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Committee	Facilities
Introduction Date	2-12-14
Enactment Number	14-0242
Enactment Date	2-12-14



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Dr. Gary Yee, Acting Superintendent and Secretary, Board of Education
By: Vernon Hal, Deputy Superintendent *WBH*
Timothy White, Associate Superintendent, Facilities Planning and Management

Board Meeting Date 2-12-14

Subject Independent Consultant Agreement for Professional Services - Nexus IS - Division of Facilities Planning and Management Project

Action Requested Approval by the Board of Education of an Independent Consultant Agreement for Professional Services with Nexus IS for Surveillance Camera System Services on behalf of the District at the Division of Facilities, Planning and Management Project, in an amount not-to exceed \$200,000.00. The term of this Agreement shall commence on January 22, 2014 and shall conclude no later than December 31, 2014.

Background The CMAS and WSCA contracts, offers a wide variety of commodities, non-IT services and hardware, to be installed and maintained at multiple school sites.

Local Business Participation Percentage 20.00%

Strategic Alignment Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources,



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

Recommendation

Approval by the Board of Education of an Independent Consultant Agreement for Professional Services with Nexus IS for Surveillance Camera System Services on behalf of the District at the Division of Facilities, Planning and Management Project, in an amount not-to exceed \$200,000.00. The term of this Agreement shall commence on January 22, 2014 and shall conclude no later than December 31, 2014.

Fiscal Impact

County School Facilities Fund

Attachments

- Independent Consultant Agreement including scope of work
- Certificate of Insurance

INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES

Division of Facilities Planning and Management

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the **11th day of December, 2013** by and between the Oakland Unified School District, Oakland, California ("District") and **Nexus IS** ("Consultant"), (together, "Parties").

NOW, THEREFORE, the Parties agree as follows:

Services. The Consultant shall provide the services as described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"). The scope of services will generally consist of the following:

The scope of services is more specifically indicated on **Exhibit "A."**

1.1. The Services shall be performed on the following project(s) / site(s) ("Project"):

The scope of the project is to provide on-call technical support and maintenance to assure operation of surveillance camera systems at each of the Phase IV project sites. This support will be provided on an as needed basis; and all labor, materials, equipment, and supervision will be in accordance with the CMAS schedule contained in the original agreement.

2. **Term.** The term of this Agreement shall be no longer than the period of construction of the Project, unless this Agreement is terminated and/or otherwise cancelled prior to that time.

The contract will commence January 23, 2014 and conclude no later than December 31, 2014.

3. **Submittal of Documents.** The Consultant shall not commence the Work 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:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements

4. **Compensation.** Consultant's fee for the performance of Consultant's Services shall be on an hourly basis and/or a per unit basis, as indicated in **Exhibit "B"** (Prices for Services). District agrees to pay the Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed **Two hundred thousand dollars and no cents (\$200,000.00)**. District shall pay Consultant according to the following terms and conditions:

4.1. Payment for the Work shall be made for all undisputed amounts in monthly installment payments within thirty (30) days after the Consultant submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or the portion of the Work for which payment is to be made.

5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, except as follows: Not applicable.
6. **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 work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
7. **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, except as follows: Not applicable.
8. **Performance of Services.**
 - 8.1. **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.
 - 8.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
 - 8.3. **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.
 - 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.
9. **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.
10. **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. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

11. 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 five (5) 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.

12. Termination.

12.1. Without Cause 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 days after the day of mailing, whichever is sooner.

12.2. Without Cause By Consultant. Consultant may, upon thirty (30) 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 thirty (30) 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 service 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.

13. Indemnification. To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim"), to property or persons, including personal injury and/or

death, to the extent that any of the above arise out of, pertain to, or relate to the negligence, recklessness, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement, including without limitation the payment of all consequential damages.

14. Insurance.

14.1. The 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 shall protect the Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

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	\$ 1,000,000
Automobile Liability Insurance - Any Auto	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 1,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

14.2. **Proof of Carriage of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage 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 the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured 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.

14.2.4. All policies except the Professional Liability Policy 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 rules and regulations of the governing board of the District and all 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 Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is 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 Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant 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.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.

18. **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.

19. **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, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age 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).

20. **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.

21. **Disabled Veteran Business Enterprises.** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building to have a participation goal of at least 3 percent, per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises (DVBE). In accordance therewith, the Consultant must submit, upon request by District, appropriate documentation to the District identifying the steps the Consultant has taken to solicit DVBE participation in conjunction with this Agreement, if applicable.
22. **Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE):** There is a twenty percent (20%) minimum participation requirement for all District contracts. Consultant shall comply with the twenty percent (20%) local business participation requirement at a rate of ten percent (10%) local and 10% small local and/or small local resident business participation. The requirement may be wholly satisfied by a City of Oakland certified business. Business entities must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent participation requirement. Please refer to the District's S/SL/SLRBE Policy; a copy can be obtained for the OUSD website: www.ousd.k12.ca.us
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 way the District is entitled pursuant to applicable 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. **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. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
27. **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:

District:

Oakland Unified School District
955 High Street
Oakland, CA 94601
ATTN: **Tadashi Nakadegawa,**
Director of Facilities

Consultant:

Karennna Lynn
Nexus IS
5200 Franklin Drive, Suite 120
Pleasanton, CA 94588

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.

28.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.

29.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 administrative offices are located.

30.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.

31.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.

32.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.

33.Attorney 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.

34.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.

