

Board Office Use: Legislative File Info.	
File ID Number	12-3091
Committee	Facilities
Introduction Date	12-12-2012
Enactment Number	12-3006
Enactment Date	12-12-12



OAKLAND UNIFIED
SCHOOL DISTRICT

Committee on Facilities Planning and Management

Memo

To Board of Education

From Tony Smith, Ph.D., Superintendent
Timothy White, Associate Superintendent, Facilities Planning and Management

Board Meeting Date December 12, 2012

Subject Amendment No. 2, Professional Services Contract - ZFA Structural Engineers District-wide Seismic Safety Enhancement Program

Action Requested Approval by the Board of Education of Amendment No. 1, Professional Services Contract with ZFA Structural Engineers for Seismic Safety Enhancement Services on behalf of the District at District-wide Seismic Safety Enhancement Project, in an amount not-to exceed \$62,000.00 increasing previous contract amount from \$692,000.00 to a not to exceed amount of \$754,000.00 and revising the end date from June 23, 2011 through June 30, 2012 to January 31, 2013. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Background To provide for the Division of State Architect fees for the full seismic evaluation of approximately 100 different sites District-wide.

Local Business Participation Percentage 30.00%

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 Amendment No. 1, Professional Services Contract with ZFA Structural Engineers for Seismic Safety Enhancement Services on behalf of the District at District-wide Seismic Safety Enhancement Project, in an amount not-to exceed \$62,000.00 increasing previous contract amount from \$692,000.00 to a not to exceed amount of \$754,000.00 and revising the end date from June 23, 2011 through June 30, 2012 to January 31, 2013. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Fiscal Impact

Measure B

Attachments

- Professional Services Contract including scope of work



AMENDMENT NO. 2 TO INDEPENDENT CONSULTANT CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and ZFA Structural Engineers. OUSD entered into an Agreement with CONTRACTOR for services on June 23, 2011, and the parties agree to amend that Agreement as follows:

1.	Services:	<input type="checkbox"/> The scope of work is <u>unchanged</u> .	<input checked="" type="checkbox"/> The scope of work has <u>changed</u> .
<p>If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. <u>Attach revised scope of work.</u></p> <p>The CONTRACTOR agrees to provide the following amended services: <u>The scope of the project is to provide Division of Architect Fees for the District-wide Seismic Safety Enhancement Program.</u></p>			
2.	Terms (duration):	<input type="checkbox"/> The term of the contract is <u>unchanged</u> .	<input checked="" type="checkbox"/> The term of the contract has <u>changed</u> .
<p>If term is changed: The contract term is extended by an additional <u>Seven months</u>, and the amended expiration date is <u>January 31, 2013</u>.</p>			
3.	Compensation:	<input type="checkbox"/> The contract price is <u>unchanged</u> .	<input checked="" type="checkbox"/> The contract price has <u>changed</u> .
<p>If the compensation is changed: The contract price is amended by</p> <p style="padding-left: 40px;"><input checked="" type="checkbox"/> Increase of \$62,000.00 to original contract amount</p> <p style="padding-left: 40px;"><input type="checkbox"/> Decrease of \$ _____ to original contract amount</p> <p>and the new contract total is <u>Seven hundred fifty-four thousand dollars (\$754,000.00).</u></p>			

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

5. **Amendment History:**

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

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
1	9-14-2011	The scope of the project is to provide additional consulting services to encompass the OUSD Seismic Safety Enhancement (SSE) Program. ZFA is part of a team developing the national seismic retrofit standard (ASCE/SEI41), and are experienced with the procedures and policies of the Division of State Architect (DSA). In collaboration with OUSD staff, ZFA will prioritize and provide recommendations for which building should undergo a seismic retrofit in a pragmatic and transparent approach, utilizing other Oakland-based structural engineers and consultants where possible.	\$160,000.00

6. **Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.

OAKLAND UNIFIED SCHOOL DISTRICT

CONTRACTOR

Jody London 12/13/12
Jody London, President, Board of Education Date

Mark A. Moore 11/8/12
Contractor Signature Date

Edgar Rakestraw, Jr. 12/13/12
Edgar Rakestraw, Jr., Secretary Date
Board of Education Date

Mark A. Moore, Executive Principal
Print Name, Title

Timothy White _____
Timothy White, Associate Superintendent Date
Facilities, Planning and Management

File ID Number: 12-3091
Introduction Date: 12-12-12
Enactment Number: 12-3006
Enactment Date: 12-12-12
By: [Signature]

EXHIBIT "A" Scope of Work

Contractor Name:

Billing Rate: Sixty-two thousand dollars and no cents (\$62,000.00)

1. Description of Services to be Provided

Provide additional funds for DSA fees

2. Specific Outcomes:

Seismic oversight of the District's schools to create a safe environment

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

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

Oakland Unified School District or the District verifies that the Contractor does not appear on the Excluded Parties List at www.epls.gov/epls/search.do.

Susie Butler-Berkley 11-14-2012

Susie Butler-Berkley
Contract Analyst

EXHIBIT A

ZFA STRUCTURAL ENGINEERS

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

June 13, 2012

RE: Fee Status and Augmentation Request for Agency Fees

Tadashi,

With the three SMP projects moving into construction next week and as we have finished several other assignments, we provide herein a summary of fees expended, percentage to Oakland Local Business Enterprise, and request for Agency Fee reimbursement. We summarize the projects below, matching the invoicing provided to date. A summary of the SMP project, was provided on April 12, 2012.

1) Seismic Assessment and SMP Projects (\$632k)

SMP Projects:

Phase I	\$330,000	Invoiced and paid
Phase II	<u>\$202,000</u>	Invoiced and paid
Sub Total	\$532,000	

LBE Percentage achieved: 30%

Agency Fees \$62,000 Invoiced as a reimbursable and paid

OUSD's Portfolio Seismic Assessment:
Assessment and reports \$160,000

Total Project Fee: \$692,000 (\$754,000 with Agency fees)

Based on discussions with accounting staff, the \$62,000 reimbursable has been applied to the base project. **We request a fee augmentation to this project for \$62,000 to cover the agency fees expense.**

100 bush street
suite 1850
san francisco ca 94104
415 243 4091

2) PV Feasibility Study

We performed site visits and feasibility study for 17 sites. A report has been provided.

Our fee of \$16,200 has been invoiced. Contract to be ratified at tonight's Board of Supervisors meeting.

3) Glenview Seismic Assessment

We performed a seismic assessment and proved eligibility for Prop 1D funding, performed further analysis, developed a responsive retrofit scope, and compiled conceptual drawings. We then engaged Consolidated CM for estimating and worked two iterations to arrive at a credible cost opinion. This material was issued today and once we received comments, we will finalize the report.

We request a \$15,500 (or \$15,000 – see below) fee to cover our direct cost and those by the LBE, Consolidated CM, which provides a 23% LBE participation.

4) SMP Construction Phase

The ZFA Structural Engineers team's Not-To-Exceed (NTE) fee for construction services described above is listed below for each site. These projects have contracts and we will begin to invoice against these.

King Estates Seismic Retrofit Project #12101	\$90,000
Montera Seismic Retrofit Project #12102	\$45,000
Oakland Tech Seismic Retrofit Project #12103	\$60,000

At your discretion, items 1) and 3) could be combined to form a revised fee augmentation of \$62,000 plus \$15,500 (total of \$77,500), which would revise the original contract amount from \$692,000 to \$769,500.

Should you have questions, please contact the undersigned.

Kind Regards,
ZFA STRUCTURAL ENGINEERS



Mark A. Moore, SE, LEED AP
Principal

AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT ROUTING FORM

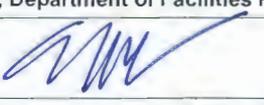
Project Information			
Project Name	District-wide Seismic Safety Enhancement Program	Site	District-wide
Basic Directions			
Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.			
Attachment Checklist	<input type="checkbox"/> Proof of general liability 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	ZFA Structural Engineers	Agency's Contact	Mark A. Moore				
OUSD Vendor ID #	V060441	Title	Project Manager				
Street Address	100 Bush Street, Suite 1850	City	San Francisco	State	CA	Zip	94104
Telephone	415-601-6054	Policy Expires	2-1-2013				
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 #	Various sites						

Term			
Date Work Will Begin	6-23-2011	Date Work Will End By <small>(not more than 5 years from start date)</small>	1-31-2013

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$754,000.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$ 62,000.00
Other Expenses		Requisition Number	

Budget Information				
<small>If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.</small>				
Resource #	Funding Source	Org Key	Object Code	Amount
9399, 9599, 9699	Measure B	9189901832	5825	\$62,000.00

Approval and Routing (in order of approval steps)					
<small>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.</small>					
	Division Head	Charles Love	Phone	510-535-7081	Fax 510-535-7082
1.	Capital Program Contract & Accounting Manager				
	Signature		Date Approved	11-19-12	
2.	General Counsel, Department of Facilities Planning and Management				
	Signature		Date Approved	11-20-12	
3.	Associate Superintendent, Facilities Planning and Management				
	Signature		Date Approved		
4.	President, Board of Education				
	Signature		Date Approved		

Board/Office Use: Legislative File Info.	
File ID Number	11-2707
Committee	Facilities
Introduction Date	9-7-2011
Enactment Number	11-1768
Enactment Date	9-14-11 <i>Ha</i>

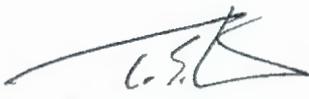


OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Tony Smith, Ed.D., Superintendent 
Timothy White, Assistant Superintendent, Facilities Planning and Management

Board Meeting Date September 14, 2011

Subject Amendment No. 1, Professional Services Facilities Contract - District-wide Seismic Safety Enhancement Project

Action Requested Approval by the Board of Education of Amendment No. 1, Professional Services Facilities Contract with ZFA Structural Engineers for a Seismic Safety Enhancement Services on behalf of the District at District-wide Sites, in an amount not-to exceed \$160,000.00 increasing previous contract amount from \$532,000.00 to a not to exceed amount of \$692,000.00. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Background To provide a full seismic evaluation of approximately 100 different sites to determine if they are potentially vulnerable to earthquake events.

