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Introduction Date	12-10-2014
Enactment Number	14-1976
Enactment Date	12-10-14 OSR



OAKLAND UNIFIED  
SCHOOL DISTRICT  
Community Schools. Thriving Students.

# Memo

**To** Board of Education

**From** Antwan Wilson, Superintendent and Secretary, Board of Education  
By: Mia Settles-Tidwell, Chief Operations Officer  
Timothy White, Deputy Chief, Facilities Planning and Management

**Board Meeting Date** December 10, 2014

**Subject** Independent Consultant Agreement for Professional Services - Professional Services Industries (PSI) - Laurel Elementary School Finishing Kitchen Project

**Action Requested** Approval by the Board of Education of an Independent Consultant Agreement for Geotechnical Services with Professional Services Industries (PSI) for Geotechnical Services on behalf of the District at the Laurel Elementary School Finishing Kitchen Project, in an amount not-to exceed \$5,765.00. The term of this Agreement shall commence on December 10, 2014 and shall conclude no later than December 10, 2016.

**Background** Geotechnical services are required at the site of the finishing kitchen.

**Local Business Participation Percentage** 100.00%

**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, 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 Geotechnical Services with Professional Services Industries (PSI) for Geotechnical Services on behalf of the District at the Laurel Elementary School Finishing Kitchen Project, in an amount not-to exceed \$5,765.00. The term of this Agreement shall commence on December 10, 2014 and shall conclude no later than December 10, 2016.

**Fiscal Impact**

Measure J

**Attachments**

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

**INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES  
(Geotechnical Testing Services)**

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the **16<sup>th</sup> day of October, 2014** by and between the **Oakland Unified School District** ("District") and **Professional Services Industries (PSI)** ("Consultant"), (individually a "Party" or collectively the "Parties").

**WHEREAS**, The District is authorized by Section 4529.12 of the California Government Code to contract with and employ any persons for the furnishing of architecture, landscape architecture, engineering, environmental services, land surveying, and construction management through a fair, competitive selection process.

**NOW, THEREFORE**, the Parties agree as follows:

1. **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 professional engineering services and geotechnical testing services.

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

- **Geotechnical Engineering Services**
- **One soil test boring**

1.2. The Consultant's Services at any one of the sites or combination thereof may be changed, including terminated, in the same manner as the Project, as indicated herein, without changing in any way the remaining Consultant's Services at other site(s). The provisions of this Agreement shall apply to the Consultant's Services at each site, without regard to the status of the remaining Project component(s). Consultant shall invoice for each inspection and test separately and for each site separately and District shall compensate Consultant for each site separately on a proportionate basis based on the level and scope of Services completed for each site.

2. **Term.** Unless terminated or otherwise cancelled as permitted herein, the term of this Agreement shall be for the following:

**The project shall commence from December 20, 2014, to December 20, 2016.**

3. **Submittal of Documents.** The Consultant shall not commence the Work under this Agreement 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"/>	Workers' Compensation Certification
<input checked="" type="checkbox"/>	Debarment Certification
<input checked="" type="checkbox"/>	Fingerprinting/Criminal Background Investigation Certification
<input checked="" type="checkbox"/>	Insurance Certificates and Endorsements
<input checked="" type="checkbox"/>	W-9 Form
<input type="checkbox"/>	Bonds (as required or requested by District)
<input type="checkbox"/>	_____



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 **Five thousand, seven hundred sixty-five dollars and no cents (\$5,765.00)**. 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.
  - 4.2. Consultant shall prepare a separate invoice for each site, if Consultant performs Services at more than one site. The itemized invoice shall reflect the hours spent by the Consultant in performing its Services pursuant to this Agreement.
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:
  - 5.1. NA
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 Consultant's Work, District being interested only in the results obtained.
7. **Local, Small Local And Small Local Resident Business Enterprise Program (L/SL/SLRBE).** Consultant shall comply with the requirements of the 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 L/SL/SLRBE Program can be obtained on the District website, at [www.ousd.k12.ca.us](http://www.ousd.k12.ca.us), under the Facilities Planning & Management Department drop down menu, Bids and Requests for Proposals.

In light of the fifty percent (50%) L/SL/SLRBE participation requirement for formally bid professional service contracts, good faith effort documentation is not necessary.
8. **Designated Representatives / Labor Compliance Program.** Consultant shall coordinate with District personnel and/or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work related to the Project. This shall include, without limitation, coordination with the persons responsible for operation of the District's Labor Compliance Program. If Consultant employs subcontractor(s), Consultant shall ensure that its contract(s) with its subcontractor(s) include language notifying the subcontractor(s) of the District's Labor Compliance Program, if any.
9. **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:

10. NA

**11. Performance of Services.**

- 11.1. **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.
- 11.2. **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.
- 11.3. **District Approval.** Work completed pursuant to this Agreement 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.
- 11.4. **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.