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

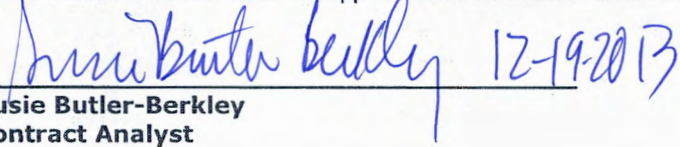
36.Signature Authority. Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.

37.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.

38. Incorporation of Recitals and Exhibits. The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

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>

 12-19-2013

Susie Butler-Berkley
Contract Analyst

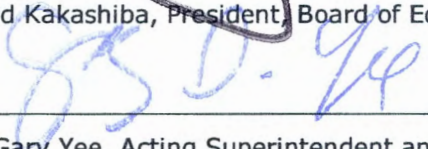
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

OAKLAND UNIFIED SCHOOL DISTRICT



David Kakashiba, President, Board of Education

Date: 2/13/14



Dr. Gary Yee, Acting Superintendent and
Secretary, Board of Education

Date: 2/13/14



Timothy White, Associate Superintendent Facilities
Planning and Management

Date: _____

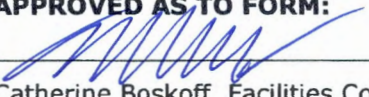
NEXUS IS



Thomas Lyon, SVP Managed Services

Date: _____

APPROVED AS TO FORM:



Catherine Boskoff, Facilities Counsel

Date: 1.7.14

File ID Number: 14-0037
Introduction Date: 2-12-14
Enactment Number: 14-0242
Enactment Date: 2-12-14
Bv:

Information regarding Consultant:

Consultant: Nexus IS, Inc.

20-0549497 :

License No.: _____

Employer Identification and/or Social
Security Number

Address: 27202 West Tumberry Lane, Suite 100
Valencia, CA 91355

Telephone: 661.257.1500

Facsimile: 661.257.1757

E-Mail: _____

Type of Business Entity:

☐ Individual

☐ Sole Proprietorship

☐ Partnership

☐ Limited Partnership

☒ Corporation, State: Delaware

☐ Limited Liability Company

☐ Other: _____

NOTE: Title 26, Code of Federal Regulations, sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.

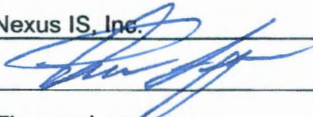
WORKERS' COMPENSATION CERTIFICATION

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:	12/17/2013
Proper Name of Consultant:	Nexus IS, Inc.
Signature:	
Print Name:	Thomas Lyon
Title:	SVP Managed Services

(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.)

CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the Consultant currently under contract ("Contract") with the District; that I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

Consultant certifies that it has taken at least one of the following actions with respect to the construction Project that is the subject of the Contract (check all that apply):

_____ The Consultant has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its sub-consultants' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, 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 Consultant's employees and of all of its sub-consultants' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

_____ Pursuant to Education Code section 45125.2, Consultant has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Consultant's employees and District pupils at all times; and/or

_____ Pursuant to Education Code section 45125.2, Consultant certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Consultant who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Consultant's employees and its sub-consultants' employees is

Name: _____

Title: _____

_____ The Work on the Contract is at an unoccupied school site and no employee and/or sub-consultant or supplier of any tier of Contract shall come in contact with the District pupils.

Consultant's responsibility for background clearance extends to all of its employees, Sub-consultants, and employees of Sub-consultants coming into contact with District pupils regardless of whether they are designated as employees or acting as independent Consultants of the Consultant.

Date: 12/17/2013

Proper Name of Consultant: Nexus IS, Inc.

Signature: 

Print Name: Thomas Lyon

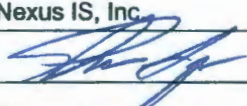
Title: SVP Managed Services

DRUG/SMOKE-FREE WORKPLACE CERTIFICATION

The District and all District projects are "drug-free" and "smoke-free" workplaces and, as such, require that the Project Manager be subject to the requirements mandated by California Government Code Section 8340, et seq., when on the Project site. The Drug-Free Workplace Act of 1990 requires that every person or entity awarded a contract or grant for the procurement of any property or service from a State agency certify that it will provide a drug-free workplace and, in that respect, comply with certain obligations set forth in that Act. In addition, the Drug-Free Workplace Act provides that each contract or grant awarded by the State agency may be subject to suspension of payments or termination for failure to comply with such Act. It is the sole responsibility of the Project Manager to police and oversee its personnel on the Project. If the Project Manager fails to comply with the Drug-Free Workplace Act or the smoke-free workplace policy of the District, the District may enforce its lawful rights to suspend pending or subsequent payments and to terminate this Agreement and may pursue all other rights and remedies it may have against the Project Manager at law and/or in equity.

Date: 12/17/2013

Proper Name of Consultant: Nexus IS, Inc

Signature: 

Print Name: Thomas Lyon

Title: SVP Managed Services

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

Consultant's entire Proposal is not made part of this Agreement.