Local Business Participation Percentage 0.00% (Sole Source)

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,



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools, Thriving Students

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 Amendment No. 1, Professional Services Facilities Contract with ZFA Structural Engineers for a Seismic Safety Enhancement Services on behalf of the District at District-wide Sites, in an amount not-to exceed \$160,000.00 increasing previous contract amount from \$532,000.00 to a not to exceed amount of \$692,000.00. All remaining portions of the agreement shall remain in full force and effect as originally stated.
Fiscal Impact	The funding source for this project is General Obligation Bond-Measure B.
Attachments	<ul style="list-style-type: none">• Professional Services Contract including scope of work
Key Code:	9189901828-5825



AMENDMENT NO. 1 TO PROFESSIONAL SERVICES CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and ZFA Structural Engineers. OUSD entered into an Agreement with CONTRACTOR for services on June 23, 2011, and the parties agree to amend that Agreement as follows:

1. Services:	<input type="checkbox"/> The scope of work is <u>unchanged</u> .	<input checked="" type="checkbox"/> The scope of work has <u>changed</u> .
If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. <u>Attach revised scope of work.</u>		
The CONTRACTOR agrees to provide the following amended services: <u>The scope of the project is to provide additional consulting services to encompass the OUSD Seismic Safety Enhancement (SSE) Program. ZFA is part of a team developing the national seismic retrofit standard (ASCE/SEI41), and are experienced with the procedures and policies of the Division of State Architect (DSA). In collaboration with OUSD staff, ZFA will prioritize and provide recommendations for which building should undergo a seismic retrofit in a pragmatic and transparent approach, utilizing other Oakland-based structural engineers and consultants where possible.</u>		
2. Terms (duration):	<input checked="" type="checkbox"/> The term of the contract is <u>unchanged</u> .	<input type="checkbox"/> The term of the contract has <u>changed</u> .
If term is changed: The contract term is extended by an additional _____ (days/weeks/months), and the amended expiration date is _____, 20____.		
3. Compensation:	<input type="checkbox"/> The contract price is <u>unchanged</u> .	<input checked="" type="checkbox"/> The contract price has <u>changed</u> .
If the compensation is changed: The contract price is amended by		
<input checked="" type="checkbox"/> Increase of \$160,000.00 to original contract amount		
<input type="checkbox"/> Decrease of \$ _____ to original contract amount		
and the new contract total is <u>Six hundred ninety-two thousand dollars and no cents (\$692,000.00)</u>		

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

5. **Amendment History:**

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

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

6. **Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.

OAKLAND UNIFIED SCHOOL DISTRICT

CONTRACTOR

Gary Yee, President, Board of Education 9/16/11
 Date

Edgar Rakestraw, Jr., Secretary
 Board of Education 9/16/11
 Date

Timothy White, Assistant Superintendent
 Facilities, Planning and Management _____
 Date

Contractor Signature 8/12/2011
 Date

MARK A. MOORE, PRINCIPAL
 Print Name, Title

Legislative File

File ID Number: 11-2207
 Introduction: 9-7-11
 Enactment Number: 11-1768
 Enactment Date: 9-14-11 22

EXHIBIT "A" Scope of Work

DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

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

SCOPE OF WORK

Contractor Name: ZFA Structural Engineers

Billing Rate: Six hundred ninety-two thousand dollars and no cents (\$692,000.00)

Description of Services to be Provided

1. Goals or Objectives

To provide a full seismic evaluation of approximately 100 different sites to determine if they are potentially vulnerable to earthquake events.

2. Description of Services to be Provided

The scope of the project is to provide additional consulting services to encompass the OUSD Seismic Safety Enhancement (SSE) Program. ZFA is part of a team developing the national seismic retrofit standard (ASCE/SEI41), and are experienced with the procedures and policies of the Division of State Architect (DSA). In collaboration with OUSD staff, we will prioritize and provide recommendations for which building should undergo a seismic retrofit in a pragmatic and transparent approach, utilizing other Oakland-based structural engineers and consultants where possible.

3. Deliverables

Seismic Safety Enhancement Program



ZFA Structural Engineers

July 20th, 2011

Oakland Unified School District

Attn.: Tadashi Nakadegawa
Director of Facilities
955 High Street
Oakland, CA 94601

**RE: Oakland Unified School District, Oakland, CA
Proposal for Services to Implement OUSD Seismic Safety Enhancement Program**

Tadashi Nakadegawa:

Please find herein our proposal for Consulting and Structural Engineering services for the ongoing work associated with the OUSD Seismic Safety Enhancement (SSE) Program. We are uniquely qualified for this role given that we are part of a team developing the national seismic retrofit standard (ASCE/SEI 41), and experienced with the procedures and policies of the Division of State Architecture (DSA). In collaboration with OUSD staff, we will prioritize and provide recommendations for which buildings should undergo a seismic retrofit in a pragmatic and transparent approach, utilizing other Oakland-based structural engineers and consultants where possible, and all in a fiscally responsible manner.

OUSD Building Portfolio

The OUSD consists of approximately 100 different sites with a diverse student and non-student population attending and working at Elementary Schools, Middle Schools and High Schools. A large number of these schools have been identified as potentially vulnerable to earthquake events and will require a detailed seismic evaluation. The OUSD schools of particular interest are those that were constructed following the Field Act (1933) and before 1978, when building codes had seismic design provisions that would not provide the seismic hazard protection we require today. In some cases, there are several buildings at one school campus that may be susceptible to severe earthquake damage. The school buildings are one to three stories in height and range from approximately 1,350 to 173,800 square feet. Based on the current version of the AB 300 list for OUSD, there are potentially 82 K-12 structures to be assessed as part of the SSE Program. The Children Development Centers (CDC) and Administrative buildings will also be included in the SSE Program. The structural systems for these buildings primarily consist of reinforced concrete and masonry, and steel frames.

Consultation Services

In addition to the deliverables below, we will be available to consult on all earthquake hazard issues that the staff at OUSD deems necessary or that we bring to OUSD's attention. Further, we will provide guidance and professional recommendations based on our expertise in the field of earthquake hazard reduction, while being mindful of the fiscal challenges and with the understanding that there are sorely needed funds to provide basic learning tools, such as classroom infrastructure. Given our extensive involvement with assisting the Department of General Services and DSA, we continue to receive policy and procedural changes ahead of the mainstream public and we will be sure to keep OUSD staff abreast of the most recent information. Our advisory role may also include contributing to memorandums,

2277 FAIR OAKS BLVD., SUITE 320
SACRAMENTO, CA 95825
PHONE: 916.924.7024

100 BUSH ST., SUITE 1850
SAN FRANCISCO, CA 94104
PHONE: 415.243.4091

1212 FOURTH ST., SUITE Z
SANTA ROSA, CA 95404
PHONE: 707.526.0992

OUSD Seismic Safety Enhancement Program

public notices, request for proposals, etc., as well as being present and willing to respond to public comments at outreach events.

OUSD AB 300 List

Our deliverables include updating and maintaining the OUSD AB 300 List based on the definition of "Category 2" Buildings and including the CDC and administrative facilities. As recently approved, the DSA definition of "Most Vulnerable Category 2 Buildings" will likely be deleted and the original AB 300 List of Category 2 buildings will be used. Reinforced concrete and masonry buildings with flexible diaphragms, and selective steel buildings will be included in the Category 2 list; essentially all buildings except those of wood frame construction are considered Category 2 buildings. This building classification system does not imply that either a building meets or does not meet the target performance objective (discussed below). Additionally, buildings may be removed from the Category 2 list through an initial assessment, thereby lowering their priority in the SSE Program.

Our scope includes incorporating discrepancies identified by OUSD staff, performing an independent review of the list to identify any further corrections, and identifying buildings that are or will be decommissioned through collaboration with OUSD staff and, if required, MKThink Inc. We will subsequently assist with updating DSA's records of the AB 300 List. Lastly, we will maintain the OUSD AB 300 List based on the wider Category 2 definition.

Building Seismic Assessments and Prioritization

For each building, we will perform a two-phase assessment. We will then prioritize the buildings in the most practical and fiscally responsible order for seismic retrofit. ZFA Structural Engineers will provide a professional recommendation as needed for which buildings are to undergo a seismic retrofit.

