



## East Bay Innovation Academy

### SPECIAL BOARD MEETING - October 20, 2021

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**Date and Time**

Wednesday October 20, 2021 at 8:00 PM PDT

**Location**

Pursuant to the Governor's Executive Order N-29-20, all members of a legislative body and appropriate staff will participate in legislative meetings via phone/video conference until shelter in place order is lifted. Please see meeting link and telephone numbers below to attend and provide public comment at the EBIA Board Meeting.

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DUE TO SHELTER IN PLACE ORDER - this meeting will be held online using Zoom ONLY. Please join us!!!

**Zoom:**

[hipaa@eastbayia.org](mailto:hipaa@eastbayia.org) EBIA is inviting you to a scheduled Zoom meeting.

Topic: Board Meeting

Time: Oct 20, 2021 08:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/95920212319?pwd=WnVqcWh0dmFkeGo3cGw1ekVwY2ExUT09>

Meeting ID: 959 2021 2319

Passcode: 114776

One tap mobile

+16699009128,,95920212319# US (San Jose)

+13462487799,,95920212319# US (Houston)

Dial by your location

+1 669 900 9128 US (San Jose)

+1 346 248 7799 US (Houston)

+1 253 215 8782 US (Tacoma)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 959 2021 2319

Find your local number: <https://zoom.us/u/adXVtWotes>

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**Agenda**

	Purpose	Presenter	Time
<b>I. Opening Items</b>			<b>8:00 PM</b>
Opening Items			
<b>A. Record Attendance and Guests</b>		Rochelle Benning	1 m
<b>B. Call the Meeting to Order</b>		Rochelle Benning	1 m
<b>C. Opening Session - Public Comment (Any Agenda or Non-Agenda Items)</b>		Rochelle Benning	15 m
Public comment is limited to a maximum of 3 minutes of comment time per speaker			
<b>D. Approve Minutes from the Last East Bay Innovation Academy Board Meeting</b>	Approve Minutes	Rochelle Benning	1 m
Approve minutes for Board Meeting on August 18, 2021			
<b>II. Personnel Update</b>			<b>8:18 PM</b>
<b>A. Lower School Leadership Transition</b>	FYI	Michelle Cho	5 m
Update on Lower School leadership and interim plan			
<b>III. Governance</b>			<b>8:23 PM</b>
Governance			
<b>A. Review and Approve East Bay Innovation Academy Consent Agenda Items</b>	Vote	Rochelle Benning	5 m
Consent Agenda Items			
- Measure G1 audit report SY 21			
- Intersession and program consultant agreement			
- Lower School stabilization and leadership stipend			
<b>IV. Student Matters</b>			<b>8:28 PM</b>
<b>A. Pupil Matters: Administrative panel determination for discipline hearings</b>	Vote	Michelle Cho	5 m
Consideration and Approval of Administrative Expulsion Panel for the 2021-2022 School Year			
<b>V. Other Business</b>			<b>8:33 PM</b>
<b>A. Closing Session - Public Comment (Any Agenda or Non-Agenda Items)</b>	FYI	Rochelle Benning	10 m
Public comment is limited to a maximum of 3 minutes of comment time per speaker			

	Purpose	Presenter	Time
<b>VI. Closing Items</b>			<b>8:43 PM</b>
<b>A. Adjourn Meeting</b>	Vote	Rochelle Benning	1 m

## Cover Sheet

### Approve Minutes from the Last East Bay Innovation Academy Board Meeting

**Section:** I. Opening Items  
**Item:** D. Approve Minutes from the Last East Bay Innovation  
Academy Board Meeting  
**Purpose:** Approve Minutes  
**Submitted by:**  
**Related Material:** Minutes for Board Meeting on August 18, 2021



## East Bay Innovation Academy

### Minutes

#### Board Meeting

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##### **Date and Time**

Wednesday August 18, 2021 at 8:00 PM

##### **Location**

Pursuant to the Governor's Executive Order N-29-20, all members of a legislative body and appropriate staff will participate in legislative meetings via phone/video conference until shelter in place order is lifted. Please see meeting link and telephone numbers below to attend and provide public comment at the EBIA Board Meeting.

---

DUE TO SHELTER IN PLACE ORDER - this meeting will be held online using Zoom ONLY. Please join us!!!

Zoom:

hipaa@eastbayia.org EBIA is inviting you to a scheduled Zoom meeting.