(PLEASE SEE THE ATTACHED PROPOSAL FROM NEXUS IS)

EXHIBIT A

OAKLAND UNIFIED SCHOOL DISTRICT
Office of the Board of Education
January 23, 2012

File ID Number: 13-0214
Introduction Date: 1/23/12
Enactment Number: 13-0265
Enactment Date: 1-23-13
By:

To: Board of Education

From: Tony Smith, Ph.D., Superintendent
Vernon Hal, Deputy Superintendent-Business and Operations *EH*

Subject: Approve Agreement under California Multiple Award Schedules (CMAS) and Western States Contracting Alliance (WSCA) Contract Pricing and Provisions for Purchase of Video Surveillance and Data Communication Equipment Hardware, Installation and Maintenance Services with Nexus, IS

ACTION REQUESTED:

That the Board of Education approve the Agreement under CMAS (Contract No. 3-09-70-0163AE) and Western States Contracting Alliance (WSCA) (Contract No. AR233) Contract Pricing and Provisions for Purchase of Video Surveillance and Data Communication Equipment Hardware, Installation and Maintenance Services with Nexus, IS.

BACKGROUND:

The District desires to purchase video surveillance and data communication equipment and hardware, to be installed and maintained at multiple school sites ("Project"). Pursuant to Public Contract Code section 10298 and 10299, the District can utilize the California Multiple Award Schedules and the Western States Contracting Alliance contracts to purchase the Project video surveillance and data communication equipment, hardware, installation and maintenance services (collectively "Equipment and Services") without competitive bidding.

The CMAS and WSCA contracts, offer a wide variety of commodities, non-IT services and information technology products and services at prices which have been assessed to be fair, reasonable and competitive. The use of these contracts is available to public school districts and saves time and expense by not having to competitively bid each item. Additionally, a percentage discount is normally applied to the CMAS and WSCA pricing. The District is receiving a 42% discount for the Equipment and Services.

LOCAL PARTICIPATION:

Nexus IS will exceed the Board requirement of 20% minimum local participation and is committed to allocating at least 50% of labor cost (at least 30% of the total contract dollars) to Oakland Certified Local/Small Local/ Small Local Resident firms.

FISCAL IMPACT

Fund 35, Resource 7710 - County School Facilities Fund and DOJ COPS Grant.

RECOMMENDATION

Staff recommends approval of the Agreement with Nexus, IS to purchase the Equipment and Services for the District's Video Surveillance Project at multiple school sites.

ATTACHMENTS:

California Multiple Award Schedules Purchase Agreement Under CMAS and WSCA Contract Pricing and Provisions

**CALIFORNIA MULTIPLE AWARD SCHEDULES PURCHASE AGREEMENT
UNDER CMAS AND WSCA CONTRACT PRICING AND PROVISIONS**

OAKLAND UNIFIED SCHOOL DISTRICT & Nexus IS

This California Multiple Award Schedules (CMAS) Purchase Agreement ("Agreement") is entered into between the **Oakland Unified School District** ("District") and **Nexus, IS** ("Nexus") as follows:

RECITALS

WHEREAS, the District intends to purchase video surveillance and data communication equipment and hardware, its installation, and maintenance from Nexus, IS ("Equipment") in a cost-effective manner;

WHEREAS, the District would like to avail itself of the benefits and protections of the CMAS program;

WHEREAS, Nexus intends to contract to provide the District with the Equipment that the District needs and Nexus is willing to provide the Equipment pursuant to CMAS program requirements;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the Parties have agreed and do agree as follows:

TERMS AND CONDITIONS

1. This Agreement fully incorporates by this reference the following documents:
 - 1.1. CMAS Contract Number 3-09-70-0163AE ("CMAS Contract"), including the following documents, attached hereto as **Exhibit "A"**:
 - 1.1.1. Supplement No. 6 to the CMAS Contract, updated August 2010;
 - 1.1.2. The terms and conditions of CMAS Contract, dated August 2010; and
 - 1.1.3. Nexus IS's Payee Data Record.
 - 1.2. General Services Administration ("GSA") contract documents, Office of Federal Supply and Services for GSA # GS-35F-4841H ("GSA Contract"), dated March 2, 1998 through March 2, 2013, attached hereto as **Exhibit "B."**
 - 1.3. GSA terms and conditions for the GSA Contract.
 - 1.4. WSCA Agreement Number 7-08-70-13 under Western States Contracting Alliance ("WSCA") Cisco Networking Communications & Maintenance Master Agreement ("WSCA Master Agreement"), State of Utah Contract Ref. No. AR-233. The WSCA Master Agreement is incorporated into **Exhibit "C."**
 - 1.4.1. The Parties acknowledge that Nexus is one of Cisco's "fulfillment partners" under the WSCA Master Agreement. Nexus represents and warrants that it is a fulfillment partner and is authorized to contract to procure and install and provide to the District the items identified under the WSCA Contract
2. To the extent any term or condition of this Agreement is inconsistent with the CMAS Contract, the CMAS Contract shall control, except for the **"Delivery"** and **"Payments"** provisions in this Agreement which shall control over all other contradictory delivery or payment provisions.