**12. 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.

**13. 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.

**14. Audit.**

- 14.1. 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. For a period of three (3) years after final payment under this Agreement, all expenditures of public funds in excess of ten thousand dollars (\$10,000) shall be subject to examination and audit by

the State Auditor. The audit shall be confined to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering the Agreement.

## 15. Termination.

- 15.1. **Without Cause By District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for the 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) days after the day the notice was mailed, whichever is sooner.
- 15.2. **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.
- 15.3. **With Cause By District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
- 15.3.1. material violation of this Agreement by the Consultant; or
  - 15.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
  - 15.3.3. 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 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.

16. **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.



**17. Insurance.**

17.1. 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.

**17.1.1. 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.)

**17.1.2. 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.

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

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

17.2. **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:

17.2.1. 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."

17.2.2. 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.

17.2.3. 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.

17.2.4. All policies except the Professional Liability Policy shall be written on an occurrence form.

17.3. **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.

18. **Assignment.** The obligations and liabilities of the Consultant pursuant to this Agreement shall not be assigned voluntarily by the Consultant nor assigned by operation of law.

19. **Binding Contract.** This Agreement shall be binding upon the Parties hereto and upon their successors and assigns, and shall inure to the benefit of the Parties and their successors and assigns.

20. **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 Agreement 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 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 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.

21. **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, including without limitation all licenses required to perform professional engineering services and geotechnical testing services.

22. **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.

23. **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).



24. **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.
25. **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 three percent (3%), 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.
26. **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.
27. **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:
- 27.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
- 27.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
28. **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.
29. **Disputes.** In the event of a dispute between the Parties as to performance of Work, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Consultant shall neither rescind the Agreement nor stop Work.
30. **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.
31. **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:

**If to District:**

Oakland Unified School District  
 955 High Street  
 Oakland, CA 94601  
 ATTN: Tadashi Nakadegawa  
 Telephone: (510) 535-7038  
 Facsimile: (510) 535-7082

**If to Contractor:**

Professional Services Industries  
 (PSI)  
 4703 Tidewater Avenue, Suite B  
 Oakland, CA 94601  
 Attention: Brand Burfield  
 Telephone: (510) 434-9200  
 Facsimile: (510) 434-9200

**With a copy to:**

Orbach Huff Suarez & Henderson LLP  
 1901 Harrison Street  
 Suite 1630  
 Oakland, CA 94612  
 Attention: Catherine G. Boskoff  
 Telephone: (510) 999-7908

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.

**32.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.

**33.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.

**34.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.

**35.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.

**36.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.

**37.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.

**38.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.



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

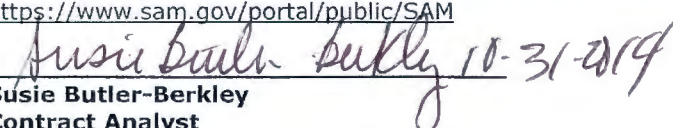
**40. Signature Authority.** Each Party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.

**41. 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.

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

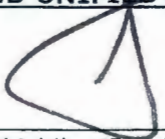
**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** The District certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered 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.

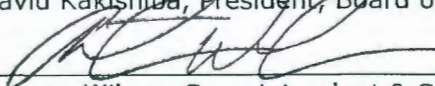
<https://www.sam.gov/portal/public/SAM>

  
\_\_\_\_\_  
**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 Kakishiba, President, Board of Education 12/11/14  
Date


  
\_\_\_\_\_  
Artwan Wilson, Superintendent & Secretary, Board of Education 12/11/14

  
\_\_\_\_\_  
Timothy White, Deputy Chief, Facilities Planning and Management 11/10/14  
Date

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
OUSD Facilities Legal Counsel 11.7.14  
Date

**CONSULTANT**

  
\_\_\_\_\_  
Frank Ross, Dept Mgr 10/30/14  
Date  
Title

File ID Number: 14-2332  
Introduction Date: 12-10-14  
Enactment Number: 14-1976  
Enactment Date: 12-10-14  
By: OS



**Information regarding Consultant:**

Consultant: PROFESSIONAL SERVICE  
INDUSTRIES, INC.

