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File ID Number	21-1849
Introduction Date	9-8-2021
Enactment Number	21-1452
Enactment Date	9/8/2021 If



**OAKLAND UNIFIED
SCHOOL DISTRICT**

Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Tadashi Nakadegawa, Deputy Chief, Facilities Planning and Management

Board Meeting September 8, 2021

Date Subject Amendment No. 3, Independent Consultant Agreement – KDI Group, Inc.– Fremont New Construction Project - Division of Facilities Planning and Management

Action Requested Approval by the Board of Education of Amendment No.3, Independent Consultant Agreement between the District and KDI Group, Inc., Oakland, CA, for the latter to provide additional Inspection services required by DSA for the Fremont High School New Construction Project, in an additional amount of \$78,430.00, which includes a contingency of \$7,130.00, increasing Agreement not to exceed amount from \$1,368,500.00 to \$1,446,930.00, and authorizing the President and Secretary of the Board to sign the Amendment for same with said Consultant, pursuant to the Amendment.

Discussion This Amendment is for additional inspections services required by DSA standards and extended construction timeline.

LBP (Local business participation percentage) 100.00%

Recommendation Approval by the Board of Education of Amendment No.3, Independent Consultant Agreement between the District and KDI Group, Inc., Oakland, CA, for the latter to provide additional Inspection services required by DSA for the Fremont High School New Construction Project, in an additional amount of \$78,430.00, which includes a contingency of \$7,130.00, increasing Agreement not to exceed amount from \$1,368,500.00 to \$1,446,930.00, and authorizing the President and Secretary of the Board to sign the Amendment for same with said Consultant, pursuant to the Amendment.

Fiscal Impact Fund 21, Measure J

Attachments

- Amendment No. 3
- Scope of work
- Insurance Certificate



AMENDMENT NO. 3

INDEPENDENT CONSULTANT AGREEMENT

This Amendment is entered into between the Oakland Unified School District (OUSD) and **KDI Group, Inc.** OUSD entered into an agreement with CONTRACTOR for services on **February 28, 2018** ("Agreement"), and the parties agree to amend the Agreement for the Services with **Fremont High School New Construction Project** as follows, and in the attached Exhibit A:

1.	Services:	<input type="checkbox"/> The scope of work is <u>unchanged</u> .	<input checked="" type="checkbox"/> The scope of work has <u>changed</u>.
<p>If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary.</p> <p>The CONTRACTOR agrees to provide the following amended services: To provide additional inspections services according to the DSA requirements, as described in the proposal dated July 22, 2021 attached to this amendment as Exhibit A.</p>			
2.	Terms (duration):	<input checked="" type="checkbox"/> The term of the contract is <u>unchanged</u> .	<input type="checkbox"/> The term of the contract has <u>changed</u> .
<p>If term is changed: The contract term is extended by an additional _____, and the amended expiration date is _____.</p>			
3.	Compensation:	<input checked="" type="checkbox"/> The contract price is <u>unchanged</u> .	<input checked="" type="checkbox"/> The contract price has <u>changed</u> .
<p>If the compensation is changed: The not to exceed contract price is</p> <p><input checked="" type="checkbox"/> Increased by: <u>Seventy-Eight Thousand Four Hundred Thirty dollars and No/100 (\$78,430.00)</u> .</p> <p><input type="checkbox"/> Decreased by _____ dollars and no/100 (\$ _____).</p> <p>Prior to this amendment, the not to exceed contract price was <u>One Million Three Hundred Sixty-eight Thousand, Five Hundred Dollars and No/100 (\$1,368,500.00)</u> and after this amendment, the not to exceed contract price will be: <u>One Million Four Hundred Forty-six Thousand, Nine Hundred Thirty Dollars and No/100 (\$1,446,930.00)</u>.</p>			

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**

There are no previous amendments to this Agreement. This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
01	6-24-2020	Term & Compensation	\$33,500.00
02	2-24-2021	Term	\$0.00

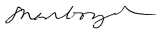
6. **Approval:** This Amendment is not effective, and no payment shall be made to Contractor based on this Amendment, until it is signed by Contractor and approved by the Board of Education.

Amendment No. 3 – KDI Group, Inc. – Fremont High School New Construction Project - \$78,430.00

Contract No.

P.O. No.


OAKLAND UNIFIED SCHOOL DISTRICT



Shanthil Gonzales, President,
Board of Education

9/9/2021

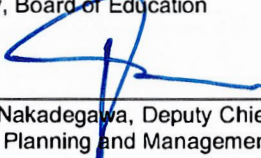
Date



Kyla Johnson-Trammell, Superintendent
Secretary, Board of Education

9/9/2021

Date

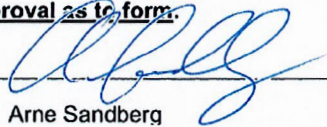


Tadashi Nakadegawa, Deputy Chief,
Facilities Planning and Management

8/11/21

Date

Approval as to form:



Arne Sandberg [name]
General Counsel, Facilities, Planning and Management

7/26/21

Date

CONTRACTOR



Contractor Signature Date 7/26/21

Kenneth DeCarlo Sr CEO
Print Name, Title

EXHIBIT "A"
Scope of Work for Amendment

Contractor Name: KDI Group, Inc.

- 1. Detailed Description of Services to be provided: To provide additional inspections services according to the DSA requirements, as described in the proposal dated July 22, 2021, attached to this amendment as Exhibit A.
- 2. Specific Outcomes:
- 3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input type="checkbox"/> Develop social, emotional and physical health	<input checked="" type="checkbox"/> Safe, healthy and supportive schools
<input checked="" type="checkbox"/> Create equitable opportunities for learning	<input checked="" type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input type="checkbox"/> Full service community district

EXHIBIT A



July 22, 2021

JaQuan Cornish
Project Manager
Oakland Unified School District
955 High St.
Oakland, CA 94601-4404

RE: Fremont HS Library Renovation Project DSA Inspector Contract Amendment Request #3

Mr. Cornish,

Attached herein is the request for additional funds regarding the aforementioned project due to additional construction schedule added to the project. This request is for additional DSA inspection services as required by the DSA under our original agreement:

SCOPE OF SERVICES

Substantial increase of scope CCDs 1-7 and schedule.

Construction schedule showing a substantial completion date of August 31, 2021.

Current scheduled construction activities show an estimated completion date of December 27, 2021.

Contract extension request amount \$48,500.

All other contract conditions to remain.

Window testing per proposal dated May 11, 2021 in the amount of \$22,500.

Contract contingency of 10% \$7,130

TOTAL CONTRACT AMENDMENT REQUEST AMOUNT ~ \$78,430

Sincerely,

Ken DeCarlo
DSA Inspector of Record
The KDI Group, Inc.
5111 Telegraph Av. #144
Oakland, CA 94609

Cc: Kenya Chatman
Paul Orr



KDICO-1

OP ID: DB

CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 03/11/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Vallejo Insurance Associates P. O. Box 4446 Vallejo, CA 94590 Jeanne Kilkenny-Turk 707-554-6080	CONTACT NAME: Jeanne Kilkenny-Turk PHONE (A/C, No, Ext): 707-554-6080 FAX (A/C, No): 707-554-2198 E-MAIL ADDRESS: jkilkenny-turk@vallejoinsurance.com
INSURER(S) AFFORDING COVERAGE	
INSURER A: Nationwide Mutual Insurance Co	NAIC # 23787
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER: 1**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INBR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	ACP3019885813	02/04/2021	02/04/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	ACPBA3019885813	02/04/2021	02/04/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.I. EACH ACCIDENT \$ E.I. DISEASE - EA EMPLOYEE \$ E.I. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Revison-Certificate holder, Oakland Unified School District, and agents, employees & officers are included as additional insured, per attached (GL) endorsement(s) CG20100413, CG20010413, CG24040509, IL70020911 & AUTO - CA20481013, AC20410316, Primary/Non Contrib, CA04441013-Waiver.