Topic: Board Meeting

Time: Aug 18, 2021 08:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/97268737186?pwd=WlhOYjNBa3B0bnFVRnhGc0hKN1hWUT09>

Meeting ID: 972 6873 7186

Passcode: 946038

One tap mobile

+16699009128,,97268737186# US (San Jose)

+12532158782,,97268737186# US (Tacoma)

Dial by your location

+1 669 900 9128 US (San Jose)

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+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

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Meeting ID: 972 6873 7186

Find your local number: <https://zoom.us/j/97268737186>

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**Directors Present**

Brad Edgar, Jennifer Afdahl Rice, Kelly Garcia, Ken Berrick, Laurie Jacobson Jones, Rochelle Benning

**Directors Absent**

*None*

**Guests Present**

Ashley DeGrano, Michelle Cho, Rudolpho Ornelas

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**I. Opening Items**

**A. Record East Bay Innovation Academy Board Meeting Attendance and Guests**

**B. Call the Meeting to Order**

Rochelle Benning called a meeting of the board of directors of East Bay Innovation Academy to order on Wednesday Aug 18, 2021 at 8:02 PM.

**C. Approve Minutes from the Last East Bay Innovation Academy Board Meeting**

Rochelle Benning made a motion to approve the minutes from Board Meeting on 07-20-21.

Kelly Garcia seconded the motion.

The board **VOTED** to approve the motion.

**Roll Call**

Laurie Jacobson Jones Absent

Jennifer Afdahl Rice Aye

Ken Berrick Abstain

Brad Edgar Aye

Rochelle Benning Aye

Kelly Garcia Aye

**D. Opening Session - Public Comment (Any Agenda or Non-Agenda Items)**

No public comment

**II. Governance**

**A. Review and Approve East Bay Innovation Academy Consent Agenda Items**

Brad Edgar made a motion to approve the consent agenda.

Ken Berrick seconded the motion.

The board **VOTED** to approve the motion.

**Roll Call**

Kelly Garcia Aye

Rochelle Benning Aye

Laurie Jacobson Jones Absent

Ken Berrick Aye

**Roll Call**

Jennifer Afdahl Rice Abstain  
Brad Edgar Aye

**III. Academic Excellence**

**A. Monthly COVID-19 Update and EBIA Re-Opening Plan Check-In**

Michelle shared a monthly COVID update. For specific details please see the board packet.

**B. East Bay Innovation Academy Program Updates**

Michelle presented an academic update. For specific details please see the board packet.

Ashley DeGrano, lower school principal, and Rudolpho Ornealas, upper school principal, also presented information.

**IV. Finance and Development**

**A. Unaudited Actuals for SY 2020-2021**

Michelle shared a finance update, specifically the unaudited actuals for SY 2020-21. For specifics please see the board packet.

Ken Berrick made a motion to approve the unaudited actuals for SY 20-21 to submit to OUSD.

Laurie Jacobson Jones seconded the motion.

The board **VOTED** to approve the motion.

**Roll Call**

Jennifer Afdahl Rice Aye  
Ken Berrick Aye  
Brad Edgar Aye  
Laurie Jacobson Jones Aye  
Kelly Garcia Aye  
Rochelle Benning Aye

**V. East Bay Innovation Facility Matters**

**A. East Bay Innovation Academy Monthly Facility Update**

Ken Berrick made a motion to approve a facilities use agreement with Holy Names.

Rochelle Benning seconded the motion.

The board **VOTED** to approve the motion.

**Roll Call**

Laurie Jacobson Jones Aye  
Brad Edgar Aye  
Ken Berrick Aye  
Kelly Garcia Aye  
Rochelle Benning Aye  
Jennifer Afdahl Rice Aye

**VI. Other Business**

**A. Confirm Board Meeting Dates through 2021 - 2022 School Year**

Shelley shared the upcoming meeting schedule.

**B. Closing Session - Public Comment (Any Agenda or Non-Agenda Items)**

No public comment.

**VII. Closing Items**

**A. Adjourn Meeting**

Jennifer Afdahl Rice made a motion to adjourn the meeting.

Brad Edgar seconded the motion.

The board **VOTED** to approve the motion.

**Roll Call**

Jennifer Afdahl Rice Aye

Ken Berrick Aye

Brad Edgar Aye

Kelly Garcia Aye

Rochelle Benning Aye

Laurie Jacobson Jones Aye

There being no further business to be transacted, and upon motion duly made, seconded and approved, the meeting was adjourned at 9:13 PM.