License No.: N/A

Address: 4703 TIDEWATER AVE. STE. B  
OAKLAND, CA 94601

Telephone: (510) 434-9200

Facsimile: (510) 434-7676

E-Mail: frank.posse@psiusa.com

Type of Business Entity:

- Individual
- Sole Proprietorship
- Partnership
- Limited Partnership
- Corporation, State: DELAWARE
- Limited Liability Company
- Other: \_\_\_\_\_

37-0962090 :  
Employer Identification and/or Social  
Security Number

**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:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- 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 its 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 Agreement.

Date: 10/30/14

Name of Consultant or Company: PROFESSIONAL SERVICE INDUSTRIES, INC.

Signature: 

Print Name and Title: Frank Ross, Dept Mgr.

(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 District prior to performing any Work under this Agreement.)



**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"):

**[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]** 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: \_\_\_\_\_  
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. **[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]**

Date: \_\_\_\_\_  
District Representative's Name and Title: \_\_\_\_\_  
Signature: \_\_\_\_\_

**Megan's Law (Sex Offenders)**. I have verified and will continue to verify that the employees of Contractor that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

**[MUST BE COMPLETED BY CONSULTANT'S AUTHORIZED REPRESENTATIVE.]** 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: 10/30/14

Name of Consultant or Company: PROFESSIONAL SERVICE INDUSTRIES, Inc.

Signature: 

Print Name and Title: Frank Ross, Dept Mgr.

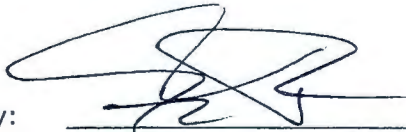


**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND  
VOLUNTARY EXCLUSION**

I am aware of and hereby certify that neither \_\_\_\_\_ **Professional Services Industries (PSI)** 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. I further agree that I will 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 30<sup>TH</sup> day of OCTOBER 2014 for the purposes of submission of this Agreement.

By:  \_\_\_\_\_  
Signature  
Tomer Ross  
Typed or Printed Name  
Dept Mgr.  
Title

**EXHIBIT "A"**

**GEOTECHNICAL TESTING**

**DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT**



**Exhibit "B"**  
**Prices for Services**

October 13, 2014  
**Revised October 20, 2014**

Ms. Mary Ledezma  
Project Manager  
Facilities Planning & Management  
**Oakland Unified School District**  
955 High Street, Oakland, California 94601

Subject: **Proposal for Geotechnical Engineering Services and Limited Environmental Sampling**  
Proposed Kitchen Addition  
Laurel Elementary School  
3750 Brown Avenue, Oakland, California  
OUSD Project #13179  
PSI Proposal No. 575-135737-**R2**

Dear Ms. Ledezma:

Per your request, Professional Service Industries, Inc. (PSI) is pleased to submit this proposal for performance of geotechnical engineering services for the subject project. This proposal includes a review of furnished project information and outlines the services we propose to offer on this project, our fee, schedule, and the General Conditions that will apply.

#### **PROJECT INFORMATION**

A site plan showing existing improvements and the area of the proposed addition was provided for our use in preparing this proposal. From information provided by you, PSI understands that it is proposed to build an approximately 850 square foot, single-story addition to the existing Multi-Purpose Room structure at the subject site, for use as a kitchen facility. Other improvements are likely to include utilities and concrete flatwork. New pavements are not expected.

Details such as expected loading have not been provided, but based on the type of development planned, we expect individual columns and bearing wall loads of approximately 20 kips and 2 klf, respectively. For the purposes of this proposal, we will assume finish exterior grades to be near (+/- two feet) existing grades. Should any of the above information or assumptions made by PSI be inconsistent with the planned construction, we request that you contact us immediately to allow us to make any necessary modifications to this proposal.

Based upon review of geologic data, we anticipate that the site is underlain by Quaternary aged alluvial fan deposits consisting of clay and silt with some sand and gravel. Based on research performed for a nearby site, groundwater depth at the site is expected at between 5 and 10 feet below existing site grades. The site is not within an Earthquake Fault Zone and is not in an area mapped by the state of California as within a Seismic Hazard Zone for liquefaction or landsliding. Additionally, the site does not appear to be in any mapped geologic hazard zones identified in the



Safety Element of the Oakland General Plan. Based on our review of the California Division of the State Architect (DSA) form IR A-4.13, a Geohazard Report is not expected to be required for this project.

## **SITE DESCRIPTION**

Based on our review of maps, recent aerial photographs and PSI's previous work at the Laurel Child Development Center, the site is a vacant landscaped area located on the southeast side of the Laurel Elementary School campus, between the Multi-Purpose Room and the sidewalk along Patterson Avenue. The school is bordered on all sides by residential properties. Access to the site is from Patterson Street.