The first phase will be a desktop assessment to update the inventory of all buildings and to target all non-wood frame buildings. These buildings will form the "OUSD Category 2 List of Buildings", which are of most interest in the SSE Program. In general, this list will be divided into buildings of reinforced concrete and masonry buildings, with the balance being of steel frame construction.

The second phase will utilize other structural engineers that are based in the East Bay and will consist of a seismic assessment using a target structural performance objective of Collapse Prevention. This is the same criteria used in the DSA-approved funding eligibility evaluation tool, which is currently being revised to include broader building types. A list of the buildings that fail to meet the performance criteria will remain in the Category 2 classification. We will then systematically perform a detailed assessment of occupancy, degree of seismic risk, and preliminary approximate cost estimate for these buildings to be upgraded. We will prioritize the buildings based on the above assessment (and continually update the list based on changes in use), financial funding availability, and the execution of seismic retrofit projects. The order will not be based on vulnerability alone, and we will discuss each building with stakeholders to understand the broader, non-technical issues prior to forming our recommendations.

Ultimately, we will identify and recommend the buildings to be enhanced for seismic safety.

OUSD Seismic Safety Enhancement Program

Throughout this assessment and prioritization process, we will aggressively seek Proposition 1D funding while funds remain available and adjust the list order accordingly.

Assessment Tools

Noteworthy is the concurrent effort of the ASCE/SEI 31/41 Update Committee and OPSC/DSA to revise the current applicable national standard for evaluation, ASCE/SEI 31. The Update Committee, of which I am lead on the Analysis issue team, is working towards a release of a 2013 edition of the evaluation tool. This edition will redefine the Life Safety performance objective to align with Collapse Prevention for the structural performance objective. Likewise, OPSC/DSA has approved and implemented their version of ASCE 31 with the target performance objective of Collapse Prevention for the assessment. Shortly, this document will be expanded to include all building types identified by the original AB 300 List definition. We note the proposed initial assessment herein (using the updated DSA-approved tool and targeting Collapse Prevention) is used to identify the buildings of most concern, our primary goal at this time. Once DSA finalizes criteria, we will be in a position to perform evaluations to determine which buildings can be removed from the AB 300 List.

Fee

The ZFA Structural Engineers' Not-To-Exceed (NTE) fee for services described above is provided below.

NTE Fee Breakdown Table

Scope and Charge	Total Fee
Consultation Services	\$15,000
OUSD AB 300 List	\$20,000
Building Seismic Assessments and Prioritization	\$125,000

With regard to the last scope item, ZFA Structural Engineers will be Prime Consultant and provide up to 50% of the building seismic assessment work to Structural Engineering sub-consultants that have an Oakland Local Business Enterprise status, vested interest (parent or resident), and/or previous experience with the OUSD. At this time this list includes:

- Jeffery Tanner of A T Merovich & Associates
- Kevin N
- Kam Ya
- Stan W

The assessment fee as extrapolated from one assessment and document buildings that we seek

TOTAL Contract Amount = \$160,000

ication, and that results can be that group. A more detailed provided for approximately 10

We recommend that r building seismic asses meetings.

ents are completed. In any case, we will provide updates at our weekly

OUSD Seismic Safety Enhancement Program

Overarching Statement

We appreciate the opportunity to work and collaborate with OUSD in improving school facility safety with mindful consideration of the fiscal challenges. Our mission is to provide unparalleled design, management, and consultation services to you. We will endeavor to exceed your expectations. With the intention of establishing a strong professional relationship, we are highly motivated to provide excellent service, to utilize our extensive seismic design expertise cultivated from decades of experience and contributions to code development, and to make this a successful project.

Thank you for providing ZFA Structural Engineers with the opportunity to contribute to improvement of the Oakland Unified School District's learning environment and safety level.

Sincerely,



Mark A. Moore SE, LEED AP
Executive Principal
ZFA STRUCTURAL ENGINEERS

Board Office Use - Legislative File Info	
File ID Number	11-1392
Committee	Facilities
Introduction Date	6-14-2011
Enactment Number	11-1244
Enactment Date	6-22-11



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Tony Smith, Ed.D., Superintendent
Timothy White, Assistant Superintendent, Facilities Planning and Management

Board Meeting Date June 22, 2011

Subject Professional Services Facilities Contract - ZFA Structural Engineers - Various Sites Seismic Project

Action Requested Approval by the Board of Education of a Professional Services Facilities Contract with ZFA Structural Engineers for Various Sites Seismic Services on behalf of the District at Various Sites Project, in an amount not-to exceed \$532,000.00. The term of this Agreement shall commence on June 23, 2011 and shall conclude no later than June 30, 2012.

Background ZFA Structural Engineers will be addressing the nationally recognized standard for seismic retrofit of building and that empowers the engineer to tailor the analysis effort to afford the most efficient retrofit scope.

Local Business Participation Percentage 0.00% (Sole Source)

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



OAKLAND UNIFIED
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Community Schools, Thriving Students

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 a Professional Services Facilities Contract with ZFA Structural Engineers for Various Sites Seismic Services on behalf of the District at Various Sites Project, in an amount not-to exceed \$330,000.00. The term of this Agreement shall commence on June 23, 2011 and shall conclude no later than June 30, 2012.
Fiscal Impact	The funding source for this project is General Obligation Bond-Measure B.
Attachments	<ul style="list-style-type: none">• Professional Services Contract including scope of work
Key Code:	9189901828-5825

AGREEMENT FOR ARCHITECTURAL SERVICES

OAKLAND UNIFIED SCHOOL DISTRICT

WITH

ZFA Structural Engineers

FOR

**Oakland Technical, Montera and
King Estates Seismic Retrofits**

May 19, 2011

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AGREEMENT FOR ARCHITECTURAL SERVICES

This Agreement for Architectural Services is made as of **May 19, 2011**, between the Oakland Unified School District, a California public school district, ("District") and **ZFA Structural Engineers**, ("Architect") (both collectively "Parties"), for the following project ("Project"): **Oakland, Technical, Montera and King Estates Seismic Retrofit Projects**

That for and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

Article 1. Definitions

- 1.1. In addition to the definitions above, the following definitions for words or phrases shall apply when used in this Agreement, including all Exhibits:
 - 1.1.1. **Agreement:** The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
 - 1.1.2. **Architect:** The architect listed in the first paragraph of this Agreement, including all Consultants to the Architect.
 - 1.1.3. **As-Built Drawings ("As-Builts"):** Any document prepared and submitted by District contractor(s) that details on a Conforming Set, the actual construction performed during the Project, including changes necessitated by change orders
 - 1.1.4. **Bid Set:** The plans, drawings, and specifications at the end of the Construction Documents Phase that the Division of the State Architect ("DSA") has approved and that the District can use to go out to bid for construction of the Project.
 - 1.1.5. **Conforming Set:** The plans, drawings, and specifications at the end of the Bidding Phase that incorporate all addenda, if any, issued during the Bidding Phase. The Architect shall ensure that DSA has approved all revisions to the Bid Set that are incorporated onto the Conforming Set and for which DSA approval is required.
 - 1.1.6. **Construction Budget:** The total amount indicated by the District for the entire Project plus all other costs, including design, construction, administration, financing, and all other costs.
 - 1.1.7. **Construction Cost Budget:** The total cost to District of all elements of the Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with this Agreement. The Construction Cost Budget does not include the compensation of the Architect and the Architect's consultants, the cost of the land, rights-of-way, financing or

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other costs which are the responsibility of the District, including construction management.

- 1.1.8. **Consultant(s):** Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Architect.
- 1.1.9. **District:** The Oakland Unified School District.
- 1.1.10. **DSA:** The Division of the State Architect.
- 1.1.11. **Record Drawings:** A final set of drawings prepared by the Architect that incorporates all changes from all As-Builts, sketches, details, and clarifications.
- 1.1.12. **Service(s):** All labor, materials, supervision, services, tasks, and work that the Architect is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.
- 1.1.13. **Visually Verify:** To verify to the fullest extent possible by physical inspection and reasonable investigation and without any destructive action.

Article 2. Scope, Responsibilities, And Services Of Architect

- 2.1. Architect shall render the Services as described in **Exhibit "A,"** commencing with receipt of a written Notice to Proceed signed by the District representative. Architect's Services will be completed in accordance with the schedule attached as **Exhibit "C."**
- 2.2. Architect shall provide Services that shall comply with professional architectural standards including the standard of care applicable to architects designing public school facilities and applicable requirements of federal, state, and local law, including, but not limited to, the requirements of the California Business and Professions Code, the California Education Code, the California Code of Regulations, including the California Green Building Standards Code, effective 01/01/2011, and other amendments. All persons providing professional services hereunder shall be properly licensed as required by California law.
- 2.3. The District intends to award the Project to contractor(s) pursuant to a competitive bid process and a construction manager and/or contractor(s) may provide input to the Architect on the constructability and design features of the Project.
- 2.4. Architect acknowledges that all California public school districts are now or will soon be obligated to develop and implement the following storm water requirements, without limitation:
 - 2.4.1. A municipal Separate Storm Sewer System (MS4). An MS4 is a system of conveyances used to collect and/or convey storm

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water, including, without limitation, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

2.4.2. A Storm Water Pollution Prevention Plan (SWPPP) at:

2.4.2.1. Sites where the District engages in maintenance (e.g., fueling, cleaning, repairing) of transportation activities.