CERTIFICATE HOLDER

Oakland Unified School
 District
 955 High Street
 Oakland, CA 94601

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
 Jeanne Kilkenny-Turk

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)
OAKLAND UNIFIED SCHOOL DISTRICT, AGENTS, EMPLOYEES, OFFICERS 955 HIGH ST OAKLAND, CA 94601-4404
Location(s) Of Covered Operations
ALL CALIFORNIA LOCATIONS
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

CG 20 10 04 13

2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All terms and conditions apply unless modified by this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies Insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

All terms and conditions of this policy apply unless modified by this endorsement.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

OAKLAND UNIFIED SCHOOL DISTRICT, AGENTS, EMPLOYEES,
OFFICERS

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

All terms and conditions of this policy apply unless modified by this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADVANCE NOTICE OF CANCELLATION, NONRENEWAL
OR COVERAGE REDUCTION OR RESTRICTION
PROVIDED BY US**

This endorsement modifies insurance provided under the following:

- COMMERCIAL AUTOMOBILE COVERAGE PART
- COMMERCIAL CRIME COVERAGE PART
- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- COMMERCIAL INLAND MARINE COVERAGE PART
- COMMERCIAL PROPERTY COVERAGE PART
- COMMERCIAL UMBRELLA LIABILITY POLICY
- FARM UMBRELLA LIABILITY POLICY
- LIQUOR LIABILITY COVERAGE PART
- MERCANTILE UMBRELLA LIABILITY POLICY

SCHEDULE

Person(s) or Organization(s)	Address
OAKLAND UNIFIED SCHOOL DISTRICT, AGENTS, EMPLOYEES, OFFICERS	955 HIGH ST OAKLAND, CA 94601-4404

Number of Days Notice _____

If this policy is cancelled (other than nonpayment of premium) or nonrenewed or if the coverage provided by this policy is reduced or restricted (except for any reduction in the Limits of Insurance due to claims payments), we will provide written notice to the person(s) or organization(s) listed in the Schedule.

We will provide this notice by mail 30 days in advance of any policy cancellation, nonrenewal or coverage reduction or restriction or as indicated in the Number of Days Notice in the Schedule.

All terms and conditions of this policy apply unless modified by this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies Insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

SCHEDULE

Name Of Person(s) Or Organization(s): OAKLAND UNIFIED SCHOOL DISTRICTS, AGENTS, EMPLOYEE AND OFFICERS.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph A.1. of Section II – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph D.2. of Section I – Covered Autos Coverages of the Auto Dealers Coverage Form.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SCHEDULE

Name of Person(s) or Organization(s):

OAKLAND UNIFIED SCHOOL DISTRICTS, AGENTS, EMPLOYEE AND OFFICERS.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

A. Who Is An Insured for COVERED AUTOS LIABILITY COVERAGE is amended to include as an "insured" for Covered Autos Liability Coverage:

Each person or organization shown in the Schedule, but only to the extent that person or organization qualifies as an "insured". The "accident" must arise out of ongoing operations performed for the Named Insured.

B. Changes in CONDITIONS

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to the person or organization named in the Schedule under your policy provided that:

- (1) The person or organization is a Named insured under such other insurance; and
- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to them.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SCHEDULE

Name(s) Of Person(s) Or Organization(s): OAKLAND UNIFIED SCHOOL DISTRICTS, AGENTS, EMPLOYEE AND OFFICERS.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.



DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

Project Information			
Project Name	Fremont High School New Construction Project	Site	302
Basic Directions			
Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.			
Attachment Checklist	<input checked="" type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input checked="" type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider		

Contractor Information							
Contractor Name	KDI Group, Inc.	Agency's Contact	Ken DeCarlo				
OUSD Vendor ID #	002377	Title	Manager				
Street Address	7977 Capwell Drive, Suite 100	City	Oakland	State	CA	Zip	94621
Telephone	510-333-6521	Policy Expires					
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
OUSD Project #	13158						

Term of Original/Amended Contract			
Date Work Will Begin (i.e., effective date of contract)	2-28-2018	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	2-28-2022
		New Date of Contract End (If Any)	

Compensation/Revised Compensation			
If New Contract, Total Contract Price (Lump Sum)	\$	If New Contract, Total Contract Price (Not To Exceed)	\$
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$ 78,430.00
Other Expenses		Requisition Number	

Budget Information				
If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.				
Resource #	Funding Source	Org Key	Object Code	Amount
9650/9594	Fund 21, Measure J	210-9650-0-9594-8500-6235-302-9180-9905-9999-99999	6235	\$78,430.00

Approval and Routing (in order of approval steps)				
Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.				
	Division Head	Phone	510-535-7038	Fax 510-535-7082
1.	Acting Director, Facilities Planning and Management			
	Signature	Date Approved	8/11/2021	
2.	General Counsel, Department of Facilities Planning and Management			
	Signature Lozano Smith, as to form only	Date Approved	7/26/21	
3.	Deputy Chief, Facilities Planning and Management			
	Signature	Date Approved	8/11/21	
4.	Chief Financial Officer			
	Signature	Date Approved		
5.	President, Board of Education			
	Signature	Date Approved		

Board Office Use: Legislative File Info.	
File ID Number	21-0217
Introduction Date	2-24-2021
Enactment Number	21-0273
Enactment Date	2/24/2021 lf



**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Tadashi Nakadegawa, Deputy Chief, Facilities Planning and Management

Board Meeting Date February 24, 2021

Subject Amendment No. 2, Independent Consultant Agreement – KDI Consultants, Inc.–
Fremont High School New Construction Project - Division of Facilities Planning
and Management

Action Requested Approval by the Board of Education of Amendment No. 2, Independent Consultant Agreement between the District and KDI Consultants, Inc., Oakland, CA, for the latter to provide additional monitoring work, preparing reports on a daily basis to Document Control, attend weekly job meetings, special meetings with CM, AOR & EOR, for the Fremont High School New Construction Project, extending time only of Agreement by 365 additional calendar days, authorizing the President and Secretary of the Board to sign the Amendment for same with said Consultant revising the term from February 28, 2018 through February 28, 2021 to February 28, 2022, pursuant to the Amendment.

Discussion This Amendment is for three hundred sixty-five (365) calendar days’ time extension. No change to scope of work or price.

LBP (Local business participation percentage) 100.00%

Recommendation Approval by the Board of Education of Amendment No. 2, Independent Consultant Agreement between the District and KDI Consultants, Inc., Oakland, CA, for the latter to provide additional monitoring work, preparing reports on a daily basis to Document Control, attend weekly job meetings, special meetings with CM, AOR & EOR, for the Fremont High School New Construction Project, extending time only of Agreement by 365 additional calendar days, authorizing the President and Secretary of the Board to sign the Amendment for same with said Consultant revising the term from February 28, 2018 through February 28, 2021 to February 28, 2022, pursuant to the Amendment.

