave, Suite 1306J  
Stockton, California 95202

Also, please email a copy of the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury, at [grandjury@sjcourts.org](mailto:grandjury@sjcourts.org)

## **Appendices**

### **Appendix A: FCMAT Indicators 8/14/2019**

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# **Indicators of Risk or Potential Insolvency**

## **FOR K-12 LOCAL EDUCATION AGENCIES**

The Fiscal Crisis and Management Assistance Team (FCMAT) has compiled the following indicators of risk or potential insolvency based on experience with local education agencies since the inception of AB 1200 in 1991. Although some of the indicators have been on the list since first published, others have been removed or added as changes occurred, such as the evolution in funding models and changes in education and finance policy. These indicators will continue to be updated over time to ensure they remain relevant and helpful.

Each item listed indicates a lack of function, commitment, or attention to one or more critical elements of an organization's operations, which may eventually contribute to an LEA's insolvency. The existence of any one of the indicators increases risk of potential insolvency and the need for assistance from outside agencies. Lack of attention to these indicators will eventually lead to financial insolvency and loss of local control.

Identifying issues early is the key to maintaining fiscal health. Diligent multiyear planning will enable a district to better understand its financial objectives and strategies to sustain a high level of fiscal efficiency and overall solvency. A district should consider discussing the indicators regularly and complete a Fiscal Health Risk Analysis (FTRA) annually to assess its own fiscal health risk and progress over time.

## **1. Unreliable Budget Development**

- Budget has been disapproved or conditionally approved by the county office within the last two years
- Unreasonable and/or unclear budget assumptions
- Reliance on prior-year rollover budget method
- Position control data not used
- Local Control Funding Formula (LCFF) revenue not calculated correctly
- Reliance on carryover funds
- One-time sources utilized for ongoing expenditures
- Expenditures described in the LCAP not aligned with the budget

## **2. Insufficient Budget Monitoring or Updates**

- Failure to regularly update budget assumptions
- Negative or three consecutive qualified interim report certifications
- Downgrade of an interim certification by the county superintendent
- "Lack of going concern" designation from the county superintendent
- Actual revenues and expenditures inconsistent with the most current budget
- Budget revisions not posted in the financial system or communicated to the board regularly
- Lack of control or monitoring of total compensation as a percentage of total expenses
- Failure to regularly reconcile balance sheet accounts in the general ledger
- Incomplete responses to criteria and standards variances or deficiencies identified by the county office of education
- Requisitions or purchase orders processed when the budget is insufficient

### **3. Inadequate Cash Management**

- Failure to reconcile cash accounts monthly
- 18-month cash flow not forecast
- Lack of short-term plan to address cash flow needs
- Noncompliance with Education Code requirements when interfund borrowing is occurring
- Failure to set aside repayment funds when external borrowing is occurring
- Lack of communication to the board about the district's cash position (with a clear distinction that cash and fund balance are not the same thing)

### **4. Mismanaged Collective Bargaining Agreements**

- Failure to consider long-term impact of collective bargaining agreements
- Lack of bargaining agreements with all units for several years with no resources identified to cover potential settlements
- Presettlement analysis not conducted thoroughly or timely
- Settlements above the funded cost of living adjustment (COLA)
- Lack of compliance with public disclosure requirements under Government Code Sections 3540.2, 3543.2 and 3547.5 and Education Code Section 42142
- Board approval of collective bargaining agreement is inconsistent with superintendent's and CBO's certification

### **5. Increasing and/or Unplanned Contributions and Transfers**

- Insufficient control and monitoring of contributions and transfers
- Lack of a board approved plan to eliminate, reduce, or control contributions/transfers
- Transfers from the unrestricted general fund not made when needed to cover projected negative fund balances in other funds
- Contributions/transfers to restricted programs and/or other funds not budgeted

### **6. Continuing Deficit Spending**

- Deficit spending in the current or two subsequent fiscal years
- Not having or implementing a board-approved plan to reduce and/or eliminate deficit spending
- Not decreasing deficit spending over the past two fiscal years

### **7. Mismanaged Employee Benefits**

- Actuarial valuation not completed in accordance with Governmental Accounting Standards Board (GASB) requirements to determine the unfunded liability for other post-employment benefits (OPEB)
- Lack of a board adopted plan to fund health and welfare retiree benefit liabilities
- Nonexistence or noncompliance of a policy or collectively bargained agreement to limit accrued vacation balances
- No verification and determination of eligibility for benefits for all active and retired employees and dependents in the last five years
- Compensated leave balances not tracked, reconciled and reported