2.4.2.2. Construction sites where:

2.4.2.2.1. one (1) or more acres of soil will be disturbed, or

2.4.2.2.2. the project is part of a larger common plan of development that disturbs more than one (1) or more acres of soil.

2.4.3. Architect shall conform its design work to the District's storm water requirements indicated above, that are approved by the District and applicable to the Project, at no additional cost to the District. In addition, as required, Architect shall develop a grading and drainage plan and a site plan from architectural information showing a final development of the site. This drawing will also include a horizontal and vertical control plan and a utility infrastructure plan. The Services described in this Subparagraph shall be provided by a professional civil engineer who contracts with or is an employee of the Architect.

2.5. Architect shall contract for or employ at Architect's expense, consultant(s) to the extent deemed necessary for completion of the Project including, but not limited to, architects, mechanical, electrical, structural, civil engineers, landscapers, and interior designers, licensed as such by the State of California as part of the basic services under this agreement. The names of consultant(s) shall be submitted to the District for approval prior to commencement of Services, as indicated below. The District reserves the right to reject the Architect's use of any particular consultant. Nothing in the foregoing procedure shall create any contractual relationship between the District and any consultant employed by the Architect under terms of the Agreement. Architect shall require each of the consultants retained by it to execute agreements with the standard of care and indemnity provisions commensurate with this Agreement, but Architect shall remain solely responsible and liable to District for all matters covered by this Agreement.

2.6. Architect shall coordinate with District personnel 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

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any. If the Architect employs consultant(s), the Architect shall ensure that its contract(s) with its consultant(s) include language notifying the consultant(s) of the District's Labor Compliance Program, if any.

- 2.7. Architect shall identify the regulatory agencies that have jurisdiction over essential building and design elements and coordinate with and implement the requirements of the regulatory agencies, including, without limitation, the California Department of Education (CDE), the Office of Public School Construction (OPSC), the Department of General Services (DGS), DSA Fire/Life Safety, DSA Access Compliance Section, DSA Structural Safety Section, State Fire Marshal and any regulatory office or agency that has authority for review and supervision of school district construction projects.
- 2.8. Architect shall provide Services required to obtain any local agencies' approval for off-site work related to the Project including review by regulatory agencies having jurisdiction over the Project.
- 2.9. Architect shall coordinate with the District's DSA Project Inspector(s).
- 2.10. Architect shall give efficient supervision to Services, using its best skill and attention. Architect shall carefully study and compare all Contract Documents, Drawings, Specifications, and other instructions and shall at once report to District, Construction Manager, and Contactor, any error, inconsistency, or omission that Architect or its employees may discover, in writing, with a copy to District's Project Inspector(s). Architect shall have responsibility for discovery of errors, inconsistencies, or omissions.
- 2.11. Architect recognizes that the District may obtain the services of a Construction Manager and that Architect may have to assume certain coordination and management responsibilities, including tracking RFI's, providing RFI responses, and leading all coordination meetings between the District, Project Inspectors, and contractors on each of the Projects. The District reserves the right to retain the services of a Program Manager or Construction Manager or both at any time. The Construction Manager, if any, shall be authorized to give Architect Services authorizations and issue written approvals and Notices to Proceed on behalf of District. The District reserves the right to designate a different Construction Manager at any time. Any task, including, but not limited to, reviews or approvals that the District may perform pursuant to this Agreement may be performed by the Construction Manager, unless that task indicates it shall be performed by the governing board of the District. In addition, the District may have the Program Manager or Construction Manager perform a constructability review of Architect's design documents. Architect shall conform any design documents to the constructability review as part of the Services under this Agreement and shall not be entitled to any compensation as Extra Services for this activity.

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- 2.12. Architect shall provide computer-generated pictures downloaded to computer files, updated as requested by the District, that the District may use on its website.
- 2.13. As part of the basic Services pursuant to this Agreement, Architect is not responsible for:
 - 2.13.1. Ground contamination or hazardous material analysis.
 - 2.13.2. Any asbestos and/or lead testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
 - 2.13.3. Compliance with the California Environmental Quality Act ("CEQA"), except that Architect agrees to coordinate its work with that of any CEQA consultants retained by the District, to provide current elevations and schematic drawings for use in CEQA compliance documents, and to incorporate any mitigation measures adopted by the District into the Project design at no additional cost to the District.
 - 2.13.4. Historical significance report.
 - 2.13.5. Soils investigation.
 - 2.13.6. Geotechnical hazard report, except as indicated in **Exhibit "A."**

Article 3. Architect Staff

- 3.1. The Architect has been selected to perform the Services herein because of the skills and expertise of key individuals.
- 3.2. The Architect agrees that the following key people in Architect's firm shall be associated with the Project in the following capacities [All blanks below must be filled in by Architect and approved by District]:

Principal In Charge: Mark Moore, SE, LEED, A P, Executive Principal
 Project Architect(s): ZFA Structural Engineers, Oakland (LBE)
 Geotechnical Engineers(s): Treadwell & Rollo, Oakland (LBE)
 Other: _____
 Cost Estimator _____: Rick DesJarlais, Construction Manager

Major Consultants: NA

- 3.3. The Architect shall not change any of the key personnel listed above without prior written approval by District, unless said personnel cease to be employed by Architect. In either case, District shall be allowed

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to interview and approve replacement personnel.

- 3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice the Architect shall have five (5) days to remove that person from the Project and replace that person with one acceptable to the District. All lead or key personnel for any consultant must also be designated by the consultant and are subject to all conditions previously stated in this paragraph.
- 3.5. Architect represents that the Architect has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of Services required under this Agreement and that no person having any such interest shall be employed by Architect.
- 3.6. Architect shall comply with Education Code Section 17302(a) and agrees that any plans and/or specifications included in the Services shall be prepared under the supervision of licensed personnel, and that licensed personnel shall be in "responsible charge" of persons who observe the construction.

Article 4. Schedule Of Services

The Architect shall commence Services under this Agreement upon receipt of a Notice to Proceed and shall prosecute the Services diligently as described in **Exhibit "A,"** so as to proceed with and complete the Services in compliance with the schedule in **Exhibit "C."** Time is of the essence and failure of Architect to perform Services on time as specified in this Agreement is a material breach of this Agreement. It shall not be a material breach if a delay is beyond the Architect's or its consultant(s)' reasonable control.

Article 5. Construction Cost Budget

- 5.1. Architect hereby accepts the District's established Construction Cost Budget and Project scope. In accordance with the **Exhibit "A,"** the Architect shall have responsibility to further develop, review, and reconcile the Construction Cost Budget for the District at the beginning of the Project and at the completion of each design phase. The District and the Construction Manager shall also have responsibility to develop, review, and reconcile the Construction Cost Budget with the Architect.
- 5.2. Architect shall complete all Services as described in **Exhibit "A,"** including all plans, designs, drawings, specifications and other construction documents, so that the cost to construct the work designed by the Architect will not exceed the Construction Cost Budget, as adjusted subsequently with the District's written approval. The Architect shall maintain cost controls throughout the Project to deliver the Project within the Construction Cost Budget.
- 5.3. If any of the following events occur:

- 5.3.1. The lowest responsive base bid received is in excess of five percent (5%) of the Construction Cost Budget, or
- 5.3.2. If the combined total of base bid and all additive alternates come in ten percent (10%) or more under the Construction Cost Budget, or
- 5.3.3. If the Construction Cost Budget increases in phases subsequent to the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the county in which the District is located, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy, then the District, in its sole discretion, has one or a combination of the following alternatives:
 - 5.3.2.1. Give the Architect written approval on an agreed adjustment to the Construction Cost Budget.
 - 5.3.2.2. Authorize the Architect to re-negotiate, when appropriate, and/or re-bid the Project within three (3) months time of receipt of bids (exclusive of District and other agencies' review time) at no additional cost to the District.
 - 5.3.2.3. Terminate this Agreement if the Project is abandoned by the District, without further obligation by either party.
 - 5.3.2.4. Within three (3) months time of receipt of bids, instruct Architect to revise the drawings and specifications (in scope and quality as approved by the District) to bring the Project within the Construction Cost Budget for re-bidding at no additional cost to the District.

Article 6. Fee And Method Of Payment

- 6.1. District shall pay Architect for all Services contracted for under this Agreement an amount equal to the following ("Fee"):
An amount equal to Five hundred and thirty-two thousand dollars (\$532,000.00)
- 6.2. District shall pay Architect the Fee pursuant to the provisions of **Exhibit "D."**
- 6.3. Architect shall bill its work under this Agreement in accordance with **Exhibit "D."**
- 6.4. No increase in Fee will be due from change orders generated during the construction period to the extent caused by Architect's error or

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omission.

- 6.5. The Architect's Fee set forth in this Agreement shall be full compensation for all of Architect's Services incurred in the performance hereof as indicated in **Exhibit "D."**
- 6.6. Regardless of the structure of Architect's Fee, the Architect's Fee may be adjusted downward if the Scope of Services of this Agreement is reduced by the District in accordance with this Agreement.