3. For the purposes of this Agreement, all references to the "State of California," "State," and/or "Local Agency" in the CMAS Contract shall be interpreted to apply to the District and all duties and obligations with respect to the "State of California," "State," and/or "Local Agency" under the CMAS Contract shall apply to the District under this Agreement.
4. For the purposes of this Agreement, all references to the "State of California," "State," and/or "Local Agency" in the WSCA Master Agreement shall be interpreted to apply to the District and all duties and obligations with respect to the "State of California," "State," and/or "Local Agency" under the WSCA Master Agreement shall apply to the District under this Agreement.
5. Nexus shall provide the District with the Equipment, which is more fully described in **Exhibit "D"** to this Agreement, attached hereto and incorporated herein by this reference. The total cost for each piece of Equipment shall be as indicated in **Exhibit "D."** The Equipment, the delivery and installation, the services, and maintenance shall be considered the "Project" or the "Work."
6. The total cost of the Project is One Million Two Hundred Eighty Three Thousand, Eight Hundred and Seventy-Three Dollars and Thirty-Eight Cents (\$1,283,873.38) ("Total Cost").
7. Nexus hereby acknowledges and certifies that the prices indicated herein are at or below the prices as accepted by the California Department of General Services ("DGS") for the identical items under the CMAS Contract and/or the WSCA Master Agreement, as applicable.
8. The District shall make payment to Nexus based upon completed installation activities or percentages of installation activities completed prior to the end of the payment period subject to the authorization of the District or its representative ("District Representative").
 - 8.1. Nexus shall submit to District Representative a schedule for the Project ("Project Schedule"), which shall be updated monthly. Nexus shall prepare payment applications ("Payment Applications") based on information developed at monthly meetings with the District Representative. Nexus will submit Project Schedule updates and complete cost information as requested by District and shall be a condition precedent to District's payment.
 - 8.2. On the 25th of each month, Nexus shall submit to the District Representative for review a Payment Application filled out and signed by Nexus for Equipment installed and Work completed as of the date of the Payment Application. The Payment Application shall identify the amount of Nexus' total earnings to date, both for Equipment and installation.
9. The District shall hold retention in an amount equal to ten percent (10%) of the Total Cost. Nexus shall request, in writing, release of retention upon completion of installation including all contractual requirements, including but not limited to all start-up services, warranties, guarantees, delivery of operation and maintenance manuals, as-built drawings, etc. Within seven (7) days from receipt of Nexus's written notification, the District Representative will make an inspection to determine that all Equipment and installation Work meets the District's requirements. If the District determines the Project is not complete, the District will provide Nexus with a deficiency list of all items that must be corrected or completed before the District would consider the Project complete. When the above reasons for withholding authorization are removed, authorization will be made for amounts previously withheld.
10. This Agreement may be amended to provide for additions, deletions, and revisions in Equipment and/or installation Work. Nexus initiated changes shall be submitted to the District

in the form of a cost proposal which shall include a complete itemized breakdown of Equipment and installation Work costs. The District's prior written authorization is an express condition precedent to any reimbursement to Nexus of such costs and expenses, and no claim for any additional compensation or reimbursement shall be valid absent such prior written approval by District.

11. Time is of the essence in the performance of this Agreement. Therefore, Nexus shall diligently perform the Project by installing the Equipment required under this Agreement so as to complete its Work within the timeframe established in the Project Schedule. Nexus's failure to complete the Work in the manner required by the Agreement, shall subject Nexus to damages in the amount of five hundred dollars (\$500) per calendar day as liquidated damages, not a penalty, for each calendar day of delay, unless a time extension is granted in writing by District or the District's Representative.
12. Nexus acknowledges that certain governmental departments, public or private utility companies, and other contractors employed by the District may be working simultaneously with and in the vicinity of Nexus's Work areas, and the District may award other contracts which may similarly affect Nexus's work. Where Nexus's Work is associated with that of another contractor, Nexus shall report in writing to the District any visible defect or condition preventing the proper execution of this Agreement. If Nexus proceeds without giving notice, Nexus shall be held to have accepted the work or material and the existing conditions, and shall be responsible for any defects in its own Work as a consequence thereof, and shall not be relieved of any obligation or any guarantee because of any such condition or imperfection. This provision shall be included in any and all other contracts or subcontracts for the Work to be performed where such a conflict could exist.
13. Nexus shall perform all services, installation, and maintenance in cooperation with all other contractors at each of the District sites and under the direction of the District, the District's program manager, and the District's architect(s). Nexus shall coordinate the Installation and storage of its Equipment with the District Representative so as to prevent the interruption of contractors, governmental departments, or public or private utility companies, or District Staff working at the Site. Furthermore, Nexus shall confine Work at the Site to areas permitted by law, ordinances and permits and shall not unreasonably encumber the Site with materials or equipment.
14. Nexus shall be responsible for submitting all shop drawings, product data, and manufacturer's certificates to the District Representative for approval as may be required under the conditions of applicable permits (e.g., Division of the State Architect (DSA)).
15. Nexus shall keep the Site and surrounding area, including public areas immediately adjacent to the site such as temporary pedestrian walkways and sidewalks, free from accumulation of waste materials, rubbish, and excess materials.
 - 15.1. Nexus shall perform such clean up and removal regularly and as often as necessary.
 - 15.2. At completion of the Work Nexus shall remove from and about the Project site waste materials, rubbish, Nexus's tools, equipment, machinery and surplus materials.
 - 15.3. If Nexus fails to clean up, the District may provide twenty-four (24) hour written notice to Nexus and District may then perform the clean up, the cost of which shall be deducted from the amount due Nexus under this Agreement.
16. The parties acknowledge that this Agreement shall require incidental labor to perform the Work. One or more project inspectors ("Inspectors") employed by the District and approved

by DSA will be assigned to the Project in accordance with the requirements of Title 24 of the California Code of Regulations. The Inspector(s) duties will be as specifically defined in Title 24. The incidental labor required for the Work shall be under the observation of or with the knowledge of the Inspector. The Inspector shall have free access to any or all parts of the Project at any time. Nexus shall furnish the Inspector such information as may be necessary to keep the Inspector fully informed regarding progress and manner of Work and character of materials. Such observations shall not, in any way, relieve Nexus from responsibility for full compliance with all terms and conditions of the Agreement, or be construed to lessen to any degree Nexus's responsibility for providing efficient and capable superintendence. The Inspector shall have the authority to reject the Work that does not comply with this Agreement or is in violation of the requirement established by DSA. In addition, the Inspector may stop any Work which poses a probable risk of harm to persons or property.