### **8. Inattention to Enrollment and Attendance Reporting**

- Enrollment decreasing and/or unstable
- Enrollment and average daily attendance (ADA) data not monitored and analyzed at least monthly through P2
- Consistently inaccurate data reported through CALPADS and other state reporting
- Enrollment projections and assumptions not based on historical data, industry-standard methods, and other reasonable considerations

- CALPADS data not reviewed and verified by applicable sites and departments and corrected as needed before the report submission deadlines
- Unplanned or unmonitored effects of enrollment losses to charter schools
- Board policy to limit outgoing interdistrict transfers is nonexistent, or policy is not followed

## **9. Decreasing Fund Balance and Reserve for Economic Uncertainty**

- Failure to accurately estimate the ending fund balance
- Failure to maintain the minimum reserve for economic uncertainty
- If unable to maintain the minimum reserve for economic uncertainty, a board-approved plan to restore the minimum reserve for economic uncertainty does not exist
- Projected unrestricted fund balance not stable or not increasing
- Unrestricted fund balance does not include assigned or committed reserves above the recommended reserve level when unfunded or contingent liabilities or one-time costs exist

## **10. Ineffective Internal Controls and Fraud Prevention**

- Lack of controls that limit access to the financial system
- Access and authorization controls to the financial system not reviewed and updated upon employment actions (e.g., resignations, terminations, promotions or demotions) and at least annually
- Duties in accounts payable, accounts receivable, purchasing, contracts, payroll, human resources, associated student body, and warehouse/receiving not segregated, supervised or monitored
- Beginning balances for the new fiscal year not posted and reconciled with the ending balances from the prior fiscal year
- Prior year accruals not reviewed and cleared by first interim
- Suspense accounts not reconciled regularly
- General ledger not reconciled or closed timely
- Inadequate processes and procedures in place to discourage and detect fraud

## **11. Breakdown in Leadership and Communication**

- Uninformed decisions made because the system(s) can't provide key financial and personnel data needed
- Instability in the chief business official or superintendent positions (been with the district less than two years)
- Lack of regular communication between the superintendent and all members of the administrative cabinet
- Timely training on financial management, budget and governance not provided to site and department administrators who are responsible for budget management and decision-making
- Board policies and administrative regulations routinely ignored, not adopted, updated, implemented or communicated to staff
- Micromanagement by board members
- Systems fully or partially controlled by highly influential special interest groups

## **12. Lack of Multiyear Planning**

- Unreasonable and/or unclear multiyear projections that are not aligned with industry standards
- Failure to explain trend analysis
- LCFF calculation not prepared with multiyear considerations
- Financial decisions made without most current multiyear projection in mind
- Detailed information not included when “other adjustments” is used with multiyear projections (line B10)

### **13. Inattention to Non-Voter-Approved Debt and Risk Management**

- Sources of non-voter-approved debt repayment unstable, unpredictable and from the unrestricted general fund
- Downgrade of credit rating
- Out-of-date actuarial study without a plan to pay for any unfunded liabilities when self-insured
- High levels of non-voter-approved debt (such as COPs, bridge financing, BANS, RANS and others), with total annual debt service payments greater than 2% of the district's unrestricted general fund revenues

### **14. Lack of Position Control**

- Financial and human resources systems not integrated
- Accounting for positions and costs is incomplete
- Staffing not analyzed or adjusted based on staffing ratios and enrollment
- Budget, payroll and position control not reconciled regularly
- Budget source not identified for each new position before the position is authorized by the governing board
- New positions and extra assignments posted before governing board approval
- Staffing ratios for certificated, classified and administrative positions not adopted or followed
- Lack of regular meetings between human resources, payroll and budget to discuss issues and improve processes.

### **15. Related Issues of Concern**

- Failure to produce timely and accurate financial information
- Annual Independent Audit Report contains material apportionment or internal control findings
- Inadequate, undocumented monitoring and oversight of authorized charter schools
- Out-of-date long-range facilities master plan
- Special education costs not monitored, with contribution rate above the statewide average contribution rate
- Special education staffing ratios, class sizes and caseload sizes do not align with statutory requirements and industry standards
- District and the county office of education have different financial systems and lack automated interface



Revised 8-14-2019

## **Appendix B: ESSER funds**

The Elementary and Secondary School Emergency Relief Fund (ESSER) was established as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020. CARES provided direct funding to states and districts to address the impact COVID-19 has had, and continues to have, on elementary and secondary schools across the nation.