Respectfully Submitted,

Kelly Garcia



## Cover Sheet

### Review and Approve East Bay Innovation Academy Consent Agenda Items

**Section:** III. Governance  
**Item:** A. Review and Approve East Bay Innovation Academy Consent  
Agenda Items  
**Purpose:** Vote  
**Submitted by:**  
**Related Material:**  
EastBayInnovationsFS (1).pdf  
Frankel, Kim\_EBIA\_consulting agreement 2021.08.23.pdf  
Fay\_LS site co-administration agreement and stipend Oct 2021.pdf  
Terrizzi, M Site Admin stipend agreement 2021.pdf

**EAST BAY INNOVATION ACADEMY  
MEASURE G1 PARCEL TAX PERFORMANCE AUDIT  
FOR THE YEAR ENDED JUNE 30, 2021**



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AUDIT, TAX, AND CONSULTING

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**EAST BAY INNOVATION ACADEMY  
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FOR THE YEAR ENDED JUNE 30, 2021**

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CliftonLarsonAllen LLP  
CLAconnect.com

## INDEPENDENT AUDITORS' REPORT

Board of Directors  
East Bay Innovation Academy  
Oakland, California

We have conducted a performance audit of East Bay Innovation Academy Measure G1 Parcel Tax Performance for the year ended June 30, 2021.

We conducted our performance audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit was limited to the objectives listed on page 2 which includes determining East Bay Innovation Academy's compliance with the performance requirements for the Teacher Retention and Middle School Improvement Act Fund (Measure G1) funds. Management is responsible for East Bay Innovation Academy Measure G1 compliance with those requirements.

Solely to assist us in planning and performing our performance audit, we obtained an understanding of the internal control of East Bay Innovation Academy to determine if internal controls were adequate to help ensure compliance with the requirements of Measure G1. Accordingly, we do not express any assurance on internal control.

The results of our tests indicated that, in all significant respects, East Bay Innovation Academy expended Measure G1 funds for the fiscal year ended June 30, 2021, only for the specific purposes identified by OUSD and approved by the voters, in accordance with the requirements of Measure G1.

The purpose of this report is intended solely for the information and use of OUSD, the board of directors and management of East Bay Innovation Academy, and is not intended to be and should not be used by anyone other than these specified parties.

*CliftonLarsonAllen LLP*

**CliftonLarsonAllen LLP**

Glendora, California  
October 5, 2021



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**EAST BAY INNOVATION ACADEMY  
MEASURE G1 PARCEL TAX PERFORMANCE AUDIT  
JUNE 30, 2021**

**BACKGROUND INFORMATION**

The Teacher Retention and Middle School Improvement Act (Measure G1) was authorized by an election of the registered voters of the County of Alameda. Measure G1 was established to provide a districtwide educator salary increase designed to attract/retain teachers; provide enhanced middle school art, music, languages/other programs in addition to core educational programs; improve academic achievement; provide safe, positive schools, and prepare students for college/careers in Oakland Unified School District (OUSD) schools as well as charter schools in Oakland. The funds for this measure will come from OUSD levying a tax of \$120 per parcel, providing \$12.4 million annually, for 12 years, with exemptions for senior and low income residents.

**OBJECTIVES**

- Ensure proceeds and expenditures of the parcel tax are fully accounted in the books and records of the charter school.
- Ensure expenditures are in support of allowable uses as per the ballot language, separately with respect to middle school grants and salary for school site educators.
- Ensure that the charter school receiving middle school grant funding has an approved education improvement plan with the minimal requirements specified in the ballot.
- For the charter school receiving middle school grant funding, make a positive statement about the issue of supplanting versus supplementing.

**SCOPE OF THE AUDIT**

- The scope of our performance audit covered the fiscal period from July 1, 2020 to June 30, 2021. The sample of expenditures tested included object and resource codes associated with the Measure G1. The propriety of expenditures funded through other state, federal or local funding sources, other than the proceeds of Measure G1, were not included within the scope of our audit. Expenditures incurred subsequent to June 30, 2021, were not reviewed or included within the scope of our audit or in this report.