Fiscal Impact Fund 21, Measure J

Attachments

- Amendment No. 2
- Insurance Certificate

AMENDMENT NO. 2

INDEPENDENT CONSULTANT AGREEMENT

This Amendment is entered into between the Oakland Unified School District (OUSD) and **KDI Consultants**. OUSD entered into an agreement with CONTRACTOR for services on **February 28, 2018** ("Agreement"), and the parties agree to amend the Agreement for the Services with **Fremont High School New Construction Project** as follows, and in the attached Exhibit A:

1. Services:	<input checked="" type="checkbox"/> The scope of work is <u>unchanged</u> .	<input type="checkbox"/> The scope of work has <u>changed</u> .
If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary.		
2. Terms (duration):	<input type="checkbox"/> The term of the contract is <u>unchanged</u> .	<input checked="" type="checkbox"/> The term of the contract has <u>changed</u> .
If term is changed: The contract term is extended by an additional Three Hundred and Sixty-five days (365) , and the amended expiration date is February 28, 2022 . The current end date is February 28, 2021 .		
3. Compensation:	<input checked="" type="checkbox"/> The contract price is <u>unchanged</u> .	<input type="checkbox"/> The contract price has <u>changed</u> .
If the compensation is changed: The not to exceed contract price is		
<input type="checkbox"/> Increased by: _____		
<input type="checkbox"/> Decreased by _____ dollars and no/100 (\$ _____).		
Prior to this amendment, the not to exceed contract price was _____, and after this amendment, the not to exceed contract price will be: _____.		

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**

There are no previous amendments to this Agreement. This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)

6. **Approval:** This Amendment is not effective, and no payment shall be made to Contractor based on this Amendment, until it is signed by Contractor and approved by the Board of Education.

Amendment No. 2 – KDI Consultants – Fremont High School New Construction Project - \$0

OAKLAND UNIFIED SCHOOL DISTRICT



Shanthil Gonzales, President,
Board of Education

2/25/2021

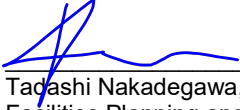
Date



Kyla Johnson-Trammell, Superintendent
Secretary, Board of Education

2/25/2021

Date



Tadashi Nakadegawa, Deputy Chief,
Facilities Planning and Management

1/28/2021

Date

Approval as to form:




1/26/21

Date

Arne Sandberg - Lozano Smith [name]
General Counsel, Facilities, Planning and Management

CONTRACTOR



Contractor Signature

1/22/2021

Date

Ken DeCarlo CEO
Print Name, Title

EXHIBIT "A"
Scope of Work for Amendment

Contractor Name: KDI Consultants

- 1. Detailed Description of Services to be provided: No change to scope of work. Time extension only.
- 2. Specific Outcomes:
- 3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input type="checkbox"/> Develop social, emotional and physical health	<input checked="" type="checkbox"/> Safe, healthy and supportive schools
<input checked="" type="checkbox"/> Create equitable opportunities for learning	<input checked="" type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input type="checkbox"/> Full service community district

DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

Project Information

Project Name	Fremont High School New Construction Project	Site	302
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Basic Directions

Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.

Attachment Checklist	<input checked="" type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input checked="" type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider
-----------------------------	---

Contractor Information

Contractor Name	KDI Consultants, Inc.	Agency's Contact	Ken DeCarlo		
OUSD Vendor ID #	002377	Title	Manager		
Street Address	7977 Capwell Drive, Suite 100	City	Oakland	State	CA
Telephone	510-333-6521	Policy Expires			
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
OUSD Project #	13158				

Term of Original/Amended Contract

Date Work Will Begin (i.e., effective date of contract)	2-28-2018	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	
		New Date of Contract End (If Any)	2-28-2022

Compensation/Revised Compensation

If New Contract, Total Contract Price (Lump Sum)	\$	If New Contract, Total Contract Price (Not To Exceed)	\$
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$ 0.00
Other Expenses		Requisition Number	


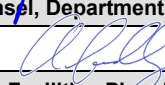

Budget Information

If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.

Resource #	Funding Source	Org Key	Object Code	Amount
9650/9594	Fund 21, Measure J	210-9650-0-9594-8500-6235-302-9180-9905-9999-99999	6235	\$0.00

Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Acting Director, Facilities Planning and Management				
	Signature  for Kenya Chatman	Date Approved	1/28/2021		
2.	General Counsel, Department of Facilities Planning and Management				
	Signature  Lozano Smith, as to form only	Date Approved	1-26-21		
3.	Deputy Chief, Facilities Planning and Management				
	Signature 	Date Approved	1/28/2021		
4.	Chief Financial Officer				
	Signature	Date Approved			
5.	President, Board of Education				
	Signature	Date Approved			

the 1990s, the number of people in the UK who are aged 65 and over has increased from 10.5 million to 13.5 million, and the number of people aged 75 and over has increased from 4.5 million to 6.5 million (Office for National Statistics 2000).

There is a growing awareness of the need to address the needs of older people, and the need to ensure that the health care system is able to meet the needs of older people. The Department of Health (2000) has published a strategy for older people, which sets out the government's commitment to improve the health and well-being of older people, and to ensure that the health care system is able to meet the needs of older people.

The strategy for older people is based on three main principles: (1) to improve the health and well-being of older people; (2) to ensure that the health care system is able to meet the needs of older people; and (3) to ensure that older people are able to live independently and actively. The strategy for older people is a key document in the development of health care for older people, and it is essential that health care professionals are able to understand and implement the strategy.

The strategy for older people is a key document in the development of health care for older people, and it is essential that health care professionals are able to understand and implement the strategy. The strategy for older people is a key document in the development of health care for older people, and it is essential that health care professionals are able to understand and implement the strategy.

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Board Office Use: Legislative File Info.	
File ID Number	20-1127
Introduction Date	6-24-2020
Enactment Number	20-1055
Enactment Date	6/24/2020 er



**OAKLAND UNIFIED
SCHOOL DISTRICT**

Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Tadashi Nakadegawa, Interim Deputy Chief, Facilities Planning and Management

Board Meeting Date June 24, 2020

Subject Amendment No. 1, Independent Consultant Agreement for Professional Services -KDI Consultants, Inc.- Fremont New Construction Project - Division of Facilities Planning and Management

Action Requested Approval by the Board of Education of Amendment No.1, Independent Consultant Agreement for Professional Services between the District and KDI Consultants, Inc., Oakland, CA, for the latter to provide additional monitoring work, preparing reports on a daily basis to Document Control, attend weekly job meetings, special meetings with CM, AOR & EOR, for the Fremont High School New Construction Project, in an additional amount of \$368,500.00, which includes a contingency of \$33,500.00 increasing Agreement not to exceed amount from \$1,000,000.00 to \$1,368,500.00, authorizing the President and Secretary of the Board to sign the Amendment for same with said Consultant with the time extension schedule to last until February 28, 2021, pursuant to the Amendment.

Discussion This Amendment is for additional Professional Services to include monitoring work, preparing reports for the District and a time extension of 192 days.