17. **Fingerprinting / Criminal Background Investigation:** Education Code sections 45125.1 and 45125.2 apply to this Agreement. Nexus shall comply with Education Code sections 45125.1 and 45125.2 by completion of **Exhibit "E"**, attached hereto and incorporated by this reference. Failure to comply with these terms, or permitting unsupervised access by an employee whose name has not been cleared by DOJ as certified by Nexus shall constitute grounds for termination of this Agreement.
18. **Local / Small Local / Small Local Resident Policy Participation Compliance:** In 2008 the District instituted a local business policy, the Local/Small Local/ Small Local Resident Business Enterprise program ("L/SL/SLRBE"). The L/SL/SLRBE provides economic opportunity to local residents and businesses by supporting local economic development while paying competitive prices for goods and services.

The L/SL/SLRBE establishes a twenty percent (20%) minimum local participation requirement on all contracts and professional service agreements between OUSD and outside vendors. In addition, the program provides for preference points in negotiated professional services contracts and bid discounts in competitively bid contracts, up to five (5) points or five percent (5%) as the level of local, small local and small local resident business participation increases. (A copy of the District's L/SL/SLRBE may be found at www.ousd.k12.ca.us). Compliance with the District's policy is mandatory.
19. **Payment and Performance Bonds.** Nexus shall file with the District the following bonds. Corporate sureties on these bonds shall be legally authorized, licensed and admitted through the California Department of Insurance to engage in the business of furnishing surety bonds in the State of California. All sureties shall have an A.M. Best's rating of not less than "A-VIII" and shall be satisfactory to the District.
 - 19.1. A Corporate Surety Bond, in a sum not less than one hundred percent (100%) of the Total Cost of the Agreement, to guarantee the faithful performance of the Agreement.
 - 19.2. A Corporate Surety Bond, in a sum not less than one hundred percent (100%) of the Total Cost of the Agreement, to guarantee the payment of wages for services engaged and of bills contracted for materials, supplies, and equipment used in the performance of the Agreement.
20. In accordance with the provisions of Section 3700 of the Labor Code, Nexus shall secure the payment of compensation to its employees. Nexus shall provide workers' compensation insurance and occupational disease insurance as required by law and employers' liability insurance with minimum limits of \$1,000,000 covering all workplaces involved in the Agreement. Nexus shall sign and file with the District the following certificate on the form provided by the District:

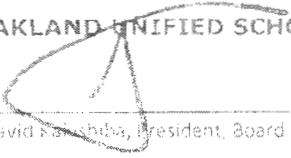
I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance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

Nexus shall furnish a certificate of insurance or a certificate of permission to self-insure under the Workers' Compensation and Employers' Liability Insurance statutes of the State of California. The certificate shall provide that at least thirty (30) days' prior written notice shall be served on District prior to the cancellation or change of such insurance or self-insurance. Said certificate shall also provide that the insurer shall waive all rights of subrogation against the District, District Representative, Architect, and any other consultant retained by the District, and each of their respective officials, employees and volunteers for losses arising from work performed by Nexus for the District.


21. It is understood that incidental labor will be required under this Agreement. Pursuant to Labor Code section 1772, workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work as defined in Labor Code sections 1720-1725. Therefore, Nexus shall pay not less than the specified prevailing wage rates to all workers employed in the performance of the work of this Agreement.
22. The parties acknowledge that each of them has fully discussed the contents of this Agreement with their chosen representatives and/or legal counsel and has had the benefit of legal counsel in negotiating and drafting the terms of this Agreement. Accordingly, this Agreement shall not be construed as having been drafted by one party or the other.
23. This Agreement and the attachments hereto and the documents specifically incorporated into the Agreement by reference, constitute the entire agreement between the District and Nexus. No other promises, agreements, or statements between the parties shall be binding unless made in writing and signed by all parties hereto.
24. Each party hereto shall bear its own costs and attorneys' fees incurred or connected with the drafting and signing of this Agreement and the events leading up to this Agreement.
25. This Agreement and the rights and obligations of the parties hereunder shall be construed and interpreted in accordance with the laws of the State of California. Any action or proceeding to enforce this agreement shall be commenced and maintained in the California county in which the District's administrative offices are located.
26. In the event that any action is brought to enforce this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, expenses and costs in addition to all other relief to which that party may be entitled.
27. The parties hereto hereby agree to execute all such other documents and to take all such other action as may be reasonably necessary to effect the purposes of this Agreement.
28. This Agreement may be executed in several counterparts and shall be deemed legally effective at such time as counterparts thereof duly executed on behalf of all parties have been furnished and delivered to the attorneys for all parties to this Agreement. Signature of copies and facsimile versions of this Agreement shall have the same force and effect as signature of the original.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

OAKLAND UNIFIED SCHOOL DISTRICT


David Katsushiba, President, Board of Education

1/24/13
Date


Edgar Rakestraw, Jr., Secretary, Board of Education

1/24/13
Date

NEXUS IS, INC.