**PROCEDURES PERFORMED**

1. We obtained parcel tax expenditure detail reports prepared by the charter school and agreed amounts to the general ledger.
2. We haphazardly selected a sample of 43 payroll related expenditures totaling \$89,233 or 93%, of \$95,825, allocated to the total salary increase for school site educators and obtained and reviewed the necessary supporting documentation of payroll registers to satisfy ourselves that they were only to provide raises to "school site educators," as the term was used in the ballot text. We also tested payroll benefits for reasonableness using a 25% estimate of base salary (20% STRS/PERS and 5% other benefits).
3. We ensured the same percentage (2.3781%) increase in salary was applied to all school site educators.

**EAST BAY INNOVATION ACADEMY  
MEASURE G1 PARCEL TAX PERFORMANCE AUDIT  
JUNE 30, 2021**

**PROCEDURES PERFORMED (CONTINUED)**

4. We reviewed \$61,822 or 100% of the expenses allocated to the middle school grant funding, which was paid to a behavioral specialist, restorative justice training, student celebrations, and interactive software, we reviewed the job descriptions, and invoices as supporting documents, to ensure they were within the specific purpose of the ballot language. The allowable use is related to expense incurred is for the fourth key goal of the ballot, to create a more positive and safe middle school learning environment. We also reviewed invoices for school cultures assemblies, and musicals noting that the allowable use is related to the second key goal of the ballot, to increase access to courses in arts, music, and world languages in grades 6-8.
5. We verified if the parcel tax is funding supplemental activities by performing the following procedures. Ascertained if funds were used to provide services, which were legally required to be made available by virtue of being a school. Also, performed procedures to ascertain whether the parcel tax funded services that were previously provided with another funding source.
6. We obtained the approved education improvement plan for the charter school and performed the following procedures. Ensured the plan contains the minimal elements required by the ballot. Verified the actual parcel tax expenditures are consistent with the approved plan.
7. We examined supporting documentation to validate the amount of Measure G1 Parcel Tax revenues received.

**FINDINGS AND RESPONSES**

None noted.

**EAST BAY INNOVATION ACADEMY  
MEASURE G1 PARCEL TAX PERFORMANCE AUDIT  
JUNE 30, 2021**

**SCHEDULE OF INCOME STATEMENT ACCOUNTS FOR THE YEAR ENDED JUNE 30,**

**Measure G1 Revenues:**

Measure G1 Parcel Tax Revenues	\$	157,647
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**Measure G1 Expenditures:**

Salary Increase for School Site Educators		95,825
Middle School Grants		61,822
Total Expenditures		<u>157,647</u>

**Revenues less Expenditures - Measure G1**

	\$	<u><u>-</u></u>
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**Lower School Site Co-Administrator Agreement**  
East Bay Innovation Academy and Francesca Fay  
2021

Francesca Fay shall serve as turn-around Site Co-Administrator for the Lower School campus, 3400 Malcolm Avenue, from October 16, 2021 through December 31, 2021. In addition to her current duties as Director of Instruction, Ms Fay shall partner with Mr. Mick Terrizzi to provide site administration at the Lower School, including:

- Create and implement clear and consistent structures that support positive student behavior, effective learning spaces, and build community.
- Establish and communicate EBIA policies and procedures.
  - With students and families. Includes academic policy, behavioral expectations, EBIA norms and culture.
  - With staff. Includes consistent and equitable application of human resource policies and CBA provisions, and training staff to have the clarity and tools to implement student-facing policies.
  - With community. Be the face of EBIA with greater community and third party agencies.
- Ensure the successful day-to-day operations of the school, including securing school property, exercising leadership and decision-making authority in unplanned circumstances, implementing procedures during emergencies.
- Be a flexible team player, providing coverage as needed, for teachers and operations.

EBIA shall also offer a turn-around site administrator stipend of \$10,000 for these months, subject to all regular taxes and withholdings. The stipend shall be paid in four equal installments with the 10/31/2021, 11/15/2021, 11/30/2021, and 12/15/2021 payroll.

\_\_\_\_\_  
Michelle Cho, EBIA Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Francesca Fay, EBIA Director of Instruction

\_\_\_\_\_  
Date

East Bay Innovation Academy  
Agreement: **Kim Franke**



## Independent Contractor Agreement PROJECT DESCRIPTION

### 1.0 General Information

This Project Description is entered into and made effective **August 10, 2021** (the “Effective Date”) by and between **Kim Franke** (“Consultant”), having a principal place of business at [REDACTED] and the East Bay Innovation Academy (“Client”), having a principal place of business at 3400 Malcolm Ave, Oakland CA 94605.