This proposal has been written with the assumption that the proposed drilling locations will be clear and accessible to the truck-mounted drill rig and that concrete coring will not be required. Should any of the above information or assumptions made by PSI be inconsistent with the planned construction, we request that you contact us immediately to allow us to make any necessary modifications to this proposal. Our proposed scope of services for the work is discussed below.

## **PROPOSED SCOPE OF SERVICES**

The following proposed scope of services pertains to a subsurface exploration for geotechnical purposes only. The scope of services for this phase of work does not include any environmental assessment for the presence or absence of wetlands or hazardous or toxic materials in the soil, surface water, groundwater, or air, on, below, or around the site.

We propose to advance 2 soil test borings within the footprint of the proposed new structure. The borings will be drilled to 30 feet and 5 feet below existing grade, borehole instability, or to practical auger refusal, whichever is shallower. The anticipated total linear feet of drilling is 35 feet. Fieldwork is expected to take one working day to complete.

The soil test borings will be performed with a truck-mounted, rotary auger drill rig. Representative soil samples will be obtained at increments of 2.5 feet in the upper 10 feet and at 5 foot intervals thereafter. Split-barrel sampling procedures will be employed in general accordance with ASTM D1586. Where cohesive soils are encountered, thin walled tube samples may be obtained in accordance with ASTM D1587.

A minimum of two working days prior to performing the field drilling services, PSI will locate the proposed borings in the field by measuring distances from existing site landmarks or property boundaries identified on the site plan to be provided by you. A representative of PSI will then call Underground Service Alert to notify utilities and public service agencies of the proposed drilling. PSI will not be responsible for locating any private underground utilities. You are responsible for locating and identifying all private utilities prior to drilling. If you choose, for an additional **\$650.00**, PSI will provide a subcontract utility location service to check the boring locations for existing private underground utilities. All field services will be coordinated with a site contact(s) as



designated by you. Also prior to drilling, PSI will obtain a drilling permit from the Alameda County Public Works Agency (ACPWA).

At the completion of drilling, PSI will backfill the borings with cement grout in accordance with ACPWA permit requirements. The soil cuttings generated during the drilling activities can be spread within the unpaved, landscaped area of the site, or in an alternate location to be chosen by the site contact.

Representative soil samples obtained during the field exploration program will be returned to the laboratory for classification and a limited number of engineering properties tests. The nature and extent of this laboratory testing program will be dependent upon the subsurface conditions encountered during the field exploration program, and may include testing of selected samples to evaluate the soils' moisture content, consolidation properties, grain size, relative strength characteristics, expansion potential and soil corrosivity.

At the conclusion of our field and laboratory work, the data will be analyzed by one of our experienced geotechnical engineers and reports will be prepared. The reports will include the following:

- Our understanding of the project.
- A geologic overview of the project area.
- Site topographic information and surface conditions.
- A discussion of subsurface conditions encountered including pertinent soil properties and groundwater conditions.
- Figures, to include a Site Location Map and a log of the borings, with soil classification per the Unified Soil Classification System (USCS)
- California Building Code (CBC) site class and seismic design parameters (CBC, 2013).
- An evaluation of the data as it relates to the proposed site development.
- Site grading and cut/fill considerations, including recommended fill material characteristics and compaction requirements for general site fill, and slab subgrades, including an assessment as to the suitability of on-site soils for use as fill
- Recommendations pertaining to design and construction of foundations and floor slabs, including allowable soil bearing pressures, anticipated bearing depths and estimated settlements
- Comments and recommendations relating to other observed geotechnical conditions that could impact the development.

Based on the limited size of the proposed structure, and its nature as an addition to an existing structure, the need for a detailed liquefaction evaluation is thought to be unlikely. If such an evaluation is deemed necessary by you or the local governing jurisdiction, please contact us to revise this proposal for those additional services.

The Geotechnical Engineering report will be reviewed and signed by a California Registered Geotechnical Engineer (GE) and a California Engineering Geologist (CEG), as required for project submission to the Division of the State Architect (DSA).





### Limited Environmental Sampling

As part of the geotechnical investigation, PSI will collect four soil samples from the upper two feet of soil at the site to be composited into one sample for environmental analyses. The composite sample will be analyzed for volatile organic compounds (VOCs) according to EPA Method 8260, petroleum hydrocarbon speciation according to EPA Method 8015M, and for total metals (17 metals) according to EPA Method 6010. PSI understands that the soil sample analyses is for off-haul characterization. PSI will present the results of the environmental sampling in a letter, which shows the soil sample location and provides the analytical results.

### **SCHEDULE**

We can begin our work for the geotechnical exploration immediately upon receiving written authorization to begin. PSI anticipates that we can obtain the necessary permits and mobilize to the site within five to ten working days after receiving project authorization. Assuming favorable weather conditions and an anticipated 1 working day for field and 10 working days for laboratory activities, PSI proposes to deliver the report in 15 working days from completion of the fieldwork.