The ESSER Fund is the leading source of funding for public elementary and secondary education under each law. As each succeeding law was enacted, the U.S. Department of Education (ED) modified the acronym ESSER to distinguish each fund from the other. Collectively known as ESSER funds.

The Office of Elementary and Secondary Education (<https://oese.ed.gov/offices/education-stabilization-fund/elementary-secondary-school-emergency-relief-fund/>) clarifies each ESSER phase as:

### **ESSER I**

On March 27, 2020, Congress set aside approximately \$13.2 billion of the \$30.75 billion allotted to the Education Stabilization Fund through the Coronavirus Aid, Relief, and Economic Security (CARES) Act for the Elementary and Secondary School Emergency Relief Fund (ESSER) Fund. The Department awarded these grants to State educational agencies (SEAs) for the purpose of providing local educational agencies (LEAs), including charter schools that are LEAs, with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the Nation. ESSER Fund awards to SEAs are in the same proportion as each State received funds under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended, in fiscal year 2019.

### **ESSER II**

The Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021, was signed into law on December 27, 2020, and provided an additional \$54.3 billion for the Elementary and Secondary School Emergency Relief (ESSER II) Fund. ESSER II Fund awards to SEAs are in the same proportion as each State received funds under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended, in fiscal year 2020.

### **American Rescue Plan (ARP) ESSER (III)**

On Thursday, March 11, 2021, the American Rescue Plan (ARP) Act was signed into law. It was an unprecedented \$1.9 trillion package of assistance measures, including \$122 billion for the ARP Elementary and Secondary School Emergency Relief (ARP ESSER) Fund. Funds are provided to SEAs and LEAs to help safely reopen and sustain the same operation of schools and address the impact of the coronavirus pandemic on the Nation's students. ARP ESSER Fund awards to SEAs are in the same proportion as each State received funds under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended, in fiscal year 2020.

<https://oese.ed.gov/offices/education-stabilization-fund/elementary-secondary-school-emergency-relief-fund/>

	CARES/ ESSER I	CRRSA / ESSER II	ARP / ESSER III
Funding for K-12	\$13.2 billion	\$54.3 billion	\$123 billion
Obligation Deadline	September 2022	September 2023	September 2024
Uses	<ul style="list-style-type: none"> <li>● Summer learning</li> <li>● Providing mental health services</li> <li>● Educational technology including hardware and software</li> <li>● Activities to address the unique needs of various subgroups, including students with disabilities, BIPOC students, English learners, as well as students experiencing homeless, low income, or in foster care</li> <li>● Preparedness and continuity of services</li> </ul>	<p>Same as CARES plus:</p> <ul style="list-style-type: none"> <li>● Activities to address “learning loss”</li> <li>● Preparing schools for reopening</li> <li>● Projects to improve air quality in school buildings</li> </ul>	

ESSER funds can be used in a variety of ways as long as the use addresses the impact of COVID-19. While all three funds can be used for things like hiring new staff, avoiding layoffs and implementing strategies that address the **public health crisis**. There are some additional nuances that were added to the terms for ESSER II and ESSER III. These include:

- accelerating learning recovery,
- facilitating remote learning,
- prepping for reopening,
- testing for reopening,
- improving air quality in schools,
- maintaining health and safety and
- building new protocols to meet CDC guidance.

## Appendix C: Consultant Forms



### BOARD POLICY

E 3600

Adopted: 06/12/07

Page 1 of 2

#### Business and Noninstructional Operations Consultants

#### CONSULTANT UTILIZATION FORM

The following form is to be utilized by all non-instructional Consultants. The form is divided into two sections. Section #1 is to be utilized by the Consultant, and Section #2 by the District designees.

##### Section #1

To provide consultant services to the Stockton Unified School District, all potential noninstructional Consultants must first provide the District's \_\_\_\_\_ Office with the following information. The information may be provided below or attached hereto.

1. Name of Consultant and all individuals employed by Consultant.  

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2. Were you or any employee of or independent contractor affiliated with your organization ever an employee of the District? If so, when and in what capacity?  

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3. Describe the purpose and goal of the services to be provided.  

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4. Provide documentation and references of similar work.  

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5. Describe how the quality of services to be provided are to be measured.  