Article 7. Payment For Extra Services Or Changes

District-authorized services outside of the scope in **Exhibit "A"** or District-authorized reimbursables not included in Architect's fee are "Extra Services." Any charges for Extra Services shall be paid by the District as described in **Exhibit "B"** only upon certification that the claimed Extra Services was authorized as indicated herein and that the Extra Services have been satisfactorily completed. If any service is done by Architect without prior written authorization by the Construction Manager or the District's authorized representative, the District will not be obligated to pay for such service. The foregoing provision notwithstanding, the Architect will be paid by the District as described in **Exhibit "B"** for Extra Services that the Construction Manager or the District's authorized representative verbally requests, provided that the Architect confirms such request in writing pursuant to the notice requirements of this Agreement, and proceeds with such Extra Services not earlier than two business days after the District receives confirmation of the request from the Architect.

Article 8. Ownership Of Data

- 8.1. Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for District to use, at its discretion, all plans, including, but not limited to, record drawings, specifications, and estimates that the Architect or its consultants, prepares or causes to be prepared pursuant to this Agreement.
- 8.2. The Architect retains all rights to all copyrights, designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that the Architect or its consultants prepares or causes to be prepared pursuant to this Agreement.
- 8.3. The Architect shall perform the Services and prepare all documents under this Agreement with the assistance of Computer Aided Design Drafting (CADD) (e.g., AutoCAD) Technology. The Architect shall deliver to the District, on request, the tape and/or compact disc format and the name of the supplier of the software/hardware necessary to use the design file. As to any drawings that Architect provides in a CADD file format, the District acknowledges that anomalies and errors may be introduced into data when it is transferred or used in a computer environment, and that the District should rely on hard copies

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of all documents.

- 8.4. In order to document exactly what CADD information was given to the District, Architect and District shall each sign a "hard" copy of reproducible documents that depict the information at the time Architect produces the CADD information. District agrees to release Architect from all liability, damages, and/or claims that arise due to any changes made to this information by anyone other than the Architect or Consultant(s) subsequent to it being given to the District.
- 8.5. Following the termination of this Agreement, for any reason whatsoever, the Architect shall promptly deliver to the District upon written request and at no cost to the District the following items (hereinafter "Instruments of Service") which the District shall have the right to utilize in any way permitted by statute:
 - 8.5.1. One set of the Contract Documents, including the bidding requirements, specifications, and all existing cost estimates for the Project, in hard copy, reproducible format.
 - 8.5.2. One set of fixed image CADD files in DXF format of the drawings that are part of the Contract Documents.
 - 8.5.3. One set of non-fixed image CADD drawing files in DXF or DWG or both format of the site plan, floor plans (architectural, plumbing, structural mechanical and electrical), roof plan, sections and exterior elevations of the Project.
 - 8.5.4. All finished or unfinished documents, studies, reports, calculations, drawings, maps, models, photographs, technology data and reports prepared by the Architect under this Agreement.
 - 8.5.5. The obligation of Section 8.5 of this Agreement shall survive the termination of this Agreement for any reason whatsoever.
- 8.6. In the event the District changes or uses any fully or partially completed documents without the Architect's knowledge or participation or both, the District agrees to release Architect of responsibility for such changes, and shall indemnify, defend and hold the Architect, harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees, on account of any damages or losses to property or persons, including injuries or death, or economic losses, arising out of that change or use except to the extent the Architect is found to be liable in a forum of competent jurisdiction. In the event District uses any fully or partially completed documents without the Architect's full involvement, the District shall remove all title blocks and other information that might identify the Architect and the Architect's consultants.

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Article 9. Termination Of Contract

- 9.1. If Architect fails to perform Architect's duties to the satisfaction of the District, or if Architect fails to fulfill in a timely and professional manner Architect's material obligations under this Agreement, or if Architect shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement, in whole or in part, effective immediately upon the District giving written notice thereof to the Architect. In the event of a termination pursuant to this subdivision, Architect may invoice District for all Services performed until the notice of termination, but District shall have the right to withhold payment and deduct any amounts equal to the District's costs because of Architect's actions, errors, or omissions that caused the District to terminate the Architect.
- 9.2. District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, Architect may invoice District and District shall pay all undisputed invoice(s) for Services performed until the District's notice of termination.
- 9.3. Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 9.4. The Architect has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement. Such termination shall be effective after receipt of written notice from Architect to the District. Architect may invoice District and District shall pay all undisputed invoice(s) for Services performed until the Architect's notice of termination.
- 9.5. If, at any time in the progress of the Design of the Project, the governing board of the District determines that the Project should be terminated, the Architect, upon written notice from the District of such termination, shall immediately cease Services on the Project. The District shall pay the Architect only the fee associated with the Services provided, since the last invoice that has been paid and up to the notice of termination.
- 9.6. If the District suspends the Project for more than one hundred twenty (120) consecutive days, the Architect shall be compensated for Services performed prior to notice of that suspension. When the Project is resumed, the schedule shall be adjusted and the Architect's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Architect's Services. If the District suspends the Project for more than two (2) years, the Architect may terminate this Agreement by giving written notice.

Article 10. Indemnity/Architect Liability

- 10.1. To the furthest extent permitted by California law, Architect 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, in whole or in part, the willful misconduct, recklessness, or negligent acts, errors, or omissions of Architect, 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.
- 10.2. Architect shall pay and satisfy any judgment, award or decree that may be rendered against the indemnified parties in any Claim. Architect shall also reimburse District for the cost of any settlement paid by District arising out of any Claim. Architect shall reimburse the indemnified parties for any and all legal expenses and costs, including expert witness fees and consultant fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided to the extent caused by the above agreement to indemnify. Architect's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the indemnified parties. District shall have the right to accept or reject any legal representation that Architect proposes to defend the indemnified parties.
- 10.3. Any and all costs incurred by District, or for which District may reasonably become liable, to the extent caused by the negligence of Architect in its performance hereunder, including negligent delays, shall be paid by Architect to District or the District may withhold those costs from amounts owing to Architect.

Article 11. Fingerprinting

Pursuant to Education Code section 45125.2, District has determined on the basis of scope of Services in this Agreement of this Project, that Architect, subcontractors, and their employees will have only limited contact with pupils at most. Architect shall promptly notify District in writing of any facts or circumstances which might reasonably lead District to determine that contact will be more than limited as defined by Education Code section 45125.1(d).

Article 12. Responsibilities Of The District

- 12.1. The District shall examine the documents submitted by the Architect and shall render decisions so as to avoid unreasonable delay in the process of the Architect's Services.

- 12.2. The District shall verbally or in writing advise the Architect if the District becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's documents. Failure to provide such notice shall not relieve Architect of its responsibility therefore, if any.
- 12.3. Unless the District and the Architect agree that a hazardous materials consultant shall be a consultant of the Architect, the District shall furnish the services of a hazardous material consultant or other consultants when such services are requested in writing by Architect and deemed necessary by the District or are requested by the District. These services shall include: asbestos and lead paint survey; abatement documentation; and specifications related to said matters which are to be incorporated into bid documents prepared by Architect. If the hazardous materials consultant is furnished by the District and not a consultant of the Architect, the specifications shall include a note to the effect that they are included in the Architect's bid documents for the District's convenience and have not been prepared or reviewed by the Architect. The note shall also direct questions about the specifications to its preparer.

Article 13. Liability Of District

- 13.1. 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.
- 13.2. District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Architect, or by its employees, even though such equipment be furnished or loaned to Architect by District.

Article 14. Nondiscrimination

- 14.1. Architect agrees that no discrimination shall be made in the employment of persons under this Agreement because of the race, national origin, ancestry, religion, age, physical or mental disability, sex, or sexual orientation of such person.
- 14.2. Architect shall comply with any and all applicable regulations and laws governing nondiscrimination in employment.

Article 15. Insurance

- 15.1. Architect shall comply with the insurance requirements for this Agreement, set forth in **Exhibit "E."**
- 15.2. Architect shall provide certificates of insurance and endorsements to District prior to commencement of the work of this Agreement as required in **Exhibit "E."**

Article 16. Covenant Against Contingent Fees

Architect warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Architect, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Architect, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the contract price or consideration or to recover the full amount of such fee, commission, percentage fee, gift, or contingency.

Article 17. Entire Agreement/Modification

This Agreement, including the Exhibits hereto, supersedes all previous contracts and constitutes the entire understanding of the Parties hereto. Architect shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both Parties. Architect specifically acknowledges that in entering this Agreement, Architect relies solely upon the provisions contained in this Agreement and no others.

Article 18. Non-Assignment Of Agreement

In as much as this Agreement is intended to secure the specialized Services of the Architect, Architect may not assign, transfer, delegate or sublet any interest therein without the prior written consent of District and any such assignment, transfer, delegation or sublease without the District's prior written consent shall be considered null and void. Likewise, District may not assign, transfer, delegate or sublet any interest therein without the prior written consent of Architect and any such assignment, transfer, delegation or sublease without Architect's prior written consent shall be considered null and void.

Article 19. Law, Venue

- 19.1. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of

the clauses of this Agreement shall be determined and governed by the laws of the State of California.