### 2.0 Service Description

Consultant agrees to provide consulting services to the Client for consultations and services on an as-requested basis as follows:

- **Independent study monitoring**
- **Intersession planning**
- **Discretionary projects, as mutually agreed upon/needed**

### 3.0 General Terms

- **Consulting services will be delivered upon request, at most 5 hours/week on average.**
- **Rate: \$100/hr**
- All instructors must have a valid DOJ Live Scan on file with EBIA. EBIA will reimburse for Live Scan. Use DOJ form attached.
- All instructors must have proof of TB Risk Assessment and any required follow up tests.
- Independent contractors who monitor their employees LiveScan and TB Risk Assessments may submit an affidavit instead.
- All independent contractors must submit proof of minimum insurance coverage, as delineated in Table One.

Invoices will be sent monthly for actual time expended, and include a description of services performed. All invoices will be issued and payments made in US dollars, due net 30 days. Amount billed in total, will not exceed estimates above without prior written approval from Client via a Change Order or updated project description.

### PAYMENT

Billing Address: East Bay Innovation Academy  
3400 Malcolm Ave, Oakland CA 94605

Contact Phone Number: 510-577-9557

Bill to email address: [info@eastbayia.org](mailto:info@eastbayia.org)

East Bay Innovation Academy  
Agreement: **Kim Frankel**

#### 4.0 Signatures

**IN WITNESS WHEREOF**, **Kim Frankel** and East Bay Innovation Academy, each acting under proper authority, have caused this Project Description to be executed as of the Effective Date.

#### Consultant

Signature: *Kim Frankel*  
\_\_\_\_\_  
Printed Name: Kim Frankel  
\_\_\_\_\_  
Title: Academic and Program Support Consultant  
\_\_\_\_\_  
Date: 08/10/2021  
\_\_\_\_\_

#### East Bay Innovation Academy

Signature: *Michelle S. Cho*  
\_\_\_\_\_  
Printed Name: Michelle Cho  
\_\_\_\_\_  
Title: Executive Director  
\_\_\_\_\_  
Date: August 10, 2021  
\_\_\_\_\_

East Bay Innovation Academy  
Agreement: **Kim Frankel**

# Terms of Business

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## 1 DEFINITIONS

1.1 In these Terms of Business, the following words and expressions will have the following meanings:

“Confidential Information” means all information (whether written or oral) furnished in connection with an Engagement Letter (including any Project Description, Statement of Work and these Terms), together with all copies thereof and all notes, analyses, compilations, forecasts, studies or other documents containing such information.

“Engagement Letter” means any engagement letter (including any attached Project Description) previously entered into between us and you or accompanying these Terms.

“Intellectual Property Rights” means any and all now known or hereafter existing rights associated with intangible property, including but not limited to registered and unregistered, United States and foreign copyrights, trade dress, trade names, corporate names, logos, inventions, patents, patent applications, software, know-how and all other intellectual property and proprietary rights (of every kind and nature throughout the universe and however designated).

“Project Description” means the description of consulting services (if any) attached as an exhibit to the Engagement Letter.

“East Bay Innovation Academy” means East Bay Innovation Academy, its subsidiaries, affiliates, successors or assigns.

“Services” means the advisory, consulting and additional services to be provided to us by you, subject to these Terms, as set forth in the Project Description, including any related Statement of Work.

“Statement of Work” means the statement of work (if any) accompanying or delivered in connection with the Project Description and executed by the parties that describes the Services to be provided to us and which contains other material terms and conditions of the engagement.

“Terms” means these Terms of Business accompanying a Project Description.

“We” “us” “our” and similar expressions refer to the East Bay Innovation Academy.

“You” “your” “the Consultant” and similar expressions refer to the person, firm or company providing the Services, as identified in our Engagement Letter, Project Description and/or Statement of Work.

## 2 AGREEMENT

2.1 These Terms and the Engagement Letter, including any related Project Description and/or Statement of Work, shall govern the provision of the Services by you to us to the exclusion of any other terms and conditions.

## 3 SERVICES/NATURE OF OUR APPOINTMENT

3.1 For each project contemplated, you shall provide us with a Project Description or Statement of Work that will set forth the Services to be provided, your fees and expenses, and other material terms of the engagement. You will use reasonable skill and care to advise and assist us with the project and, where applicable, you will prepare and deliver project deliverables in accordance with the requirements set forth in the applicable Project Description or Statement of Work. We acknowledge and agree that we are ultimately responsible for the results to be achieved from using your Services.