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Signature of Potential Consultant

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Date



## **BOARD POLICY**

E 3600  
Adopted: 06/12/07  
Page 2 of 2

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### **Business and Noninstructional Operations Consultants**

#### Section #2

The following information must be provided to ensure that the potential Consultant's services comport with District needs.

1. Identify the source and amount of District funds to be utilized to pay for the services.

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2. Identify the term of the contract and what, if any, internal or less expensive options are available.

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3. Identify what, if any, enduring skills and knowledge are to be gained and how services will be measured.

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4. Identify the impact of the Consultant on the District.

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5. Identify the stakeholders, if any, who provided input with regard to the Consultant and identify who from the District reviewed and recommended the Consultant.

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Signature of District Reviewer

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Date



Requisition No. \_\_\_\_\_  
Date of Board Approval \_\_\_\_\_  
Consent Item No. \_\_\_\_\_  
Please attach a copy of approved Board Agenda Item.

**STOCKTON UNIFIED SCHOOL DISTRICT**  
Division of Business Administration  
701 N. Madison Street, Stockton, California 95202

**AGREEMENT TO FURNISH CONSULTANT SERVICES**

PURSUANT TO GOVERNMENT CODE SECTION 53060, Stockton Unified School District, hereinafter called the District, has need of the specialized services of \_\_\_\_\_

an independent contractor, hereinafter called CONSULTANT, for the period specified herein, according the following terms and conditions.

\_\_\_\_\_ shall be, for the purpose of this agreement, an independent contractor, and shall not be deemed an employee of the DISTRICT for any purpose.

**I. TERM**

1. The effective dates of the agreement are from \_\_\_\_\_ to \_\_\_\_\_.

2. The first day of service shall be \_\_\_\_\_.

**II. SERVICE TO BE PERFORMED**

CONSULTANT shall

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**III. MANNER OF PERFORMANCE**

CONSULTANT shall perform all services(s) required in a competent and professional manner under the direction of

who shall review and evaluate CONSULTANT'S performance and determine the final acceptance of the end product to be produced under the term of this agreement.

**IV. PLACE OF PERFORMANCE**

CONSULTANT shall render service(s) described in Article II at:

\_\_\_\_\_  
\_\_\_\_\_

## **V. SUPPLIES AND EQUIPMENT**

DISTRICT may provide such supplies and equipment as shown herein for the convenience of CONSULTANT and such accommodation shall not operate as an indicia of employment. CONSULTANT shall have access to and use of the following supplies and equipment owned by the DISTRICT for the purpose of performance of the services described in Article II:

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1. CONSULTANT agrees to use ordinary care to safeguard and maintain equipment or supplies listed above and shall not permit the use thereof by any other person, or in any manner which is inconsistent with the designed uses therefore, and shall be held accountable for loss, damage or destruction arising within this clause.

## **VI. COMPENSATION**

1. CONSULTANT shall be compensated (rate-term, i.e., hourly, etc.)
- 

2. A day of compensable service is the equivalent of \_\_\_\_\_ hour(s) a day. 3. Service requiring less than a full day of service shall be compensated at the fractional equivalent of \_\_\_\_\_ per diem rate for the hours or work performed.

4. Consultant shall submit with invoices for payment, accurate records of all costs, disbursements and receipts, with respect to work performed under this agreement.
  5. Payment shall be upon presentation of invoice properly completed and submitted by the CONSULTANT.
  6. CONSULTANT shall be allowed and authorized to incur and shall be reimbursed for the following personal expenses attendant to the performance of services as described in Article II:
- 
- 

7. Total compensation shall not exceed \$ \_\_\_\_\_.

## **VII. WARRANTY**

Consultant warrants that it had the expertise or has experts available to help in the preparation of services as set forth in Article II in a manner consistent with generally accepted standards of CONSULTANT'S profession. CONSULTANT further warrants that he/she will perform said services in a legal-adequate manner in conformance with all applicable federal, state and local laws and guidelines.

## **VIII. CHANGES**

The DISTRICT or CONSULTANT may, from time to time, request changes in the scope of the service(s) of CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of CONSULTANT'S compensation and/or changes in the schedule must be authorized in advance by the DISTRICT IN WRITING. Mutually agreed changes shall be incorporated in written amendments to the agreement

## **IX. LIABILITY OF CONSULTANT-NEGLIGENCE**

CONSULTANT shall be responsible for performing the work in a safe and skillful manner consistent with generally accepted standards of CONSULTANT'S profession, and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors, and subcontractors. Except as set forth in this agreement, the DISTRICT shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to CONSULTANT or its employees, agents, contractors or subcontractors.