By: Thomas Lyon
Its: Senior VP Managed Services

January 18, 2013

Date

APPROVED AS TO FORM


Cate Boskoff, Special Facilities Counsel

1-31-13
Date

OAKLAND UNIFIED SCHOOL DISTRICT
Division of Facilities Planning & Management

P.O. Number: _____
P.O. Date: _____

PURCHASE ORDER TERMS AND CONDITIONS

NEXUS IS

1. Definitions.

A) "Bid" means the Contractor's offer made in response to a solicitation to perform a contract to supply goods or perform services at a specified price.

B) "Bidder" means a supplier who submits a Bid to the District in response to a solicitation.

C) "Contract" means Contractor's Bid; drawings or specifications, if any; these bid/purchase order terms and conditions together with the terms appearing on the reverse side hereof; and any other documents identified therein or herein as incorporated by reference and inclusive of any subsequently issued addenda and/or amendments.

D) "Contractor" means the business entity designated on the face of this purchase order that is supplying Deliverables to the District. Contractor shall be synonymous with "supplier", "vendor", or other similar term.

E) "Deliverables" means the tangible and/or intangible personal property, product, service, software, information technology, telecommunications technology, and other items to be delivered pursuant to this purchase order including any such items furnished incident to the provision of services.

F) "District" means the Oakland Unified School District.

2. Assignment; Subcontracting. The Contractor may not assign this Contract in whole or in part, and/or monies due Contractor, without the prior written consent of the District and surety, if any. Subject to the foregoing, this Contract shall be binding upon the parties and their respective successors and assigns. All subcontractors must be approved in advance by the District. Upon the District's written request, Contractor shall terminate any subcontractor.

3. Audit. The District shall have the right to examine and audit Contractor's records related to this Contract. Contractor and its subcontractors shall maintain and preserve all such records for a period of at least three (3) years after final payment to Contractor or after final Contract closeout, as determined by the District.

4. Award of Contract. The Bidder's Bid or quotation is deemed a firm offer; issuance of this document as a purchase order evidences the District's acceptance of that offer. If an award is made on a bid, the contract will be awarded according to the authority granted by the Board of Education of the District ("Board") pursuant to California law.

5. Acceptance/Rejection of Bids. The District may award a contract on an individual item or combination of items, whichever is in the best interest of the District. A bidder may specify that the District's acceptance of one item shall be contingent upon the District's acceptance of one or more additional items submitted in the same Bid. Bids shall remain open and valid for 120 days after bid opening date unless otherwise stipulated and may be accepted without further written notice by the District. The Bidder may withdraw its Bid at any time before the Bid opening.

6. District Name May Not Be Used. The name and/or logo of the District or any school of the District may not be used in any advertisements or communications which may convey the impression that the District authorizes the solicitation and/or that there may be some connection or endorsement between the District and the Contractor.

7. Fingerprinting. The Contractor and its subcontractors shall fully comply with the provisions of Education Code Section 45125.1 when Contractor and/or its subcontractors will have more than limited contact with District pupils.

8. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the state of California, without regard to conflicts of laws.

9. Indemnification. Contractor agrees to indemnify and hold harmless the District, the Board, and their employees, agents, volunteers, affiliates, officers and directors from, and defend each of them against, any injury to person or property, claims, suits, liabilities or expenses (including reasonable attorneys' fees and costs) resulting from or connected with Contractor's performance hereunder, breach of its representations, warranties or obligations hereunder, or Contractor's failure to comply with any applicable law, or regulation.

10. Independent Contractor. Contractor shall perform its obligations under this Contract as an independent contractor of the District. Nothing herein shall be deemed to constitute Contractor and the District as partners, joint venturers, or principal and agent. Contractor has no authority to represent the District. Contractor shall not at any time or manner represent that it or any of its subcontractors or agents are in any manner agents or employees of the District.

11. Independence of Bid. Unless Bidder is furnishing a joint bid, by submitting this Bid, Bidder swears under penalty of perjury that it did not conspire with any other supplier to set prices in violation of antitrust laws.

12. Insurance. Upon the District's request, Contractor shall provide, and require its subcontractors to maintain, insurance policy/policies and limits of coverage acceptable to the District to protect against claims that may arise from this Contract.

13. Joint Bids. A joint bid submitted by two or more bidders participating jointly in one bid may be submitted, and each participating bidder must sign the joint bid. If the contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable under this contract. In addition, the joint contractors must designate, in writing, one individual having authority to represent them all in matters relating to the contract. The District assumes no responsibility or obligation for the division of orders or purchases among joint contractors.

14. License. Upon payment in full for software, Contractor grants the District a perpetual, non-exclusive, worldwide, irrevocable, fully paid right and license, to install and use the software on all computing devices used by or for the benefit of the District. This license is subject to the limitation on the maximum number of end users or other scope limitations listed on the facing page and, if none are listed, this license shall be deemed to be enterprise-wide and the software may be used by all District end users without any maximum number of users. The license shall extend to permit contractors working for the District to use the software in the performance of their duties for the District.

15. Non-Discrimination. Contractor shall comply with all laws prohibiting discrimination in employment and shall include this nondiscrimination requirement in all subcontracts to perform work under the Contract.