### **FEES**

PSI will perform the described geotechnical study for a lump sum fee of **\$5,765.00**. This cost assumes that PSI will be able to mobilize and complete this project in conjunction with the geotechnical proposal for the Henry Kaiser Elementary School presented under separate cover. Additionally, PSI understands that the subcontract drilling company will be subject to Prevailing Wage requirements, which are included in our estimate.

Our fee assumes that all exploration locations will be accessible at the time of mobilization and that no delays or additional mobilizations will be required due to inaccessible boring locations. Boring, sampling, and testing requirements are a function of the subsurface conditions encountered. This estimated cost assumes that adequate bearing materials will be encountered within the planned boring depths. If unsuitable materials are encountered, the borings may need to be extended. Additional work required beyond the scope of services included in this proposal (e.g., access problems, or other such factors beyond PSI's control) will be invoiced on a time and expense (cost plus 20%) basis. We will not exceed the Lump Sum Fee without your prior approval.

Our fee estimates cover the activities required to present our findings in report form. Our fees do not include time to prepare construction specifications, attend special meetings, conferences or any other activities requested after submittal of our reports.

### **LIMITATIONS**

The services proposed herein are conventional in nature and do not include any special services that may lessen the risk of conditions that can contribute to moisture, mold or other microbial contaminant amplification in buildings. You may be aware that mold is abundant throughout



nature and is comprised of a wide variety of microscopic fungi. Due to its nature, the potential for mold infestations cannot be completely eliminated. However, PSI offers a wide array of professional Moisture, Waterproofing, Roofing and Indoor Air Quality/Mold Consulting services that can help minimize the likelihood of future occurrences. PSI is interested in discussing these service options with you to suit your specific needs and project objectives. If requested, PSI will submit a proposal for these additional services under a separate cover for your review and authorization.

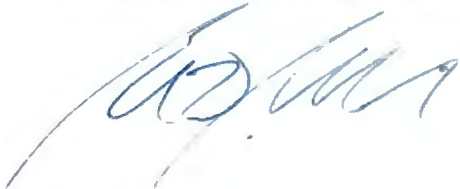
#### **AUTHORIZATION**

If this proposal is acceptable to you, PSI will perform the work in accordance with the attached General Conditions, which are incorporated into and made a part of this proposal. Please sign below as notice to proceed and return one copy of this proposal intact to our office. We will proceed with the work upon receipt of proposal authorization.

Please call with any questions you may have, or if PSI can be of additional service. We look forward to working with you on this and future projects.