LBP (Local business participation percentage) 100.00%

Recommendation Approval by the Board of Education of Amendment No.1, Independent Consultant Agreement for Professional Services between the District and KDI Consultants, Inc., Oakland, CA, for the latter to provide additional monitoring work, preparing reports on a daily basis to Document Control, attend weekly job meetings, special meetings with CM, AOR & EOR, for the Fremont High School New Construction Project, in an additional amount of \$368,500.00, which includes a contingency of \$33,500.00 increasing Agreement not to exceed amount from \$1,000,000.00 to \$1,368,500.00, authorizing the President and Secretary of the Board to sign the Amendment for same with said Consultant with the time extension schedule to last until February 28, 2021, pursuant to the Amendment.

Fiscal Impact Fund 21, Measure J

Attachments

- Amendment No. 1
- Scope of work
- Insurance Certificate

AMENDMENT NO. 1

INDEPENDENT CONSULTANT AGREEMENT

This Amendment is entered into between the Oakland Unified School District (OUSD) and **KDI Consultants**. OUSD entered into an agreement with CONTRACTOR for services on **February 28, 2018** ("Agreement"), and the parties agree to amend the Agreement for the Services with **Fremont High School New Construction Project** as follows, and in the attached Exhibit A:

1.	Services:	<input type="checkbox"/> The scope of work is <u>unchanged</u> .	<input checked="" type="checkbox"/> The scope of work has <u>changed</u>.
<p>If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary.</p> <p>The CONTRACTOR agrees to provide the following amended services: To provide additional monitoring work, preparing reports on a daily basis to Document Control, attend weekly job meetings, special meetings with CM, AOR & EOR, as described in the Proposal dated April 29, 2020 attached to this amendment, as part of Exhibit A.</p>			
2.	Terms (duration):	<input type="checkbox"/> The term of the contract is <u>unchanged</u> .	<input checked="" type="checkbox"/> The term of the contract has <u>changed</u> .
<p>If term is changed: The contract term is extended by an additional <u>One Hundred Ninety-Two days (192)</u>, and the amended expiration date is <u>February 28, 2021</u>.</p>			
3.	Compensation:	<input type="checkbox"/> The contract price is <u>unchanged</u> .	<input checked="" type="checkbox"/> The contract price has <u>changed</u> .
<p>If the compensation is changed: The not to exceed contract price is</p> <p><input checked="" type="checkbox"/> Increased by: <u>Three Hundred Sixty-Eight Thousand, Five Hundred dollars No/100 (\$368,500.00) with a contingency of \$33,500.00.</u></p> <p><input type="checkbox"/> Decreased by _____ dollars and no/100 (\$_____).</p> <p>Prior to this amendment, the not to exceed contract price was <u>One Million Dollars No/100 (\$1,000,000.00)</u>, and after this amendment, the not to exceed contract price will be: <u>One Million, Three Hundred Sixty-Eight Thousand, Five Hundred Dollars and no/100 (\$1,368,500.00)</u>.</p>			

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**


There are no previous amendments to this Agreement. This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)


6. **Approval:** This Amendment is not effective, and no payment shall be made to Contractor based on this Amendment, until it is signed by Contractor and approved by the Board of Education.

Amendment No. 1 – KDI Consultants – Fremont High School New Construction Project - \$368,500.00


OAKLAND UNIFIED SCHOOL DISTRICT


Jody London, President,
Board of Education

6/25/2020
Date

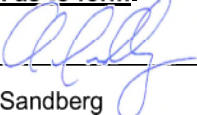

Kyla Johnson-Trammell, Superintendent
Secretary, Board of Education

6/25/2020
Date


Tadashi Nakadegawa, Interim Deputy Chief,
Facilities Planning and Management

5/22/20
Date

Approval as to form:


Arne Sandberg [name]
General Counsel, Facilities, Planning and Management

5/21/20
Date

CONTRACTOR

Ken DeCarlo 5/16/2020
Contractor Signature Date

Ken DeCarlo CEO
Print Name, Title

EXHIBIT "A"
Scope of Work for Amendment

Contractor Name: KDI Consultants

1. Detailed Description of Services to be provided: To provide additional monitoring work, preparing reports on a daily basis to Document Control, attend weekly job meetings, special meetings with CM, AOR & EOR, as described in the Proposal dated April 29, 2020 attached to this amendment, as part of Exhibit A.

2. Specific Outcomes:

3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input type="checkbox"/> Develop social, emotional and physical health	<input checked="" type="checkbox"/> Safe, healthy and supportive schools
<input checked="" type="checkbox"/> Create equitable opportunities for learning	<input checked="" type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input type="checkbox"/> Full service community district



Exhibit A

Construction Quality Management Proposal for Fremont HS Modernization & New Construction Increments 3, 4 & 5

April 29, 2020

1 DSA IOR Services	\$235,000
2 Project Coordinator	\$90,000
<u>3 DSA Punch List/Close-out & Documentation (30 days)</u>	<u>\$10,000</u>
Estimated Total Project Fee	\$335,000

GENERAL ASSUMPTIONS AND TERMS

- Total Project Construction Value estimated cost \$41,000,000
- Construction Schedule: Preliminary schedule provided is July 1, 2020 through February 28, 2021.
- Scope of Work and Services as specifically detailed in the Project Plans- DSA Application #01-116833, #01-118461, & #01-118855- Increments 3, 4, & 5
- Exclusions: Proposal excludes all special inspections, including any required by Title 24 CBC Chapter 17 and DSA-103
- In addition to the duties described in California Department of General Services Document IR-8, the Inspector's duties include all activities required to develop and maintain personal knowledge of the work, including, but not limited to:
 - Monitoring work for conformance with all applicable codes
 - Preparing necessary reports including daily field reports submitted on a daily basis to the Document Control System used by the District for this project.
 - Daily field reports are to include a detailed description of work broken out by area and trade.
 - Maintaining codes, documents, submittals, and inspection request records
 - Monitoring special inspectors activities and time.
 - Developing and maintaining a field check list and a progress chart
 - Reporting on any project delays to the PM for District
 - Verify time and quantities expended on time and materials work
 - Review quality of work for conformance with the construction contract documents and quality standards of the industry and District
 - Attend weekly job meetings, special request meetings with CM, AOR, EOR, along with all email correspondence, etc.
 - Maintain a posted set of documents at all times including RFIs, ASIs, and PCOs
 - Provide and input information to "The Box" as required by DSA
 - Perform DSA and District project close-out procedures