3.2 We agree to give you clear briefings on our proposed projects and requirements from you and give you all relevant information and facts about the Services we require.

East Bay Innovation Academy

Agreement: **Kim Frankel**

3.3 Changes to the Services or changes to any other aspect of the engagement may be requested by either party but may be subject to changes in applicable charges, timetables or other aspects of the Engagement Letter, Project Description or Statement of Work. All agreed changes must be confirmed in writing signed by both parties.

#### **4 FEES AND EXPENSES**

4.1 Fees and expenses will be charged on the basis set out in the Project Description and/or Statement of Work.

4.2 You shall issue us with an invoice on or around the last day of each month in which Services are performed by you and we agree to pay all invoices within thirty (30) days of the date of the invoice.

4.3 All fees and expenses shall be payable without deduction, withholding or set-off and are stated exclusive of sales, use and/or value-added taxes which (if and to the extent applicable) shall be payable at the prevailing rate.

4.4 All contractors must submit a valid W9 before commencing work, and it shall be updated annually or as needed.

#### **5 TERMINATION**

5.1 You shall continue to provide Services as set forth in the applicable Project Description or Statement of Work until completion of the project, unless the engagement is earlier terminated by one of us upon not less than thirty (30) days' written notice to the other.

5.2 Notwithstanding the foregoing either party may terminate the engagement immediately by written notice to the other if the other party: (i) commits a material or persistent breach(es) of any of these Terms (including any Project Description or Statement of Work) and, in the case of a breach or breaches capable of remedy, fails to remedy such breach within 30 days of receipt of written notice describing in reasonable detail the breach(es) and requesting that the same be remedied; (ii) admits in writing its inability to pay its debts generally as they become due; (iii) is subject to a general assignment for the benefit of creditors; (iv) institutes proceedings, or has proceedings instituted against it, seeking relief or reorganization under any laws relating to bankruptcy or insolvency; (v) has a court of competent jurisdiction appoint a receiver, liquidator, or trustee over all or substantially all of such party's property or provide for the liquidation of such party's property or business affairs.

5.3 Termination of the engagement for any reason shall not affect any rights, duties or responsibilities accrued to the parties prior to such termination. Upon such termination, we shall pay all sums due in respect of Services performed and expenditures incurred (or committed to) by you up to and including the effective date of termination. In addition to, and without limiting the generality of the foregoing, these Terms shall survive any expiration or termination of our engagement.

#### **6 CONFIDENTIALITY**

6.1 The parties acknowledge that by reason of the relationship established under the Engagement Letter, they may have access to and acquire Confidential Information of the other party. Each party receiving Confidential Information (the "Receiving Party") agrees to maintain all such Confidential Information received from the other party (the "Disclosing Party") in confidence and agrees not to disclose or otherwise make available such Confidential Information to any third party without the prior written consent of the Disclosing Party; provided, however, that the Receiving Party may disclose the terms of the Engagement Letter, Project Description, Statement of Work and these Terms to its legal and business advisors if such third parties agree to maintain the confidentiality of such Confidential Information under terms no less restrictive than those set forth herein. The Receiving Party further agrees to use the Confidential Information only for the purposes of providing or receiving Services under this or any other contract between the parties.

East Bay Innovation Academy

Agreement: **Kim Frankel**

The foregoing restrictions shall not apply to Confidential Information that: (i) is or becomes a matter of public knowledge through no fault of or action by the Receiving Party; (ii) was lawfully in the Receiving Party's possession prior to disclosure by the Disclosing Party; (iii) subsequent to disclosure, is rightfully obtained by the Receiving Party from a third party who is lawfully in possession of such Confidential Information without restriction; or (iv) is independently developed by the Receiving Party without resort to the Confidential Information. Confidential Information may be disclosed to the extent required by law or judicial order, provided that the Receiving Party shall give the Disclosing Party prompt written notice of such required disclosure in order to afford the Disclosing Party an opportunity to seek a protective order or other legal remedy to prevent the disclosure, and the Receiving Party shall reasonably cooperate with the Disclosing Party's efforts (at the Disclosing Party's expense) to secure such a protective order or other legal remedy to prevent or limit the disclosure.

6.2 The parties' respective obligations hereunder will survive the expiration or early termination of the engagement for a period of 1 year. Upon the expiration or termination of the engagement, each party will, upon the written request of the other party, return or destroy (at the option of the party making the request) all Confidential Information, documents, manuals and other materials specified by the other party.