Respectfully Submitted,

**PROFESSIONAL SERVICE INDUSTRIES, INC.**



Brand Burfield  
Project Geologist

Reviewed by: Dr. John Ho, GE  
Principal Consultant

Attachments: Confirmation of Authorization  
General Conditions





## GENERAL CONDITIONS

1. **PARTIES AND SCOPE OF WORK:** Professional Service Industries Inc. ("PSI") shall include said company or its particular division, subsidiary or affiliate performing the work. "Work" means the specific service to be performed by PSI as set forth in PSI's proposal, Client's acceptance thereof and these General Conditions. Additional work ordered by Client shall also be subject to these General Conditions. "Client" refers to the person or business entity ordering the work to be done by PSI. If Client is ordering the work on behalf of another, Client represents and warrants that it is the duly authorized agent of said party for the purpose of ordering and directing said work. Unless otherwise stated in writing, Client assumes sole responsibility for determining whether the quantity and the nature of the work ordered by the client is adequate and sufficient for Client's intended purpose. Client shall communicate these General Conditions to each and every third party to whom Client transmits any part of PSI's work. PSI shall have no duty or obligation to any third party greater than that set forth in PSI's proposal, Client's acceptance thereof and these General Conditions. The ordering of work from PSI, or the reliance on any of PSI's work, shall constitute acceptance of the terms of PSI's proposal and these General Conditions, regardless of the terms of any subsequently issued document.
2. **TESTS AND INSPECTIONS:** Client shall cause all tests and inspections of the site, materials and work performed by PSI or others to be timely and properly performed in accordance with the plans, specifications and contract documents and PSI's recommendations. No claims for loss, damage or injury shall be brought against PSI by Client or any third party unless all tests and inspections have been so performed and unless PSI's recommendations have been followed. Client agrees to indemnify, defend and hold PSI, its officers, employees and agents harmless from any and all claims, suits, losses, costs and expenses, including, but not limited to, court costs and reasonable attorney's fees in the event that all such tests and inspections are not so performed or PSI's recommendations are not so followed.
3. **PREVAILING WAGES.** This proposal specifically excludes compliance with any project labor agreement, labor agreement, or other union or apprenticeship requirements. In addition, unless explicitly agreed to in the body of this proposal, this proposal specifically excludes compliance with any state or federal prevailing wage law or associated requirements, including the Davis Bacon Act. Due to the professional nature of its services PSI is generally exempt from the Davis Bacon Act and other prevailing wage schemes. It is agreed that no applicable prevailing wage classification or wage rate has been provided to PSI, and that all wages and cost estimates contained herein are based solely upon standard, non-prevailing wage rates. Should it later be determined by the Owner or any applicable agency that in fact prevailing wage applies, then it is agreed that the contract value of this agreement shall be equitably adjusted to account for such changed circumstance. These exclusions shall survive the completion of the project and shall be merged into any subsequently executed document between the parties, regardless of the terms of such agreement. Client will reimburse, defend, indemnify and hold harmless PSI from and against any liability resulting from a subsequent determination that prevailing wage regulations cover the Project, including all costs, fines and attorney's fees.
4. **SCHEDULING OF WORK:** The services set forth in PSI's proposal and Client's acceptance will be accomplished by PSI personnel at the prices quoted. If PSI is required to delay commencement of the work or if, upon embarking upon its work, PSI is required to stop or interrupt the progress of its work as a result of changes in the scope of the work requested by Client, to fulfill the requirements of third parties, interruptions in the progress of construction, or other causes beyond the direct reasonable control of PSI, additional charges will be applicable and payable by Client.
5. **ACCESS TO SITE:** Client will arrange and provide such access to the site and work as is necessary for PSI to perform the work. PSI shall take reasonable measures and precautions to minimize damage to the site and any improvements located thereon as the result of its work or the use of its equipment.
6. **CLIENT'S DUTY TO NOTIFY ENGINEER:** Client warrants that it has advised PSI of any known or suspected hazardous materials, utility lines and pollutants at any site at which PSI is to do work, and unless PSI has assumed in writing the responsibility of locating subsurface objects, structures, lines or conduits, Client agrees to defend, indemnify and save PSI harmless from all claims, suits, losses, costs and expenses, including reasonable attorney's fees as a result of personal injury, death or property damage occurring with respect to PSI's performance of its work and resulting to or caused by contact with subsurface or latent objects, structures, lines or conduits where the actual or potential presence and location thereof were not revealed to PSI by Client.
7. **RESPONSIBILITY:** PSI's work shall not include determining, supervising or implementing the means, methods, techniques, sequences or procedures of construction. PSI shall not be responsible for evaluating, reporting or affecting job conditions concerning health, safety or welfare. PSI's work or failure to perform same shall not in any way excuse any contractor, subcontractor or supplier from performance of its work in accordance with the contract documents. Client agrees that it shall require subrogation to be waived against PSI and for PSI to be added as an Additional Insured on all policies of insurance, including any policies required of Client's contractors or subcontractors, covering any construction or development activities to be performed on the project site. PSI has no right or duty to stop the contractor's work.
8. **SAMPLE DISPOSAL:** Test specimens will be disposed immediately upon completion of the test. All drilling samples will be disposed sixty (60) days after submission of PSI's report.