Basis of Charges/Terms and Conditions

- ✦ Estimated project fee is a not to exceed cost billed and submitted under the standard hourly IOR rate of \$105.00, Assistant IOR \$80.00 and/or Admin rate of \$65.00 per hour.
- ✦ Project Inspection includes construction quality observation and review only of contractor daily activities, including product submittals and RFI review.
- ✦ KDI shall not be responsible for defects in District's design or for defects, errors, and omissions by District's contractor, subcontractors, or suppliers. KDI shall not be required to indemnify and defend the District with regard to the District's designs or the workmanship, actions, or omissions of the District's contractors, consultants, and/or representatives, or any of the lower tier subconsultants, subcontractors, or suppliers.
- ✦ This proposal is an estimate and based on general assumptions. Any additions in scope via construction value, addendum, ASIs, or Change Orders requiring additional inspections or cost outside of the general assumptions and terms provided will be billed separately on a Time & Material Basis at a basic Inspector hourly rate of **\$105.00**.
- ✦ Premium Time
 - Overtime, Holidays and Saturdays: add 50% to basic rate.
 - Sundays; or over 12 hours; over 8 hours on Saturday; add 100% to basic rate
 - KDI observed holidays are recognized per opm.gov guidelines
 - Night Shifts: add 20% to basic rate (between hours of 4pm-6am)
 - Weekends and Holidays are an 8 hour minimum.
- ✦ Premium time is included within this proposal.
- ✦ Offsite material verification and inspections are included.
- ✦ Minimum Time: 4 hours/day for inspection/show up time, over 4 hours: minimum 8 hours time billing.
- ✦ **Any** reinspections due to a second failed inspection or inspections requested without minimum 24 hour notice, necessitating inspector standby time will be documented and issued to the Owner under a separate line item as this cost is excluded within this proposal.
- ✦ KDI excludes reproduction fees for plans, specifications and submittals. These costs shall be billed as reimbursables +10% to the District.
- ✦ KDI invoices will be submitted on a monthly basis are due and payable the date submitted. Invoices over 30 days past due are subject to a late fee of 1.5% per month. Should a payment dispute arise, KDI shall be entitled to reasonable attorney's fees, expert fees, and costs and expenses incurred in efforts or proceedings to collect amounts owed.
- ✦ This Proposal is based on a Project Completion Date of February 28, 2021. KDI shall be compensated for any additional time spent by KDI, or any of its subconsultants, on the Project beyond this date, and Owner agrees to issue change orders and obtain any required approvals necessary to modify the contract in writing to reflect the additional compensation owed for additional services/extras/extended duration of services. Additional compensation will be billed pursuant to the terms below
- ✦ The terms of this proposal shall be included in any contract with the District and shall take precedence.
- ✦ KDI will continue to perform work and bill for time spent performing its services in accordance with the terms above until terminated in writing. On ten days written notice, KDI may suspend services and/or terminate its contract with District in the event of a breach by District, including failure to make payment. Any dispute regarding KDI's billings, work, products, or services shall be objected to, in writing, within ninety (90) days of receipt of KDI's invoice for such work, products, or services. Otherwise, any objection to payment to KDI for such work, product, or services is deemed waived.



DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

Project Information

Project Name	Fremont High School New Construction Project	Site	302
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Basic Directions

Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.

Attachment Checklist	<input checked="" type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input checked="" type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider
-----------------------------	---

Contractor Information

Contractor Name	KDI Consultants, Inc.	Agency's Contact	Ken DeCarlo		
OUSD Vendor ID #	002377	Title	Manager		
Street Address	7977 Capwell Drive, Suite 100	City	Oakland	State	CA
Telephone	510-333-6521	Policy Expires			
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
OUSD Project #	13158				

Term of Original/Amended Contract

Date Work Will Begin (i.e., effective date of contract)	2-28-2018	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	
		New Date of Contract End (If Any)	2-28-2021

Compensation/Revised Compensation

If New Contract, Total Contract Price (Lump Sum)	\$	If New Contract, Total Contract Price (Not To Exceed)	\$
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$ 368,500.00
Other Expenses		Requisition Number	

Budget Information

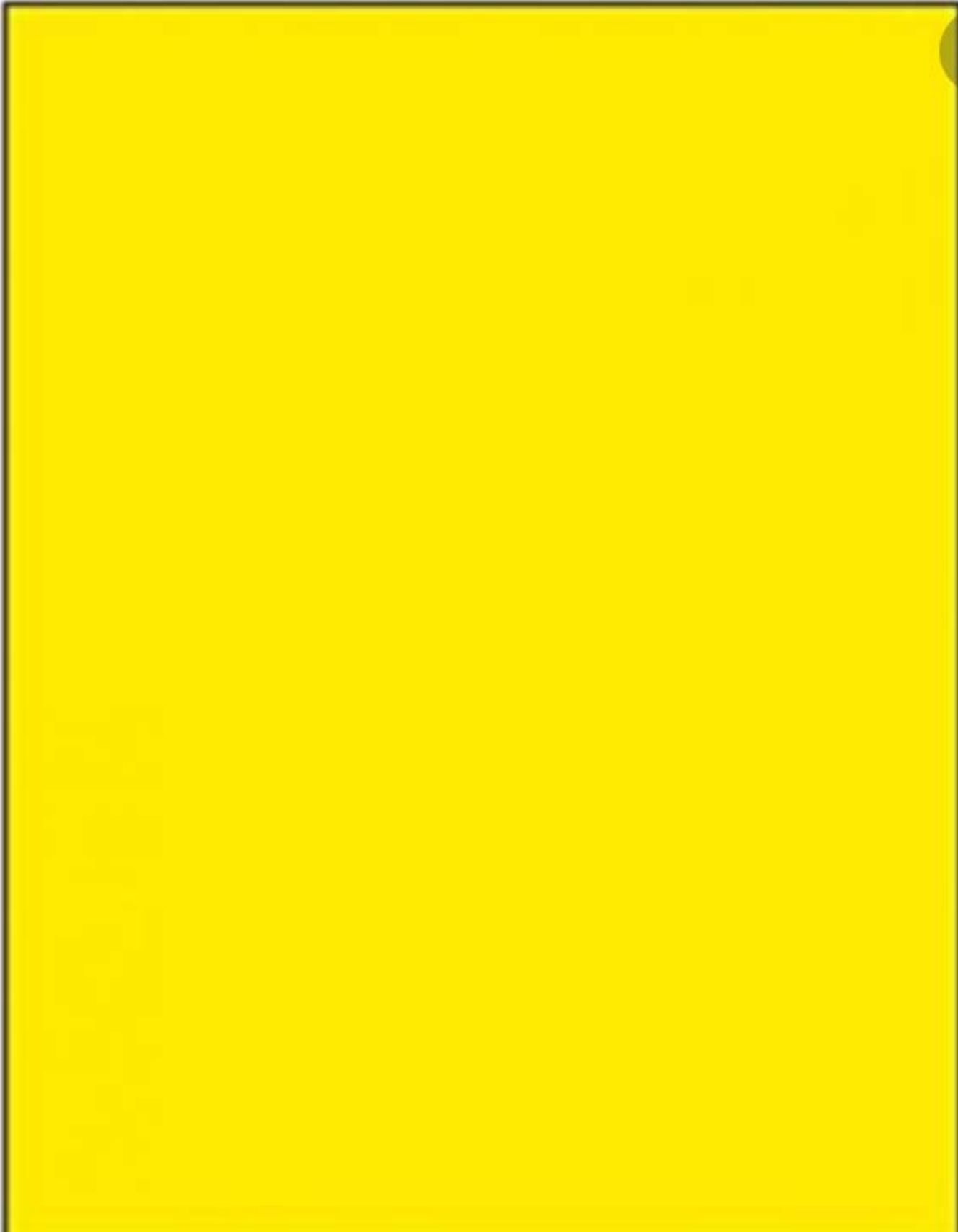
If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.