6.3 Notwithstanding sections 7.1 and 7.2, you acknowledge and agree that we may cite the performance of the Services to you as an indication of our experience in our marketing brochures and other materials and in discussions with existing and/or prospective clients or business partners.

## **7 LIMITATION OF LIABILITY**

NEITHER PARTY SHALL BE LIABLE FOR ANY EXEMPLARY, PUNITIVE, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT DAMAGES OR LOSS OF INCOME, PROFIT, OR SAVINGS OF ANY PARTY, INCLUDING THIRD PARTIES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING CONTRACT, EQUITY, STRICT LIABILITY, NEGLIGENCE, FRAUD, MISREPRESENTATION OR OTHER TORT, OR ANY OTHER THEORY), ARISING OUT OF OR RELATED TO THIS AGREEMENT WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BOTH PARTIES ACKNOWLEDGE THAT THE CONSIDERATION AGREED UPON BY THE PARTIES IS BASED IN PART UPON THESE LIMITATIONS, AND THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. IN NO EVENT SHALL THE CUMULATIVE LIABILITY OF EAST BAY INNOVATION ACADEMY RELATING TO THE ENGAGEMENT EXCEED THE AMOUNT PAID OR PAYABLE TO EAST BAY INNOVATION ACADEMY IN CONNECTION WITH SUCH ENGAGEMENT.

## **8 INSURANCE**

8.1 Contractor shall obtain and maintain during the term of this Agreement insurance policy to satisfy minimum insurance coverage and limits as delineated in Table One "Minimum Recommended Insurance and Coverage Limits for Small Vendors and Contractors" appended to the end of this document.

8.2. Within five days of the effective date of this Agreement, the Contractor shall provide to East Bay Innovation Academy a certificate of insurance evidencing the required insurance coverage.

## **9 LAW AND JURISDICTION**

9.1 These Terms shall be governed in all respects by the laws of the State of California without regard for the choice of law provisions thereof.

9.2 Should any dispute arise between the parties each will attempt to resolve the dispute in good faith by senior level negotiations. Where both parties agree that it may be beneficial each will seek to resolve the dispute through mediation using the services of a mediator selected by mutual agreement. If the dispute is

East Bay Innovation Academy

Agreement: **Kim Frankel**

not resolved through negotiation or mediation, both parties shall submit to the exclusive subject matter jurisdiction, personal jurisdiction and venue of the United States District Court for the Northern District of California located in Oakland, California. If there is no jurisdiction in the United States District Court for the Northern District of California, then jurisdiction shall be in the Superior Court of California, County of Alameda.

## 10 GENERAL

10.1 Neither party may assign any of the rights or delegate duties hereunder without the express prior written consent of the other.

10.2 No amendment, waiver or any other change in any term or condition of these Terms, the Engagement Letter, Project Description or any Statement of Work will be valid or binding unless mutually agreed to in writing by both parties. The failure of either party to enforce any term or right arising pursuant to these Terms does not constitute a waiver of such term or right and shall in no way affect that party's right later to enforce or exercise the term or right.

10.3 The invalidity or unenforceability of any term or right arising pursuant to these Terms shall not adversely affect the validity or enforceability of the remaining terms and rights.

10.4 These Terms together with the Engagement Letter and any related Project Description and/or Statement of Work constitute the entire agreement and understanding between the parties with respect to their subject matter and supersede any prior agreement, understanding or arrangement between the parties, whether oral or in writing, with respect to the same. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in communications between the parties prior to these Terms, except as set out herein and in the Engagement Letter and any related Project Description and/or Statement of Work.

10.5 Any notice which either party may desire or may be required to give to the other party under these Terms will be in writing, addressed to the party at its address set forth in the Engagement Letter, Project Description or Statement of Work, as the case may be, unless written notice of a change of address is given. Notices will be deemed given on the earlier of: (i) actual receipt, if and when personally delivered; (ii) two business days after being placed for delivery, if sent by a nationally recognized overnight courier; (iii) when sent by confirmed facsimile transmission with a copy delivered by another means specified in this Section; or (iv) on the third (3rd) business day after being sent by registered or certified mail, postage prepaid, return receipt requested.