9. **PAYMENT:** The quantities and fees provided in this proposal are PSI's estimate based on information provided by Client and PSI's experience on similar projects. The actual total amount due to PSI shall be based on the actual final quantities provided by PSI at the unit rates provided herein. Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. Client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause in writing within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law), until paid. Client agrees to pay PSI's cost of collection of all amounts due and unpaid after thirty (30) days, including court costs and reasonable attorney's fees. PSI shall not be bound by any provision or agreement requiring or providing for arbitration of disputes or controversies arising out of this agreement, any provision wherein PSI waives any rights to a mechanics' lien, or any provision conditioning PSI's right to receive payment for its work upon payment to Client by any third party. These General Conditions are notice, where required, that PSI shall file a lien whenever necessary to collect past due amounts. Failure to make payment within 30 days of invoice shall constitute a release of PSI from any and all claims which Client may have, whether in tort, contract or otherwise, and whether known or unknown at the time.
10. **ALLOCATION OF RISK: CLIENT AGREES THAT PSI'S SERVICES WILL NOT SUBJECT PSI'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LIABILITY, AND THAT NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, CLIENT AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY SHALL BE TO DIRECT OR ASSERT ANY CLAIM, DEMAND, OR SUIT ONLY AGAINST PSI. STATEMENTS MADE IN PSI REPORTS ARE OPINIONS BASED UPON ENGINEERING JUDGMENT AND ARE NOT TO BE CONSTRUED AS REPRESENTATIONS OF FACT.**  
SHOULD PSI OR ANY OF ITS EMPLOYEES BE FOUND TO HAVE BEEN NEGLIGENT IN THE PERFORMANCE OF ITS WORK, OR TO HAVE MADE AND BREACHED ANY EXPRESS OR IMPLIED WARRANTY, REPRESENTATION OR CONTRACT, CLIENT, ALL PARTIES CLAIMING THROUGH CLIENT AND ALL PARTIES CLAIMING TO HAVE IN ANY WAY RELIED UPON PSI'S WORK AGREE THAT THE MAXIMUM AGGREGATE AMOUNT OF THE LIABILITY OF PSI, ITS OFFICERS, EMPLOYEES AND AGENTS SHALL BE LIMITED TO \$25,000.00 OR THE TOTAL AMOUNT OF THE FEE PAID TO PSI FOR ITS WORK PERFORMED ON THE PROJECT, WHICHEVER AMOUNT IS GREATER. IN THE EVENT CLIENT IS UNWILLING OR UNABLE TO LIMIT PSI'S LIABILITY IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN THIS PARAGRAPH, CLIENT MAY, UPON WRITTEN REQUEST OF CLIENT RECEIVED WITHIN FIVE DAYS OF CLIENT'S ACCEPTANCE HEREOF, INCREASE THE LIMIT OF PSI'S LIABILITY TO \$250,000.00 OR THE AMOUNT OF PSI'S FEE PAID TO PSI FOR ITS WORK ON THE PROJECT, WHICHEVER IS THE GREATER, BY AGREEING TO PAY PSI A SUM EQUIVALENT TO AN ADDITIONAL AMOUNT OF 5% OF THE TOTAL FEE TO BE CHARGED FOR PSI'S SERVICES. THIS CHARGE IS NOT TO BE CONSTRUED AS BEING A CHARGE FOR INSURANCE OF ANY TYPE, BUT IS INCREASED CONSIDERATION FOR THE GREATER LIABILITY INVOLVED. IN ANY EVENT, ATTORNEY'S FEES EXPENDED BY PSI IN CONNECTION WITH ANY CLAIM SHALL REDUCE THE AMOUNT AVAILABLE, AND ONLY ONE SUCH AMOUNT WILL APPLY TO ANY PROJECT.  
NO ACTION OR CLAIM, WHETHER IN TORT, CONTRACT, OR OTHERWISE, MAY BE BROUGHT AGAINST PSI, ARISING FROM OR RELATED TO PSI'S WORK, MORE THAN TWO YEARS AFTER THE CESSATION OF PSI'S WORK HEREUNDER, REGARDLESS OF THE DATE OF DISCOVERY OF SUCH CLAIM.
11. **INDEMNITY:** Subject to the above limitations, PSI agrees not to defend but to indemnify and hold Client harmless from and against any and all claims, suits, costs and expenses including reasonable attorney's fees and court costs to the extent arising out of PSI's negligence as finally determined by a court of law. Client shall provide the same protection to the extent of its negligence. In the event that Client or Client's principal shall bring any suit, cause of action, claim or counterclaim against PSI, the Client and the party initiating such action shall pay to PSI the costs and expenses incurred by PSI to investigate, answer and defend it, including reasonable attorney's and witness fees and court costs to the extent that PSI shall prevail in such suit.
12. **TERMINATION:** This Agreement may be terminated by either party upon seven days' prior written notice. In the event of termination, PSI shall be compensated by Client for all services performed up to and including the termination date, including reimbursable expenses.
13. **EMPLOYEES/WITNESS FEES:** PSI's employees shall not be retained as expert witnesses except by separate, written agreement. Client agrees to pay PSI's legal expenses, administrative costs and fees pursuant to PSI's then current fee schedule for PSI to respond to any subpoena. For a period of one year after the completion of any work performed under this agreement, Client agrees not to solicit, recruit, or hire any PSI employee or person who has been employed by PSI within the previous twelve months. In the event Client desires to hire such an individual, Client agrees that it shall seek the written consent of PSI, and shall pay PSI an amount equal to one-half of the employee's annualized salary, without PSI waiving other remedies it may have.
14. **HAZARDOUS MATERIALS:** Nothing contained within this agreement shall be construed or interpreted as requiring PSI to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Client assumes full responsibility for compliance with the provisions of RCRA and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants.
15. **CHOICE OF LAW AND EXCLUSIVE VENUE:** All claims or disputes arising or relating to this agreement shall be governed by, construed, and enforced in accordance with the laws of Illinois. The exclusive venue for all actions or proceedings arising in connection with this agreement shall be either the Circuit Court in DuPage County, Illinois, or the Federal Court for the Northern District of Illinois.
16. **PROVISIONS SEVERABLE:** The parties have entered into this agreement in good faith, and it is the specific intent of the parties that the terms of these General Conditions be enforced as written. In the event any of the provisions of these General Conditions should be found to be unenforceable, it shall be stricken and the remaining provisions shall be enforceable.
17. **ENTIRE AGREEMENT:** This agreement constitutes the entire understanding of the parties, and there are no representations, warranties or undertakings made other than as set forth herein. This agreement may be amended, modified or terminated only in writing, signed by each of the parties hereto.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
10/23/2014