Resource #	Funding Source	Org Key	Object Code	Amount
9650/9594	Fund 21, Measure J	210-9650-0-9594-8500-6235-302-9180-9905-9999-99999	6235	\$368,500.00

Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Acting Director, Facilities Planning and Management				
	Signature	Date Approved	5/22/20		
2.	General Counsel, Department of Facilities Planning and Management				
	Signature As to form only	Date Approved	5/21/20		
3.	Interim Deputy Chief, Facilities Planning and Management				
	Signature	Date Approved	5/22/20		
4.	Chief Financial Officer				
	Signature	Date Approved			
5.	President, Board of Education				
	Signature	Date Approved			



Board Office Use: Legislative File Info.	
File ID Number	18- 0206
Introduction Date	2-28-208
Enactment Number	18-0288
Enactment Date	2-28-2018 er



**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools. Thriving Students.

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent and Secretary, Board of Education
Joe Dominguez, Deputy Chief, Facilities Planning and Management
Marion McWilliams, General Counsel

Board Meeting Date February 28, 2018

Subject Independent Contractor (Consultant) Agreement Greater than \$88,300 - KDI Consultants, Inc. - Fremont New Construction Project

Action Requested Approval by the Board of Education of an Independent Contractor (Consultant) Agreement Greater than \$88,300 between the District and KDI Consultants, Inc., Oakland, CA, for the latter to provide monitoring work for conformance and compliance of DSA California State codes for all three increments, in conjunction with the Fremont New Construction Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing February 28, 2018 and concluding no later than August 20, 2020, in an amount not-to exceed \$1,000,000.00.

Discussion Inspector services needed to monitor work for DSA compliance.

LBP (Local Business Participation Percentage) 100.00%

Recommendation Approval by the Board of Education of an Independent Contractor (Consultant) Agreement Greater than \$88,300 between the District and KDI Consultants, Inc., Oakland, CA, for the latter to provide monitoring work for conformance and compliance of DSA California State codes for all three increments, in conjunction with the Fremont New Construction Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing February 28, 2018 and concluding no later than August 20, 2020, in an amount not-to exceed \$1,000,000.00.

Fiscal Impact Fund 21, Measure B

Attachments

- Independent Contractor(Consultant) Agreement including scope of work
- Consultant Proposal
- Certificate of Insurance



CONTRACT JUSTIFICATION FORM
This Form Shall Be Submitted to the Board Office
With Every Consent Agenda Contract.

Legislative File ID No. _____

Department: Facilities Planning and Management

Vendor Name: KDI Consultants

Project Name: Fremont New Construction Project No.: 13158

Contract Term: Intended Start: 2/28/2018 Intended End: 8/20/2020

Annual (if annual contract) or Total (if multi-year agreement) Cost: \$1,000,000.00

Approved by: Tadashi Nakadegawa

Is Vendor a local Oakland Business or have they meet the requirements of the

Local Business Policy? Yes (No if Unchecked)

How was this Vendor selected?

Vendor is pre-qualified vendor with the District

Summarize the services this Vendor will be providing.

Inspector will be responsible for monitoring work for conformance with all applicable codes for all 3 increments. \$18,000 OUSD contingency added.

Was this contract competitively bid? Yes (No if Unchecked)

If No, please answer the following:

1) How did you determine the price is competitive?

This proposal was of lowest value compared to others.

2) Please check the competitive bid exception relied upon:

- Educational Materials**
- Special Services** contracts for financial, economic, accounting, legal or administrative services
- CUPCCAA Exception** (Uniform Public Construction Cost Accounting Act)
- Professional Service Agreements** of less than \$86,000 (increases a small amount on January 1 of each year)
- Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternative energy supply sources)
- Emergency** contracts
- Technology** contracts
 - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - Western States Contracting Alliance Contracts (WSCA)
 - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- Piggyback" Contracts** with other governmental entities
- Perishable Food**
- Sole Source**
- Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- Other, please provide specific exception**

3) **Not Applicable - no exception - Project was competitively bid**

DSA-Certified IOR LBU Evaluation Sheet

FIRM/TEAM	LBE/SLBE/SLRBE Firms Names	RESPONSIVE (Y/N)	NOTES
DSA School Inspectors, LLC	None Listed	N	No LBP Information Received
QA Consultants, Inc.	QA Consultants (SLRBE)	Y	
Jason R. Zalinski	Jason R. Zalinski (SLBE)	N	
Antonio, Inc.	Antonio, Inc. (SLBE)	Y	
KCI, Inc.		Y	
	Antonio, Inc. (SLBE)		
	Inspection Services, INC (ISI) (LBE)		
Consolodated Safety Services	Consolodated	Y*	City of Oakland Certification Pending Site Visit
MWC & Associates	None Listed	N	No LBP Information Received
KDI Consultants, Inc.	KDI Consultants, Inc. (SLBE)	Y	

* Certification in review process at City

INDEPENDENT CONSULTANT
Greater Than \$88,300

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the **23rd day of January 2018**, by and between the **Oakland Unified School District** ("District") and **KDI Consultants** ("Consultant"), (together, "Parties").

WHEREAS, the District is authorized to contract with and employ any persons for the furnishing of special and professional services and advice if those persons are specially trained and experienced and competent to perform the services required;

WHEREAS, the District is in need of such services and advice and the Consultant warrants that it is specially trained, licensed and experienced and competent to perform the services required by the District;

WHEREAS, the Consultant agrees to perform the services described in this Agreement in accordance with the standards of its profession, to District's satisfaction, and in accordance with this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Consultant shall furnish to the District the following services, as more fully described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services"):

Scope of Services includes monitoring work for conformance and compliance of California state codes for all three increments.

2. **Term.** Consultant shall commence providing Services under this Agreement on **February 28, 2018**, and will diligently perform as required and complete performance by **August 20, 2020**, unless this Agreement is terminated and/or otherwise cancelled prior to that time. This Agreement may be extended upon mutual approval of both parties in writing on an annual basis to the extent permissible under applicable law.
3. **Submittal of Documents.** The Consultant shall not commence the Services under this Contract until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<input checked="" type="checkbox"/> Signed Agreement	<input checked="" type="checkbox"/> W-9 Form
<input checked="" type="checkbox"/> Insurance Certificates & Endorsements	<input checked="" type="checkbox"/> Workers' Compensation Certificate
<input checked="" type="checkbox"/> Debarment Certification	<input type="checkbox"/> Other: _____
<input checked="" type="checkbox"/> Fingerprinting/Criminal Background Investigation Certification	

4. **Compensation.** District agrees to pay Consultant for Services satisfactorily rendered pursuant to this Agreement, a total fixed fee of ONE MILLION NO/100 Dollars (\$1,000,000), paid monthly in installments proportion to Services performed.

4.1. District shall pay Consultant for all undisputed amounts in installment payments within thirty (30) days after the Consultant submits an invoice to the District for Services actually completed and after the District's written approval of the Services, or the portion of the Services for which payment is to be made (such approval not to be unreasonably withheld or delayed).

- 4.2. Any disputed invoiced amount which cannot be resolved in good faith between the Parties within fifteen (15) business days shall be resolved in accordance with Section 25 below.
5. **Expenses.** Expenses will not be charged for Consultant's performance of these Services.
6. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
7. **Local, Small Local and Small Local Resident Business Enterprise (L/SL/SLRBE) Program:** Consultant shall comply with the requirements of District's L/SL/SLRBE Program, as applicable, which may require a fifty percent (50%) mandatory minimum local participation requirement in the performance of this Agreement. A copy of the District's Local Business Participation Policy can be obtained on the District's website, at www.ousd.k12.ca.us, under District Services, Facilities Planning & Management Department, Bids and Requests for Proposals.
8. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the Services herein contemplated, Consultant shall have the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
9. **Performance of Services / Standard of Care.**
- 9.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Consultant's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
- 9.1.1. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
- 9.1.2. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.
- 9.1.3. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.
- 9.1.4. Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or

omission that Consultant or its employees may discover. Consultant shall use professional efforts in identifying any errors, inconsistencies, or omissions.