- 19.2. To the fullest extent permitted by California law, the county in which the District administration office is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

Article 20. Alternative Dispute Resolution

All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. If this method proves unsuccessful, then all claims, disputes or controversies as stated above may be decided through arbitration, if agreed to by all Parties.

Article 21. Severability

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Article 22. Employment Status

- 22.1. Architect shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which the Architect performs the Services which are the subject matter of this Agreement; provided always, however, that the Services to be provided by Architect shall be provided in a manner consistent with all applicable standards and regulations governing such Services.
- 22.2. Architect understands and agrees that the Architect's personnel are not and will not be eligible for membership in or any benefits from any District group plan for hospital, surgical or medical insurance or for membership in any District retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee.
- 22.3. Should District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Architect is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Architect which can be applied against this liability). District shall then forward those amounts to the relevant taxing authority.

- 22.4. Should a relevant taxing authority determine a liability for past services performed by Architect for District, upon notification of such fact by District, Architect shall promptly remit such amount due or arrange with District to have the amount due withheld from future payments to Architect under this Agreement (again, offsetting any amounts already paid by Architect which can be applied as a credit against such liability).
- 22.5. A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Architect shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Architect is an employee for any other purpose, then Architect agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Architect was not an employee.
- 22.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

Article 23. Certificate Of Architect

- 23.1. Architect certifies that the Architect is properly certified or licensed under the laws and regulations of the State of California to provide the professional Services that it has herein agreed to perform.
- 23.2. Architect certifies that it is aware of the provisions of the California Labor Code that 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 it certifies that it will comply with those provisions before commencing the performance of the Services of this Agreement.
- 23.3. Architect certifies that it is aware of the provisions of California Labor Code that require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). Since the Architect is performing Services as part of an applicable "public works" or "maintenance" project, and since the total compensation is \$1,000 or more, the Architect agrees to fully comply with and to require its consultant(s) to fully comply with all applicable prevailing wage requirements of the California Labor Code.

Article 24. Cost Disclosure - Documents And Written Reports

Architect shall be responsible for compliance with California Government Code

section 7550, if the total cost of the Contract is over five thousand dollars (\$5,000).

Article 25. Notice & Communications

Notices and communications between the Parties to this Agreement may be sent to the following addresses:

District:
Oakland Unified School District
Facilities Department
955 High Street
Oakland, CA 94601
ATTN: Tadashi Nakadegawa

Structural Engineer:
ZFA Structural Engineers
555 Howard Street, Suite 202
San Francisco, CA 94105
ATTN: Mark Moore, SE

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

Article 26. Disabled Veteran Business Enterprise Participation

Pursuant to section 17076.11 of the Education Code, the District has a participation goal for disabled veteran business enterprises (DVBES) of at least three (3) percent, per year, of funds expended each year by the District on projects that use funds allocated by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act (the Act). This Project may use funds allocated under the Act. Therefore, to the extent feasible and pertaining to future hirings, the Architect, before it executes the Agreement, shall provide to the District certification of compliance with the procedures for implementation of DVBE contracting goals, appropriate documentation identifying the amount(s) intended to be paid to DVBEs in conjunction with the contract, and documentation demonstrating the Architect's good faith efforts to meet these goals.

Article 27. District's Right to Audit

- 27.1. District retains the right to review and audit, and the reasonable right of access to Architect's and any sub-consultant's premises to review and audit the Architect's compliance with the provisions of this Agreement ("District's Right"). The District's Right includes the right to inspect, photocopy, and to retain copies, outside of the Architect's premises, of any and all Project-related records and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District shall keep this information confidential, as allowed by applicable law.
- 27.2. The District's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines are necessary to discover and

verify that the Architect is in compliance with all requirements of this Agreement.

- 27.3. If there is a claim for additional compensation or for Extra Services, the District's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the District determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.
- 27.4. The Architect shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. The Architect shall make available to the District for review and audit, all Project related accounting records and documents, and any other financial data. Upon District's request, the Architect shall submit exact duplicates of originals of all requested records to the District.
- 27.5. The Architect shall include audit provisions in any and all of its subcontracts, and shall ensure that these sections are binding upon all subconsultants.
- 27.6. Architect shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Architect's Project-related records and information.

Article 28. Other Provisions

- 28.1. The Architect shall be responsible for the cost of construction change orders caused directly by the Architect's willful misconduct or negligent acts, errors or omissions. Without limiting Architect's liability for indirect cost impacts, the direct costs for which the Architect shall be liable shall equal the difference between the cost of the change order and the reasonable cost of the work had that work been a part of the originally prepared construction documents. These amounts shall be paid by Architect to District or the District may withhold those costs from amounts owing to Architect.
- 28.2. Neither the District's review, approval of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Architect shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Architect's failure to perform any of the Services furnished under this Agreement to the standard of care of the Architect for its Services, which shall be, at a minimum, the standard of care of architects performing similar work for California school districts in or around the same geographic area of the District.
- 28.3. Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of

executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.

Article 29. Exhibits A through E attached hereto are hereby incorporated by this reference and made a part of this Agreement.

Article 30. Roofing Certification (If Applicable)

Architect shall execute the Roofing Certification attached hereto as **Exhibit "F"** for Services containing a roof repair or replacement project. Architect shall submit the Roofing Certification to the District prior to the time Services are engaged.

IN WITNESS WHEREOF, Consultants has executed this Agreement, and the District, by its Board of Education, who is authorized to do so, has executed this agreement.

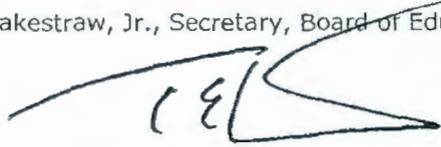
OAKLAND UNIFIED SCHOOL DISTRICT

Gary Yee, President, Board of Education

Date

Edgar Rakestraw, Jr., Secretary, Board of Education

Date



Timothy E. White, Assistant Superintendent, Facilities
Planning and Management

Date

ARCHITECT

By: *MARK A. MOORE, S.E.*
Its: *PRINCIPAL/PROPERTY OF EFA STR ONLY.*

5/31/2011

Date

APPROVED AS TO FORM:

Cate Boskoff, OUSD Facilities Legal Counsel

5.31.11

Date



ZFA Structural Engineers

May 10th, 2011

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

RE: Oakland Unified School District, Oakland, CA
Oakland Technical High, Montera Middle, and King Estates Middle Schools
Proposal for Services as Prime Consultant

Dear Tadashi:

Please find herein our proposal for services as Prime Consultant for the seismic retrofit of the school buildings identified below with, in part, Facility Hardship funding in response to Proposition 1D (AB 127). In accordance with the letter notification that you should have received from the Division of State Architect (DSA), the Oakland Unified School District has been deemed eligible for this funding through the Office of Public School Construction (OPSC). The listed buildings qualify as "Most Vulnerable Category 2 Building" following the assessment by ZFA and review by DSA. As outlined in DSA Procedure 08-03, the next phase to securing the funding is to provide construction documents with a complete and credible (detailed) construction cost for only the work associated with the seismic retrofit. The specific buildings are below.

- | | |
|-------------------------------|--|
| Oakland Technical High School | Auditorium |
| Montera Middle School | Gymnasium |
| King Estates Middle School | Classroom/Shop (Building 4) |
| King Estates Middle School | Multiuse (Building 5) |
| King Estates Middle School | Gymnasium (Building 6) |
| King Estates Middle School | Cover Walkways (Interconnecting 4 through 6) |

Please refer to the reports prepared as part of the eligibility assessment for description of buildings. We note those reports were targeted to identify at least one deficiency, not all deficiencies.

BACKGROUND

The non-voluntary seismic provisions of Title 24, California Code of Regulations (CCR), Part 2, 2010 Edition, Chapter 34 forms the basis of design. We note that within Chapter 34 the national standard ASCE/SEI 41 is adopted. This is a nationally recognized standard for seismic retrofit of buildings and that empowers the engineer to tailor the analysis effort to afford the most efficient retrofit scope. We are proficient with this standard, and when it is used correctly can lead to more accurate building assessments and often result in less retrofit scope as compared to more mainstream designs.

Oakland Unified School District

OUR PROCESS

In accordance with DSA Bulletin 09-07, we would approach this as a Collaborative/Participatory Process as used with Community Colleges. This will ensure that the District leadership is aware of the scope of work, its progress, and any facility-use impacts that may be required during implementation. At all stages of the evaluation, development of retrofit scope, and providing "For Construction" documents, we will include the District in the process and provide updates at significant milestones and when requested.

Our process assists with finalizing design criteria that utilizes the most liberal and current seismic analysis procedures, such as the aforementioned national standard ASCE/SEI 41, and to minimize scope changes during the review phase. Of course, where a simplified procedure can be used to obtain a cost effective approach, that procedure will be used. We will be requesting DSA staff such as Mr. Jim Hackett (or someone reporting directly to him for guidance) or a third party plan checker to ensure that the reviewer is knowledgeable with the most current seismic retrofit design procedures.