16. Order of Precedence. This Contract constitutes the entire agreement between the parties and supersedes any prior or contemporaneous written or oral understanding or agreement and any contrary provisions on packing slips, invoices, or other documents submitted by the Contractor. Any conflict or inconsistency among the components of this Contract shall be resolved by giving precedence in the following order: (1) Contractor's Bid; (2) these Contract Terms and Conditions; (3) all other attachments incorporated into the Contract by reference. No term or condition of this Contract may be terminated, modified, rescinded, or waived except by a writing signed by both parties. No modification or waiver of this Contract shall be deemed effected by Contractor's acknowledgment, confirmation or other documentation containing other or different terms. Should any such document from Contractor contain additional or different terms than this Contract, those terms shall be considered proposals by Contractor which are hereby rejected.

17. Packaging, Delivery and Acceptance.

A) Packaging. Items shall be packaged to protect them from damage during transit. Packing slips must include the District Purchase Order number, contents, quantity, and description. Material Safety Data Sheets shall be included when applicable.

B) Delivery. Contractor shall be responsible for delivery on a free-on-board (FOB) Destination basis and shall incur all costs associated with the delivery unless otherwise specified in this Contract. All deliveries shall be set on the District's dock and/or pallets or as otherwise prescribed by the District. All Deliverables are subject to acceptance by District. District will notify Contractor in writing of any defect or nonconformity and Contractor will repair or replace such defective or nonconforming goods or, at the District's option, refund the purchase price to District.

C) Acceptance. If items are not properly packaged or identified, or if items are determined by the District to be defective or non-conforming, deliveries or any part thereof may be rejected, and all costs (return and re-delivery) shall be at the Contractor's expense. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by the District at destination, notwithstanding any payment or inspection at source. The District shall give written notice of the rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. Acceptance shall not be construed to waive any warranty rights the District may have at law or by express reservation in this Contract with respect to conformity. Title to and risk of loss of Deliverables shall vest in the District upon acceptance.

18. Performance Guarantee. A performance guarantee may be required on award of annual contracts which exceed \$81,000.

19. Samples. Samples of items may be required by the District for inspection and specification testing and must be furnished free of expense to the District. The samples furnished must be identical in all respects to the items bid and/or specified in the Contract. Samples must be plainly marked with the name of Bidder, bid number, and date of bid opening. Samples may be retained for comparison with deliveries and if not destroyed by tests, may, upon request at the time the sample is furnished, be returned at Contractor's expense. Bidder/Contractor assumes all risk of loss of or damage to samples.

20. Severability. If any provision or part of this Contract shall be declared illegal, void, or unenforceable, such term or provision shall be deemed stricken and the remaining provisions shall continue in full force and effect to the extent permitted by law.

21. Substitutions. Product substitutions require the prior, express written authorization from an authorized District representative.

22. Tax. The District shall pay only California sales tax and use tax and/or Alameda County sales and use tax, as applicable. Contractor shall separately list all applicable taxes on the invoice. The District is exempt from payment of Federal Excise Tax. Contractor shall cooperate with the District in all matters related to taxation and the collection of taxes. The District may, at its option, self-accrue tax and remit same to the state of California pursuant to the District's permit with the state of California.

23. Termination. The District may, by written notice to Contractor, terminate this Contract in whole or in part at any time at the District's convenience or for Contractor default. The District shall hold Contractor liable and responsible for all damages which may be sustained because of the Contractor's default. If Contractor fails or neglects to furnish or deliver any of the deliverables listed herein at the prices named and at the time and places stated herein or otherwise fails or neglects to comply with the terms of the Contract, the District may, upon written notice to the Contractor, cancel the Contract in its entirety, or cancel any or all items affected by such default; and may, whether or not the Contract is cancelled in whole or in part, purchase the Deliverables elsewhere without notice to the Contractor. The prices paid by the District at the time such purchase is made shall be the prevailing market prices. Any extra costs incurred by such default may be collected by the District from the Contractor.

24. Title. Title to and risk of loss of Deliverables shall pass to and vest in the District upon final acceptance by the District.

26. Warranty.

A) Contractor warrants that all Deliverables furnished hereunder will be free from defects in design, material, and workmanship, and will conform to applicable specifications, drawings, samples, and descriptions. All warranties shall be in addition to any warranties available under law and any standard Contractor warranty.

B) At the time of delivery, no software shall contain any virus, "Trojan horse," timer, counter or other limiting design, instruction, or routine that would erase data or programming or cause the software

or any hardware or computer system to become inoperable or otherwise incapable of being used in the full manner for which it was designed and created.

C) No Deliverable shall violate or infringe upon the rights of any third party, including, without limitation, any patent, copyright, trademark, trade secret, or other proprietary rights of any kind. There is no action, suit, proceeding, or material claim or investigation pending or threatened against Contractor, that, if adversely determined, might affect any Deliverable or restrict the District's right to use any Deliverable. Contractor knows of no basis for any such action, suit, claim, investigation, or proceeding.

D) Contractor warrants it has full title to the Deliverables and has the right to grant the District the rights and licenses contemplated herein without the requirement for consent of any third party.