9.1.5. Any representations, recommendations, opinions or conclusions relating to the Services provided by Consultant must be made in writing by duly authorized representatives of Consultant.

9.2. **Meetings.** Consultant and District agree to participate in regular meetings to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.

9.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.

10. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.

11. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District (specifically excluding any underlying pre-existing intellectual property). District may, with Consultant's prior written consent, use Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

12. Termination.

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

12.2. **For Convenience by Consultant.** Consultant may, upon sixty (60) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

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

12.3.1. material violation of this Agreement by the Consultant; or

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

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

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

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

13. Indemnification. To the furthest extent permitted by California law, Consultant shall indemnify, and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims, arising out of, pertaining to or relating to the negligence, recklessness, errors or omissions, or willful misconduct of Consultant. Consultant shall, to the fullest extent permitted by California law, defend the Indemnified Parties at Consultant's own expense, including attorneys' fees and costs, from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

14. Insurance.

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

14.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that insure against all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from Consultant's performance of any portion of the Services. (Form CG 0001 and CA 0001)

14.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

14.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Consultant's profession.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
Automobile Liability Insurance - Any Auto	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

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

- 14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
- 14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
- 14.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.
- 14.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance shall be written on an occurrence form.

14.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

15. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.

16. **Compliance with Laws.** Consultant shall observe and comply with all applicable rules and regulations of the governing board of the District and all applicable federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement are at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant

knowingly performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

17. **Certificates/Permits/Licenses/Registration.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this agreement.
18. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
19. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
20. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).
21. **Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services. Although District has determined that fingerprinting is not applicable to this Agreement, Consultant expressly acknowledges that the following conditions shall apply to any work performed by Consultant and/or Consultant's employees on a school site:
 - 21.1. All site visits shall be arranged through the District;
 - 21.2. Consultant and Consultant's employees shall inform District of their proposed activities and location at the school site, allowing District time to arrange site visits without a disruption to the educational process;
 - 21.3. Consultant and/or Consultant's employees shall check in with the school office each day immediately upon arriving at the school site;
 - 21.4. Once at such location, Consultant and Consultant's employees shall not change locations without contacting the District;
 - 21.5. Consultant and Consultant's employees shall not use student restroom facilities; and
 - 21.6. If Consultant and Consultant's employees find themselves alone with a student, Consultant and Consultant's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.
22. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter.

Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any manner which is permissible under the law. The District's evaluation may include, without limitation:
- 24.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
- 24.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
26. **Disputes:** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.
27. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
28. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or

deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

Oakland Unified School District
955 High Street
Oakland, CA 94601
Tel: 510-535-7038; Fax: 510-535-7082
ATTN: Cesar Monterrosa

KDI Consultants
5111 Telegraph Ave Ste. 144
Oakland, CA 94609
Tel: 510-532-0500
ATTN: Ken Decarlo

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

29. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
30. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administration offices are located.
31. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
32. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
33. **Incorporation of Recitals and Exhibit.** The Recitals and exhibit attached hereto are hereby incorporated herein by reference.
34. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
35. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
36. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
37. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal

representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.

38. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.

39. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.

40. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: The District certifies to the best of its knowledge and belief, that it and its officials: are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>



Cesar Monterrosa
Director of Facilities Planning & Management

[SIGNATURES ON NEXT PAGE]

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

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Eng 3/1/18
Aimee Eng, President, Board of Education Date

[Signature] 3/1/18
Kyla Johnson-Trammell, Superintendent & Secretary, Board of Education Date

[Signature] Date
Joe Dominguez, Deputy Chief, Facilities Planning and Management Date

APPROVED AS TO FORM:

[Signature] Date
OUSD Facilities Legal Counsel Date

CONSULTANT

Ken DeCarlo 1/23/2018
Date

Information regarding Consultant:

Consultant: Kenneth DeCarlo
License No.: 4704
Address: 5111 Telegraph Ave. #144
Oakland, CA 94609
Telephone: (510)333-6521
Facsimile: _____
E-Mail: ken@kdiconsultants.com

Type of Business Entity:
 Individual
 Sole Proprietorship
 Partnership
 Limited Partnership
 Corporation, State: CA
 Limited Liability Company
 Other: _____

26-1237460
Employer Identification and/or
Social Security Number

NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.



State of California Secretary of State

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of 2 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

OCT 13 2007

DEBRA BOWEN
Secretary of State

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

OCT 09 2007

ARTICLES OF INCORPORATION
OF
KDI CONSULTANTS INC.

ONE: The name of this corporation is **KDI CONSULTANTS INC.**

TWO: The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation law of California other than the banking business, the trust company business, or the practice of a profession permitted to be incorporated by the California Corporations Code.

THREE: The name and address in this state of the corporation's initial agent for service of process is:

KENNETH R. DeCARLO SR
P.O. Box 1113,
Benicia, CA 94510

FOUR: This corporation is authorized to issue one class of stock, to be designated as Common Stock. The total number of shares of Common Stock presently authorized is One Hundred Thousand (100,000) common shares.

FIVE: The names and addresses of the persons who are appointed to act as the initial directors of the corporation are:

KENNETH R. DeCARLO SR
668 McAllister Drive
Benicia, CA 94510

JAIME A. DeCARLO
668 McAllister Drive
Benicia, CA 94510

SIX: The liability of the directors of the corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

SEVEN: The corporation is authorized to indemnify the directors, officers, and agents of the corporation to the fullest extent permissible under California law for breach of duty to the corporation and its shareholders through bylaw provisions or through agreements with the agents, or through shareholder resolutions, or otherwise, in excess of the indemnification otherwise permitted by the California Corporations Code, subject to the limits on such excess indemnification set forth in Section 204 of the Code.

EIGHT: Any repeal or modification of these Articles shall only be prospective and shall not affect the rights under the Articles in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification.

IN WITNESS WHEREOF, the undersigned, being the persons named above as the initial directors, have executed these Articles of Incorporation.

Dated: October 2, 2007


KENNETH R. DeCARLO SR


JAIME A. DeCARLO

The undersigned, being the persons named above as the initial directors, declare that they are the persons who executed the foregoing Articles of Incorporation, which execution is their act and deed.

Dated: October 2, 2007


KENNETH R. DeCARLO SR


JAIME A. DeCARLO



WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part provides:

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

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

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

Date: January 23, 2018

Proper Name of Consultant: Kenneth DeCarlo

Signature: *Ken DeCarlo*

Print Name: Kenneth DeCarlo

Title: CEO

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION**

The undersigned is aware of and hereby certify that neither KDI Consultants ("Consultant") nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Further, the undersigned agrees to include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

Where the Consultant or any lower participant is unable to certify to this statement, it shall attach an explanation hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named Consultant on the 23rd day of January 2018 for the purposes of submission of this Agreement.