## **X. INDEMNITY AND LITIGATION COSTS**

CONSULTANT shall indemnify, defend, and hold harmless the DISTRICT, its officers, officials, agents and employees from and against any and all claims, damages, demands, liability, costs, losses, and expenses, including without limitation court costs and reasonable attorneys' fees arising out of or in connection with CONSULTANT'S performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss of damage which was caused by the sole negligence or willful misconduct of the DISTRICT.

CONSULTANT shall not commence any work before obtaining and shall maintain in force at all times during the term and performance of this agreement, to the extent required by law, the policies of insurance specified below:

1. Workers' Compensation Insurance (see Exhibit 1).
  2. Comprehensive General Liability Insurance in the amount of \$
- 

## **XI. ASSIGNMENT**

This agreement is for personal service(s) to be performed by CONSULTANT and may not be assigned to, sublet to or performed by any person or persons who are not parties hereto except by employees of CONSULTANT whose names and qualifications have been approved by the DISTRICT.

## **XII. TERMINATION OF AGREEMENT**

1. This Agreement shall terminate on the last day of service(s) as written in Article I except:
  - (a) DISTRICT may terminate at any time if CONSULTANT does not perform or refuses to perform according to this agreement.
  - (b) DISTRICT may terminate service(s) of CONSULTANT at any time if, in the professional judgment of the management supervisor named herein, CONSULTANT'S performance is unsatisfactory as to the manner of performance or the product of said performance fails to meet the DISTRICT'S requirements as specified in Article II.
  - (c) In the event of early termination CONSULTANT shall be paid for all work or service(s) performed to the date of termination together with an amount for approved expenses due and owing.
2. Upon termination, the DISTRICT shall be entitled to all work created pursuant to this agreement.

### **XIII. DISTRICT'S RIGHT OF RETENTION**

1. DISTRICT shall become the owner of and entitled to exclusive possession of all records, documents, graphs, photographic or other reproductions of any kind produced in the scope of services performed under this agreement. CONSULTANT shall not have any property right to such materials whatsoever, and no other uses thereof will be permitted except by written permission of the DISTRICT.
2. All the materials prepared or assembled by CONSULTANT pursuant to performance of this Agreement are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of the DISTRICT.

### **XIV. EXTENSION OF TERM**

By mutual consent of the parties hereto the term of service(s) described herein in Article I may be extended by reformation of this agreement and the attachment hereto of an addendum mutually executed setting forth the extended term.

### **XV. ENTIRE AGREEMENT**

This Agreement and its exhibits constitute the entire agreement between the parties relative to the services specified herein and no modification shall be effective unless and until such modification is evidenced by a writing signed by both parties to this agreement. There are no understandings, agreements, conditions, representations, warranties or promises with respect to this agreement, except those contained in or referred to in the writing.

### **WITNESSETH**

That the parties hereto have agreed, promised and covenanted to perform the obligations herein set forth we have subscribed our names hereto this day of

\_\_\_\_\_ at Stockton, County of San Joaquin, State of California.

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CONSULTANT (1)

Date \_\_\_\_\_

CONTRACT OFFICE OF THE STOCKTON UNIFIED  
SCHOOL DISTRICT – SAN JOAQUIN COUNTY

Date \_\_\_\_\_

Social Security Number (2)

- (1) Whenever organizational names are used, the authorized signature must include the company title i.e. President.
- (2) Whenever organizational names are used, the Employer's IRS Identification Number must be used instead of a Social Security Number.

**EXHIBIT 1**

**• CERTIFICATE OF COMPLIANCE WITH LABOR CODE SECTION 3700**

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

CONSULTANT:

BY: \_\_\_\_\_  
NAME

TITLE: \_\_\_\_\_

## Appendix D: School Board Minutes

<b>Stockton Unified School District Board Minutes Status</b>			
<b>Board Meeting Date</b>	<b>Meeting Type</b>	<b>Minutes Approved</b>	<b>Status of Posting</b>
January 7, 2020	Special Board Meeting	January 28, 2020	Yes
January 14, 2020	Regular	January 28, 2020	Yes
January 28, 2020	Regular	April 14, 2020	Yes
February 11, 2020	Regular	No	No
February 24, 2020	Special Board Meeting	March 10, 2020	No
February 25, 2020	Regular	April 14, 2020	No
March 10, 2020	Regular	April 28, 2020	Yes
March 26, 2020	Special Board Meeting	April 14, 2020	Yes
April 1, 2020	Special Board Meeting	April 14, 2020	Yes
April 14, 2020	Regular	April 28, 2020	Yes
April 21, 2020	Special Board Meeting	April 28, 2020	Yes
April 28, 2020	Regular	No	No
May 12, 2020	Special Board Meeting	June 23, 2020	No
May 12, 2020	Regular	June 23, 2020	Yes
May 15, 2020	Regular	June 9, 2020	Yes
May 15, 2020	Special Board Meeting	June 9, 2020	Yes
May 26, 2020	Regular	June 9, 2020	Yes
June 9, 2020	Regular	No	Yes
June 18, 2020	Special Board Meeting	No	No
June 23, 2020	Regular	No	No
July 2, 2020	Special Board Study Session	July 28, 2020	Yes
July 21, 2020	Special Board Meeting	August 25, 2020	Yes
July 28, 2020	Regular	August 25, 2020	Yes
August 11, 2020	Special Board Meeting	August 25, 2020	Yes
<b>Board Meeting Date</b>	<b>Meeting Type</b>	<b>Minutes Approved</b>	<b>Status of Posting</b>
August 25, 2020	Regular	No	Yes
September 15, 2020	Regular	October 13, 2020	Yes
September 22, 2020	Special Board Meeting	No	No
September 22, 2020	Regular	No	No
October 13, 2020	Regular	October 27, 2020	Yes

October 27, 2020	Regular	December 15, 2020	Yes
November 10, 2020	Regular	December 15, 2020	Yes
December 15, 2020	Regular	No	Yes
January 7, 2021	Special Board Meeting	February 9, 2021	Yes
January 12, 2021	Regular	March 23, 2021	Yes
January 26, 2021	Regular	February 9, 2021	Yes
February 1, 2021	Special Board Meeting	February 23, 2021	Yes
February 9, 2021	Regular	No	No
February 23, 2021	Regular	March 13, 2021	Yes
March 9, 2021	Regular	March 23, 2021	Yes
March 23, 2021	Regular	April 27, 2021	Yes
March 30, 2021	Special Board Meeting	April 27, 2021	Yes
April 13, 2021	Regular	May 11, 2021	Yes
April 27, 2021	Special Board Meeting	May 11, 2021	Yes
April 27, 2021	Regular	Mary 25, 21	Yes
May 11, 2021	Regular	May 25, 2021	Yes
May 25, 2021	Regular	June 22, 2021	Yes
June 8, 2021	Regular	June 22, 2021	Yes
June 15, 2021	Special Board Meeting	July 27, 2021	Yes
June 22, 2021	Regular	No	No
June 30, 2021	Special Board Meeting	August 10, 2021	Yes
July 13, 2021	Regular	August 10, 2021	Yes
Board Meeting Date	Meeting Type	Minutes Approved	Status of Posting
July 14, 2021	Special Board Meeting	No	No
July 27, 2021	Regular	August 10, 2021	No
July 30/2021	Special Board Meeting	No	No
August 10, 2021	Regular	No	No
August 24, 2021	Regular	October 26, 2021	Yes
September 14, 2021	Regular	December 12, 2021	Yes
September 28, 2021	Regular	No	No
October 9, 2021	Special Board Meeting	October 26, 2021	Yes
October 12, 2021	Special Board Study Session	December 14, 2021	Yes
October 12, 2021	Regular	December 14, 2021	Yes
October 26, 2021	Special Board Study Session	December 14, 2021	Yes

October 26, 2021	Regular	December 14, 2021	Yes
November 9, 2021	Special Board Meeting	No	No
November 9, 2021	Regular	No	No
December 14, 2021	Special Board Meeting	March 8, 2022	Yes
December 14, 2021	Regular	March 22, 2022	Yes
January 11, 2022	Regular	January 25, 2022	Yes
January 25, 2022	Regular	February 8, 2022	Yes
February 8, 2022	Special Board Meeting	April 26, 2022	Yes
February 8, 2022	Regular	April 26, 2022	Yes
February 22, 2022	Special Board Meeting	March 8, 2022	Yes
February 22, 2022	Regular	April 12, 2022	Yes
March 8, 2022	Special Board Meeting	April 12, 2022	Yes
March 8, 2022	Regular	April 12, 2022	Yes
March 22, 022	Regular	April 12, 2022	Yes
April 12, 2022	Regular	April 26, 2022	Yes