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).

<b>PRODUCER</b> Marsh USA Inc. 1717 Arch Street Philadelphia, PA 19103 Attn: Philadelphia.Certs@Marsh.com Fax: 212-948-0360	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
J19623-PSI-GAWUP-14-15      GAW    NA    Y	INSURER A : Travelers Property Casualty Co. Of America	NAIC # 25674
<b>INSURED</b> PROFESSIONAL SERVICE INDUSTRIES, INC. 4703 TIDEWATER AVENUE, SUITE B OAKLAND, CA 94601	INSURER B : N/A	N/A
	INSURER C : Lexington Insurance Company	19437
	INSURER D : Charter Oak Fire Insurance Company	25615
	INSURER E : _____	
INSURER F : _____		

**COVERAGES**      **CERTIFICATE NUMBER:** CLE-003638810-14      **REVISION NUMBER:** 14

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	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> PROD / COMPLETED OPS. <input checked="" type="checkbox"/> CONTRACTUAL GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			TC2JGLSA8042X73ATIL14	03/01/2014	03/01/2015	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							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	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			TC2JCAP8042X74TIL14	03/01/2014	03/01/2015	COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<b>UMBRELLA LIAB</b> OCCUR <b>EXCESS LIAB</b> CLAIMS-MADE DED      RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
D	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	TC20UB824K294A14 (AOS)	03/01/2014	03/01/2015	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
				TROUB8042X76514 (AZ, MA, OR, WI)	03/01/2014	03/01/2015	E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
C	<b>PROFESSIONAL LIABILITY</b> SIR: 1,000,000			020720814	03/01/2014	03/01/2015	EACH CLAIM	1,000,000
							AGGREGATE	1,000,000

**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 INCLUDED AS ADDITIONAL INSURED WHERE REQUIRED BY WRITTEN CONTRACT, BUT ONLY TO THE EXTENT OF THEIR LIABILITY RESULTING FROM THE NEGLIGENCE OF THE INSURED AND WITH RESPECT TO SERVICES PROVIDED BY THE INSURED FOR THE ADDITIONAL INSURED, EXCEPT FOR WORKERS COMPENSATION.

<b>CERTIFICATE HOLDER</b> OAKLAND UNIFIED SCHOOL DISTRICT ATTN: SUSIE BUTLER-BERKLEY 955 HIGH STREET OAKLAND, CA 94601	<b>CANCELLATION</b> 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 of Marsh USA Inc. Manashi Mukherjee <i>Manashi Mukherjee</i>
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## INDEPENDENT CONSULTANT AGREEMENT ROUTING FORM

Project Information			
Project Name	Laurel Elementary School Finishing Kitchen	Site	131
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		

Contractor Information							
Contractor Name	Professional Services Industries (PSI)	Agency's Contact	Brand Burfield				
OUSD Vendor ID #	I004989	Title	Project Manager				
Street Address	4703 Tidewater Avenue, Suite B	City	Oakland	State	CA	Zip	94601
Telephone	510-434-9200	Policy Expires	3.01.15				
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 #	13179						

Term			
Date Work Will Begin	12-10-2014	Date Work Will End By (not more than 5 years from start date)	12-10-2016

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$5,765.00
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 <u>before</u> completing requisition.				
Resource #	Funding Source	Org Key	Object Code	Amount
9350	Measure J	1319905890	6252	\$5,765.00

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.				
1.	Division Head	Phone	510-535-7038	Fax 510-535-7082
	Director, Facilities Planning and Management			
	Signature	Date Approved	11/3/14	
2.	General Counsel, Department of Facilities Planning and Management			
	Signature	Date Approved	11.7.14	
	Deputy Chief, Facilities Planning and Management			
3.	Signature	Date Approved	11/10/14	
	Chief Operations Officer, Board of Education			
4.	Signature	Date Approved	11/12/14	
	President, Board of Education			
5.	Signature	Date Approved		