By: Ken DeCarlo
Signature
Kenneth DeCarlo
Typed or Printed Name
CEO
Title

FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

One of the three boxes below **must** be checked, with the corresponding certification provided, and this form attached to the Independent Consultant Agreement for Professional Services ("Agreement"):

- Consultant's employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Education Code § 45125.1 (c))

Date: _____

District Representative's Name and Title: _____

District Representative's Signature: _____

- The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant's services under this Agreement and Consultant certifies its compliance with these provisions as follows: *"Consultant certifies that the Consultant has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Consultant's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*

- Consultant's services under this Agreement shall be limited to the construction, reconstruction, rehabilitation, or repair of a school facility and although all Employees will have contact, other than limited contact, with District pupils, pursuant to Education Code section 45125.2 District shall ensure the safety of the pupils by at least one of the following as marked:

- The installation of a physical barrier at the worksite to limit contact with pupils.
- Continual supervision and monitoring of all Consultant's on-site employees of Consultant by an employee of Consultant, _____, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.
- Surveillance of Employees by District personnel.

Date: _____

District Representative's Name and Title: _____

District Representative's Signature: _____

I am a representative of the Consultant entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

Date: January 23, 2018

Name of Consultant: Kenneth DeCarlo

Signature: *Ken DeCarlo*

Print Name and Title: Kenneth DeCarlo, CEO

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

BASIC SCOPE OF SERVICES

KDI Consultants proposes to provide the following scope of services.

To provide Inspection services for monitoring work to keep project within compliance of California State codes for all three increments.



Construction Quality Management Proposal for Fremont HS New Construction

October 27, 2017

- 1 DSA IOR Services
- 2 DSA IOR Services Owner Contract Contingency
- 3 Project Coordinator
- 4 DSA Punch List/Close-out & Documentation (30 days)

GENERAL ASSUMPTIONS AND TERMS

- Total Project Construction Value
- Construction Schedule: Preliminary schedule provided is January 8, 2018 through August 20, 2020.
- Scope of Work or Services as specifically detailed in the Project Plans- DSA Application # 01-116833
- Exclusions: Proposal excludes all special inspections, including any required by Title 24 CBC Chapter 17 and DSA-103
- In addition to the duties described in California Department of General Services Document IR-8, the Inspector's duties include all activities required to develop and maintain personal knowledge of the work, including, but not limited to:
 - Monitoring work for conformance with all applicable codes
 - Preparing necessary reports including daily field reports submitted on a daily basis to the Document Control System used by the District for this project.
 - Daily field reports are to include a detailed description of work broken out by area and trade.
 - Maintaining codes, documents, submittals, and inspection request records
 - Monitoring special inspectors activities and time.
 - Developing and maintaining a field check list and a progress chart
 - Reporting on any project delays to the PM for District
 - Verify time and quantities expended on time and materials work
 - Review quality of work for conformance with the construction contract documents and quality standards of the industry and District
 - Attend weekly job meetings, special request meetings with CM, AOR, EOR, along with all email coorespondence, etc.
 - Maintain a posted set of documents at all times including RFIs, ASIs, and PCOs
 - Provide and input information to "The Box" as required by DSA
 - Perform DSA and District project close-out procedures



Basis of Charges/Terms and Conditions

- ↓ Estimated project fee is a not to exceed cost billed and submitted under the standard hourly rate of \$95.00 and/or Admin rate of \$55.00 per hour.
- ↓ Project Inspection includes construction quality observation and review only of contractor daily activities, including product submittals and RFI review.
- ↓ KDI shall not be responsible for defects in District's design or for defects, errors, and omissions by District's contractor, subcontractors, or suppliers. KDI shall not be required to indemnify and defend the District with regard to the District's designs or the workmanship, actions, or omissions of the District's contractors, consultants, and/or representatives, or any of the lower tier subconsultants, subcontractors, or suppliers.
- ↓ This proposal is an estimate and based on general assumptions. Any additions in scope via construction value, addendum, ASIs, or Change Orders requiring additional inspections or cost outside of those assumptions provided will be billed separately on a Time & Material Basis at a basic Inspector hourly rate of **\$95.00**.
- ↓ Premium Time
 - Overtime, Holidays and Saturdays: add 50% to basic rate.
 - Sundays; or over 12 hours; over 8 hours on Saturday; add 100% to basic rate
 - KDI observed holidays are recognized per opm.gov guidelines
 - Night Shifts: add 20% to basic rate (between hours of 4pm-6am)
 - Weekends and Holidays are an 8 hour minimum.
- ↓ Premium time is excluded within this proposal.
- ↓ Offsite material verification and inspections are excluded.
- ↓ Minimum Time: 4 hours/day for inspection/show up time, over 4 hours: minimum 8 hours time billing.
- ↓ **All** reinspection fees, inspections requested without minimum 24 hour notice, necessitating inspector standby time will be documented and issued to the Owner under a separate line item as this cost is excluded within this proposal.
- ↓ KDI excludes reproduction fees for plans, specifications and submittals. These costs shall be billed as reimbursables +10% to the District.
- ↓ KDI invoices will be submitted on a monthly basis are due and payable the date submitted. Invoices over 30 days past due are subject to a late fee of 1.5% per month. Should a payment dispute arise, KDI shall be entitled to reasonable attorney's fees, expert fees, and costs and expenses incurred in efforts or proceedings to collect amounts owed.
- ↓ This Proposal is based on a Project Completion Date of August 20, 2020. KDI shall be compensated for any additional time spent by KDI, or any of its subconsultants, on the Project beyond this date, and Owner agrees to issue change orders and obtain any required approvals necessary to modify the contract in writing to reflect the additional compensation owed for additional services/extras/extended duration of services. Additional compensation will be billed pursuant to the terms below
- ↓ The terms of this proposal shall be included in any contract with the District and shall take precedence.
- ↓ KDI will continue to perform work and bill for time spent performing its services in accordance with the terms above until terminated in writing. On ten days written notice, KDI may suspend services and/or terminate its contract with District in the event of a breach by District, including failure to make payment. Any dispute regarding KDI's billings, work, products, or services shall be objected to, in writing, within ninety (90) days of receipt of KDI's invoice for such work, products, or services. Otherwise, any objection to payment to KDI for such work, product, or services is deemed waived.

POLICY NUMBER: **ACP7874334300**

COMMERCIAL GENERAL LIABILITY
CG 20 10 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organizatlon(s)
OAKLAND UNIFIED SCHOOL DISTRICT 955 HIGH ST OAKLAND, CA 94601
Location(s) Of Covered Operations
4521 WESTER STREET OAKLAND, CA 94609 400 CAPISTRANO DR. OAKLAND, CA 94603
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional Insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional Insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

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2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All terms and conditions apply unless modified by this endorsement.



DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

Project Information

Table with Project Name (Fremont New Construction Project), Site (302)

Basic Directions

Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.

Attachment Checklist table with checkboxes for insurance and workers compensation.

Contractor Information

Contractor Information table including Contractor Name (KDI Consultants), Agency's Contact (Ken Decarlo), and other details.

Term

Term table with Date Work Will Begin (2-28-2018) and Date Work Will End By (8-20-2020).

Compensation

Compensation table with Total Contract Amount (\$1,000,000.00) and other financial details.

Budget Information

If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.

Budget Information table with columns for Resource #, Funding Source, Org Key, Object Code, and Amount.

Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

Approval and Routing table with 5 rows for signatures and dates, including Division Head and General Counsel.

RECEIVED FEB 01 2018 stamp with handwritten initials.