10.6 The Engagement Letter and any Statement of Work may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. We agree that the Engagement Letter and any related Statement of Work may be delivered by facsimile and such facsimile execution and delivery shall have the same force and effect as delivery of an original document with original signatures and that each party may use such facsimile signatures as evidence of the execution and delivery of an Engagement Letter and Statement of Work to the same extent that an original signature could be used.

10.7 In the event of a conflict between these Terms and any Project Description or Statement of Work, the terms of the Project Description or Statement of Work, as applicable, shall govern, but only in regard to the specific Services provided under that Project Description or Statement of Work.



East Bay Innovation Academy  
 Agreement: **Kim Frankel**

**Table One**

<b>Minimum Recommended Insurance Coverage and Limits For Small Vendors and Contractors</b>			
<b>Type of Contractor</b>	<b>Recommended Coverage</b>	<b>Recommended Coverage Limits</b>	<b>Other</b>
Maintenance/Repair (painting, plumbing, HVAC, roofing, landscape, etc.)	Commercial General Liability (or equivalent which would include products/completed operations, blanket contractual, broad form property damage and personal/advertising injury)	Each Occurrence \$1,000,000 General Aggregate \$2,000,000 Products/Completed Operations \$1,000,000 Personal and Advertising Injury \$ 500,000	Additional Insured Endorsement Indemnity / Hold Harmless Agreement
Service Providers (copier/fax service, computers, security, drug dogs, activity venues, equipment, etc.)	Automobile Liability Including: <input type="checkbox"/> Owned Vehicles <input type="checkbox"/> Non-Owned Vehicles <input type="checkbox"/> Hired Vehicles <i>(Required for vehicles driven on school property)</i>	Combined Single Limit \$1,000,000	Indemnity / Hold Harmless Agreement
	Workers' Compensation* Employers' Liability	Limit California - Statutory Each Occurrence \$ 500,000	Indemnity / Hold Harmless Agreement

**For the contractor categories below, the following coverages are recommended in addition to those listed above:**

Welders, plumbers (work with open flames)	Fire Damage	Each Occurrence \$1,000,000	Indemnity / Hold Harmless Agreement
Hazardous Materials, Waste Haulers, Pest Control, etc.	Pollution Liability (may require project-specific coverage)	Each Occurrence \$1,000,000	Indemnity / Hold Harmless Agreement
Professional Services (accountants, architects, attorneys, education consultants, nurses, therapists, etc.)	Professional Liability (or Medical Malpractice, as applicable)	Each Occurrence \$1,000,000	Indemnity / Hold Harmless Agreement
Payroll company, Data managers	Cyber Liability	Each Occurrence \$1,000,000	Indemnity / Hold Harmless Agreement

- \*Owner to be covered or must provide proof of valid health insurance.
- If vendor will have unsupervised access to students (not recommended) they must have background check and general liability must include sexual molestation coverage.
- Certificates of insurance are to provide for 15 days advance notice to charter school in the event of cancellation of coverage.
- All subcontractors are to be included under the above policies or must provide separate, compliant evidence of insurance and "Other" provisions.







**Lower School Site Co-Administrator Agreement**  
East Bay Innovation Academy and Mick Terrizzi  
2021

Mick Terrizzi shall serve as turn-around Site Co-Administrator for the Lower School campus, 3400 Malcolm Avenue, from October 16, 2021 through December 31, 2021. Mr. Terrizzi shall partner with Ms. Francesca Fay to provide site administration at the Lower School, including:

- Create and implement clear and consistent structures that support positive student behavior, effective learning spaces, and build community.
- Establish and communicate EBIA policies and procedures.
  - With students and families. Includes academic policy, behavioral expectations, EBIA norms and culture.
  - With staff. Includes consistent and equitable application of human resource policies and CBA provisions, and training staff to have the clarity and tools to implement student-facing policies.
  - With community. Be the face of EBIA with greater community and third party agencies.
- Ensure the successful day-to-day operations of the school, including securing school property, exercising leadership and decision-making authority in unplanned circumstances, implementing procedures during emergencies.
- Be a flexible team player, providing coverage as needed, for teachers and operations.

EBIA shall also offer a turn-around site administrator stipend of \$10,000 for these months, subject to all regular taxes and withholdings. The stipend shall be paid in four equal installments with the 10/31/2021, 11/15/2021, 11/30/2021, and 12/15/2021 payroll.

\_\_\_\_\_  
Michelle Cho, EBIA Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mick Terrizzi, EBIA Dean of Students

\_\_\_\_\_  
Date