We propose two phases to this project with several milestones within each phase. The first phase (Phase I) will develop retrofit scope and construction documents (CD) to 40% complete, and in sufficient detail to form a fairly accurate construction cost. The construction scope will include all architectural and MEP components that are impacted by the retrofit. The project scope assumes the desktop evaluation of the geological hazards will find no ground rupture, slope stability, or liquefaction issues. We are assuming that either on site or adjacent site geotechnical information can be found through a literature research.

Based on initial discussions with DSA, ADA and Fire/Life Safety (conversation had today) are excluded but we will confirm this during our initial submittal and project meeting with DSA in accordance with Section 3421. At this time we would solicit formal concurrence from DSA as part of the Collaborative Process that the design intent meets their interpretation of CCR. This position will likely be sufficient to secure funding but not finalize the amount. This would be followed by the second phase (Phase II) of completing the construction documents, with DSA approval and forming a complete and credible construction cost. This in turn would be used to obtain the funding from DGS-OPSC.

OUR PROPOSED TEAM

To form a credible construction cost, the design team should include an architect, geotechnical engineer and a cost estimator. If other disciplines are determined to be required during the design phase, they can be readily engaged. We recommend architect Rob Barthelman of VBN, based on our excellent past and on-going working relationship. Rob brings new leadership to VBN that has provided Districts with communicative and collaborative processes and ensures technical accuracy that assist with on-schedule and on-budget projects. They have Oakland LBE status and have successfully completed work for OUSD in the past. While customarily the geotechnical engineer would consult directly with the school district, we are open to bringing them onboard as a sub consultant to our team.

Architect

Rob Barthelman, AIA
510.350.0079

VBN Architects, Oakland (LBE)

Geotechnical Engineer

Ramin Gofesorkhi, Ph.D., G.E.
510.874.4500

Treadwell & Rollo & A Langan Company, Oakland (LBE)

Cost Estimator

Rick DesJarlais, Construction Manger
916.646.2830

Consolidated CM, Oakland (SLBE)

Oakland Unified School District

Scope of Service

The indicative action items and deliverables below define the scope of work for the two phases. The approach in each phase will be tailored for each building, but will generally follow the milestones and deliverables and we note that unlike new construction a significant part of our work consists of the analysis performed to develop the retrofit scope. Please see attached flow chart for graphical representation of this process and indicative schedule.

Phase I: Develop Retrofit Scope (40% Construction Documents)

1. Develop design criteria to summarize code requirements and explain performance level goals.
2. Perform an ASCE/SEI 31 Tier 2 seismic evaluation to identify all potential seismic deficiencies and augment that evaluation with a numerical linear or non-linear model to *reduce* the number of deficiencies.
3. Meet with DSA through the Collaboration Process to review criteria, evaluation findings and discuss potential retrofit solution scopes.
4. Hold kickoff meeting with consultants in conjunction with a site visit.
5. Perform site visits to ascertain building's usage and functional requirements to minimize impact to occupants and to maintain a safe construction work space by considering phasing, construction schedule and laydown areas.
6. Develop a responsive seismic rehabilitation solution to address the identified deficiencies with an aim to minimize impact to architectural finishes and building functionality.
7. Provide backgrounds to the architect and assist them with developing the collateral (ancillary) scope. The ancillary scope consists of AMEP finishes and components impacted by the structural retrofit work.
8. Meet with the cost estimator to discuss the scope of work and review the initial estimate once it is completed. Hazardous material abatement cost is assumed to be provided by the District's Hazmat Consultant and will be included as a line item in the cost report.
9. Provide a 100% Design Development letter report summarizing our approach and describing the scope of work. We will include plans of each floor and roof for each building and describe on the drawings the scope of construction. We will provide sufficient explanation in the callouts for an expert construction cost estimator to develop a ballpark estimate.
10. Perform an in-house review to confirm the approach and solution meets DSA requirements, is the most cost effective approach, and is a well-coordinated set of documents, suitable for a low bid environment.
11. Meet with the District to discuss findings.
12. Incorporate reviewer's findings and complete analysis and design of key retrofit components.
13. Prepare 40% CD and determine a cost estimate.
14. Meet with DSA to confirm concurrence with their interpretation of the CCR intent.
15. Provide updated proposal and meet with District to discuss project status and Phase II.

Phase II: Construction Documents (Provide DSA-Approved Documents with cost estimate)

1. Revisit the site to review non-structural components potentially impacted by the details of the retrofit scope.
2. Complete design and detailing of the structural components.
3. Complete coordination of collateral scope with architect.
4. Assist the design team with non-structural bracing and architectural component design.
5. Prepare Construction Documents drawings and specifications for 75% and "For Permit" submittal.
6. Submit for agency review.

Oakland Unified School District

- 7. Respond to comments arising from the agency review process and provide 100% CD and issue these "For Construction".

Assumptions

There may be hazardous materials present where retrofit work is to be done. We assume the District has reports and/or Hazmat Consultant to advice on scope and cost. We also presume the construction process will be through a design-bid-build approach. Lastly, we assume that the default material properties of ASCE/SEI 41 may be used and that a materials testing program is not required. This latter issue will be subject to DSA approval.

Fee

The ZFA Structural Engineers Not-To-Exceed (NTE) fee for services described above is provided for Phase 1, develop retrofit scope and construction cost including all ancillary (AMEP components) work associated with the retrofit, which is broken down by building. Our hourly rates are contained in the enclosed Agreement, please see Exhibit A.

**Phase I: Develop Retrofit Scope
40% Construction Documents - Structural**

NTE Fee Breakdown Table

Building	Analysis Fee	Documentation Fee	Total Fee
Oakland Technical High School - Auditorium	\$45,000	\$25,000	\$70,000
Montera Middle School - Gymnasium	\$22,000	\$18,000	\$40,000
King Estates Middle School - Classroom/Shop	\$13,000	\$12,000	\$25,000
King Estates Middle School - Multiuse Building	\$13,000	\$12,000	\$25,000
King Estates Middle School - Gymnasium	\$22,000	\$18,000	\$40,000
King Estates Middle School - Cover Walkways	\$6,000	\$6,000	\$12,000
Structural Fee Subtotals	\$121,000	\$91,000	\$212,000

The consultants' fees sum to \$110,000 and are in addition to the fee shown in the table above. Our management of consultants and coordinating their work fee is \$8,000, rounded down, which is 7.5% of their fee. Therefore the total **Not-To-Exceed fee is \$330,000 for Phase I.**

With the scope and construction cost ratified by DSA and, perhaps, OPSC, Phase II would begin and consists of finalizing the construction documents and obtaining DSA approval and the issuance of "For Construction" documents. Our NTE fee for Phase II is provided below.

Oakland Unified School District

Phase II: "For Construction" Documents
NTE Fee Breakdown Table

Building	NTE Fee
Oakland Technical High School - Auditorium	\$50,000
Montera Middle School - Gymnasium	\$45,000
King Estates Middle Schools – Classroom/Shop	\$30,000
King Estates Middle Schools - Multiuse	\$30,000
King Estates Middle Schools – Gymnasium	\$37,000
King Estates Middle Schools - Cover Walkways	\$10,000
Sub-total	\$202,000

The total fee through providing "For Construction" documents (both Phase I and Phase II) is \$532,000, with 50% of which will be funded through Proposition 1D.

Oakland Local and Small Business Participation

Of the total fee of \$532,000, the following breakdown of minimum fees will be for LBE and SLBE firms:

VBN Architects (LBE – Cert. No. 1888)	15 percent: \$93,500
Treadwell & Rollo, Oakland (LBE – Cert. No. 5327)	5 percent: \$26,600
Consolidated CM (SLBE – Cert. No. 5316)	5 percent: \$26,600

We will provide fee proposal for the construction administration and project closeout phases upon completing securing of the Hardship Funding.

Overarching Statement

We appreciate the opportunity to work and collaborate with you on improving school facility safety with mindful consideration of the fiscal challenges. Our mission is to provide unparalleled design, management, and consultation services to you and we will endeavor to exceed your expectations. With the intention of establishing a strong professional relationship, we are highly motivated to provide excellent service, utilize our extensive seismic design expertise cultivated from decades of experience and contributions to code development, and strive to make this a successful project.

Oakland Unified School District

Thank you for providing ZFA Structural Engineers the opportunity to contribute to improving the learning environment and its safety level.

Kind regards,

ZFA STRUCTURAL ENGINEERS



Mark A. Moore SE, LEED AP
Executive Principal

Encl:

~~Exhibit A~~

Design Team Process Plan

EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF ARCHITECT

Architect shall provide all professional services necessary for completing the following:

- Provide construction documents for the seismic retrofit of the school buildings identified below and assist with obtaining Facility Hardship funding in response to Proposition 1D (AB 127). In accordance with the letter notification that you should have received from the Division of State Architect (DSA), the Oakland Unified School District has been deemed eligible for this funding through the Office of Public School Construction (OPSC). The listed buildings qualify as "Most Vulnerable Category 2 Building" following the assessment by ZFA and review by DSA. As outlined in DSA Procedure 08-03, the next phase, which forms the scope of this work, is to secure the funding and to provide construction documents with a complete and credible (detailed) construction cost for only the work associated with the seismic retrofit. The specific buildings are below.