AGREED and ACCEPTED: _____

Date: 08/23/2013

By: Thomas Lyon

Its: SVP Managed Services

ACORD**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

12/18/2013

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 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 Chesapeake Insurance Services CA License: 0799383 15501 S F Mission Blvd., #300 Mission Hills, CA 91345-1359	CONTACT NAME: PHONE (A/C, No, Ext): 818.898.1043 FAX (A/C, No): 818.898.1643 E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
INSURED Nexus IS, Inc. 27202 West Turnberry Lane Valencia, CA 91355 Fax: 661.775.2441	INSURER A:	Continental Casualty Co. 20443
	INSURER B:	Continental Insurance Co. 20443
	INSURER C:	Continental Casualty Co. 20443
	INSURER D:	American Casualty Co. of Reading 20427
	INSURER E:	Continental Casualty Co. 20443
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER: 13/14 (M)****REVISION NUMBER:**


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.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC			4026321888	01/09/2013	01/09/2014	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
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> Comp/\$1000 <input checked="" type="checkbox"/> Coll/\$1000 <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			4026321910	01/09/2013	01/09/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			4025753057	01/09/2013	01/09/2014	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A <input checked="" type="checkbox"/>			4026321924	02/12/2013	02/12/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	Technology E&O			4026321888	01/09/2013	01/09/2014	Aggregate Limit = \$5,000,000

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

Oakland Unified School District and its directors, officers, employees, agents and representatives are listed as additionally insured.
See attached for AI status.

CERTIFICATE HOLDER**CANCELLATION**

Oakland Unified School District 955 High Street Oakland, CA 94601	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  Doug Kreuzberger/YCS

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
TECHNOLOGY GENERAL LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Coverage afforded under this extension of coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Coverage Part.

1. ADDITIONAL INSURED – BLANKET VENDORS

WHO IS AN INSURED (Section II) is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:

- a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- b. Any express warranty unauthorized by you;
- c. Any physical or chemical change in the product made intentionally by the vendor;
- d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- g. Products which, after distribution or sale by you, have been labeled or relabeled

or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in Subparagraphs d. or f.; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

3. This provision 1. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Coverage Part.

4. This provision 1. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Coverage Part or by endorsement.

2. MISCELLANEOUS ADDITIONAL INSUREDS

WHO IS AN INSURED (Section II) is amended to include as an insured any person or organization (called additional insured) described in paragraphs 2.a. through 2.h. below whom you are required to add as an additional insured on this policy under a written contract or agreement but the written contract or agreement must be:

1. Currently in effect or becoming effective during the term of this policy; and
2. Executed prior to the "bodily injury," "property damage" or "personal injury and



advertising injury," but only the following persons or organizations are additional insureds under this endorsement and coverage provided to such additional insureds is limited as provided herein:

a. Additional Insured – "Your Work"

That person or organization for whom you do work is an additional insured solely for liability due to your negligence specifically resulting from "your work" for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.

The insurance provided to the additional insured is limited as follows:

- (1) The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
- (2) The coverage provided to the additional insured by this paragraph. 2.a., does not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless:
 - (a) It is required by the written contract or written agreement; and
 - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard" is not excluded either by the provisions of the Coverage Part or by endorsement.
- (3) The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services.

b. State or Political Subdivisions

A state or political subdivision subject to the following provisions:

- (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:

- (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

- (b) The construction, erection, or removal of elevators; or

- (2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality.

c. Controlling Interest

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) Their financial control of you; or
- (2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for such additional insured.

d. Managers or Lessors of Premises

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or



- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

e. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

f. Owners/Other Interests – Land is Leased

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or
(2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

g. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

h. Lessor of Equipment

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization. A person's or organization's status as an insured under this endorsement ends when their written contract or agreement with you for such leased equipment ends.

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

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or
(2) To "bodily injury," "property damage," or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs b. through h. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

As respects the coverage provided under this endorsement, Paragraph 4.b. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted and replaced with the following:

4. Other Insurance

b. Excess Insurance

This insurance is excess over:

Any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or agreement specifically requires that this insurance be either primary or primary and noncontributing. Where required by written contract or agreement, we will consider any other insurance maintained by the additional insured for injury or damage covered by this endorsement to be excess and noncontributing with this insurance.

3. NEWLY FORMED OR ACQUIRED ORGANIZATIONS

Paragraph 3.a. of Section II – Who Is An Insured is deleted and replaced by the following:

Coverage under this provision is afforded only until the end of the policy period or the next anniversary of this policy's effective date after you acquire or form the organization, whichever is earlier.

4. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANY COVERAGE

A. The following is added to Section II – Who Is An Insured:

4. You are an insured when you had an interest in a joint venture, partnership or limited liability company which terminated or ended prior to or during this policy period but only to the extent of your interest in such

**INDEPENDENT CONSULTANT AGREEMENT
ROUTING FORM****Project Information**

Project Name	Surveillance Camera Phase IV	Site	District-wide
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Basic Directions

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

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

Contractor Name	Nexus IS	Agency's Contact		Karenn Lynn			
OUSD Vendor ID #	V055301	Title		Project Manager			
Street Address	5200 Franklin Drive, Suite 120	City	Pleasanton	State	CA	Zip	94588
Telephone	925-226-3285	Policy Expires		1-9-2014			
Contractor History	Previously been an OUSD contractor? X Yes <input type="checkbox"/> No			Worked as an OUSD employee? <input type="checkbox"/> Yes x No			
OUSD Project #	NA						

Term

Date Work Will Begin	1-22-2014	Date Work Will End By (not more than 5 years from start date)	12-31-2014
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Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$ 200,000.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$
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
7710	County School Facilities	9189157801	6427	\$200,000.00

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.	Director, Facilities Planning and Management				
	Signature	Date Approved	12/19/13		
2.	General Counsel, Department of Facilities Planning and Management				
	Signature	Date Approved	1-7-14		
	Associate Superintendent, Facilities Planning and Management				
3.	Signature	Date Approved			
	Deputy Superintendent, Board of Education				
4.	Signature	Date Approved			
	President, Board of Education				
5.	Signature	Date Approved			