Oakland Technical High School Auditorium

Montera Middle School Gymnasium

King Estates Middle School Classroom/Shop (Building 4)

King Estates Middle School Multiuse (Building 5)

King Estates Middle School Gymnasium (Building 6)

King Estates Middle School Cover Walkways (Interconnecting 4 through 6)

- ZFA Structural Engineers is the Prime Consultant (herein referred to as the Architect) and will manage the required sub-consultants to execute the above scope. The sub-consultants consist of an architect, a geotechnical/geological engineer and a cost estimator. Please see ZFA Structural Engineers' proposal letter dated May, 10th, 2011 for more detail. The Exhibit "A" herein shall override any discrepancies or conflicts between this document and ZFA's proposal letter, unless deemed otherwise by the district.

Architect agrees to provide the services described below:

1. Architect shall be responsible for the professional quality and technical accuracy of all studies, reports, projections, master plans, designs, drawings, specifications and other services, including Collaborative for High Performance Schools (CHPS) program registration and compliance per OUSD/CHPS guidelines, DSA/OPSC High Performance Incentive (HPI) Grant Program submission, if eligible, and PG&E's Savings By Design rebate incentive program, as applicable, furnished by Architect under the Agreement as well as coordination with all Master plans, studies, reports and other information provided by District. Architect shall, without additional compensation, correct or revise any errors or omissions in its studies, reports, projections, master plans, design, drawings, specifications and other services.

2. The District shall provide all information available to it to the extent the information relates to Architect's scope of work. This information shall include, if available,
 - a. Physical characteristics,
 - b. Legal limitations and utility locations for the Project site(s),
 - c. Written legal description(s) of the Project site(s),
 - d. Grades and lines of streets, alleys, pavements, and adjoining property and structures;
 - e. Adjacent drainage;
 - f. Rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries and contours of the Project site(s);
 - g. Locations, dimensions and necessary data with respect to existing buildings, other improvements and trees;
 - h. Information concerning available utility services and lines, mechanical and other services, both public and private, above and below grade, including inverts and depths;
 - i. Surveys, reports, as-built drawings, record drawings; and
 - j. Subsoil data, chemical data, and other data logs of borings and geotechnical reports.

Architect shall **Visually Verify** this information and all existing Project utilities, including capacity, and document the location of existing utility lines, telephone, water, sewage, storm drains and other lines on or around the Project to the extent determinable by the documents provided by the District.

If Architect determines that the information or documentation the District provides is insufficient, as established from the literature research and initial findings of the geotechnical engineer, for purposes of seismic retrofit analysis and design or if the Architect requires a topographical survey; structural, mechanical, and/or chemical tests; tests for air and/or water pollution; test borings; test pits; determinations of soil bearing values; percolation tests; ground corrosion tests; resistivity tests; tests for hazardous materials; tests for anticipating subsoil conditions; and/or other information that the District has not provided, the Architect shall request that the District acquire that information at the soonest possible time after Architect becomes aware that this additional information is needed. If the Parties mutually agree, this additional information and service shall be procured through the Architect, who may invoice the District for those services as Extra Services.

- a. In the event that the Architect provides site information and documentation as an Additional Service to the contract, then Architect shall be fully responsible for the accuracy and quality of site documentation including site survey data, utility information, and all aspects site conditions as confirmed by the Architect.

3. **District Standards.** District Standards. Architect shall incorporate in to its work and the work of all consultants the adopted District Standards for facilities and construction including, but not limited to, OUSD/CHPS Guidelines, including Owner's Project Requirements and District Standards as Adopted by the Board of Education in Resolution 0607-0158. **Failure by Architect to incorporate Oakland Unified School District Standards as updated to latest OUSD CHPS Guidelines into its work and the work of all Architect sub consultants is deemed to be a material breach of this Agreement.**

4. **Mandatory Assistance**

If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the District's request, and excepting any conflicts at interest, the Architect, its agents, officers, and employees agree to assist in resolving the dispute or litigation. The Architect's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation ("Mandatory Assistance")

5. **Coordination with Local, State, Federal Agencies.** The Architect shall coordinate and assist in the preparation of all necessary documents and studies as required by the State Allocation Board ("SAB"), Office of Public School Construction ("OPSC"), Division of State Architect (DSA), California Department of Education ("CDE") and other local, state and federal agencies. In particular, the Architect should assist with interpretation and application of DSA Procedure 08-03 and any modifications that may occur, and to assist with securing Facility Hardship funding as aforementioned in the scope of work. The Architect shall also coordinate and assist the District in qualifying for utility rebates and funding including, but not limited to, energy rebates and applications to PG&E's Savings By Design program for all new buidings. The District shall be copied on all such documentation, correspondence and communications with utilities, local, state and federal agencies. The Architect shall also coordinate and assist the District in obtaining required approvals from various public agencies and utility companies including, but not limited to, Department of Public Health, services from electric, gas, water, stormwater control or sanitary sewer, and telephone and cable TV public utilities. The Architect shall coordinate all local, state and federal agency requirements specific to the Project.

- **PRE-DESIGN AND START-UP SERVICES**

1. **Project Initiation**

Upon final execution of the Agreement with the District, the Architect shall:

- a. Within the first week following execution of the Agreement, review the proposed Schedule of Work set forth in Exhibit "C" to the Agreement and prepare a detailed scope of work list and work plan for documentation in a computer-generated Project schedule to the District's satisfaction. This scope of work list and work plan will identify specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, planning, concepts, meetings with DSA/OPSC, , and schematic design preparation and estimating that are part of the work of

the Project. Architect shall also identify milestone activities or dates, specific task responsibilities, required completion times necessary for the review and approval by the District and by all reviewing or regulatory agencies and additional definition of deliverables.

- b. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.
- c. Perform pre-design investigations to establish appropriate guidelines around which and within which the Project is to be designed. Review all data pertinent to the Project including survey, site maps, geotechnical reports and recommendations, soil testing results reports, and pertinent historical data, and other relevant information provided by District.
- d. Review applicable codes, building standards, DSA Procedure 08-03, and Owner's Project Requirements (OPR) pertaining to the proposed Project design.
- e. Identify design issues relating to functional needs, directives, and OPR that may be affected by constraints imposed by applicable regulatory codes, or standards, and communicate any issues in writing.
- f. Administer Project as required to coordinate work with the District and between subconsultants.

2. **Meetings**

During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops to develop the work plan to determine the seismic retrofit scope with construction Cost Budget.

3. **Presentation**

Architect along with any involved consultant(s) shall present and review with the District and, if directed, with it's the District's governing board, the summary and detail of work involved in this project initiation phase

4. **Deliverables and Numbers of Copies**

Architect shall provide to the District a hard copy of the following items produced in this Phase, together with one copy of each item in electronic format:

- a. Two copies of final Schedule of Work;
- b. Two copies of meeting Reports/Minutes from Kick-off and other meetings/workshops;

- c. Two copies of Seismic Retrofit Design Criteria, as interpreted from DSA 08-03 by the Architect.

- **PHASE I (40% Construction Documents)**

Upon District's acceptance of Architect's work in the previous Phase and assuming District has not delayed or terminated the Agreement, the Architect shall prepare for the District's review a 40% complete set of construction documents, containing the following items as applicable to the Project scope, as follows:

1. Prepare and review with District staff a scope of work list and work plan identifying specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, and planning that are part of the work of the Project. Also identified will be milestone activities or dates, specific task responsibilities of the Architect, required completion times necessary for the review and approval by the District and by pertinent regulatory agencies and additional definition of deliverables.
2. Review the developed work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.
3. Confirm with the District and with approving agencies, including DSA, the overall packaging of the Project into increments or phases which will provide a complete project.
 - a. Identify each of the Project increments and prepare a package of documents which is complete and coordinated with the overall project and all increments of the work which make up the complete project.
 - b. For each increment of the work the following requirements shall apply, similarly at each subsequent phase of the Architect's service.
4. **Architectural**
 - a. Scaled floor plans showing overall dimensions, identifying the various major areas where seismic retrofit work occurs and where it impacts the architectural finishes. Backgrounds of floor plans will be provided by ZFA Structural Engineers.
 - b. Preliminary building exterior elevations and sections in sufficient detail to demonstrate scope of finishes' impacts from seismic retrofit work.
5. **Structural**
 - a. Layout structural systems with dimensions and floor elevations. Identify new structural work and relevant existing structural systems (for example, wall-to-roof connections, pre-cast, structural steel with composite deck, structural steel bar joists); with sizing identified.
 - b. Identify existing foundation systems (including fill requirements, piles, caissons, spread footings); with generic sizing identified, and, if

required, location and details of new foundations that form the seismic retrofit scope

6. **Mechanical/Electrical/Plumbing**

- a. Scaled floor plans showing overall dimensions, identifying the various major areas where seismic retrofit work occurs and where it impacts the MEP systems. Backgrounds of floor plans will be provided by ZFA Structural Engineers.

7. **Specifications**

Prepare outline specifications of proposed structural work and collateral work as impacted by architectural, mechanical and electrical materials, systems and equipment. Architect shall review and comment on District's construction bid contracts and contract documents ("Division 0" documents) and Division 1 documents as part of its work under the Agreement.

8. **Construction Cost Budget**

In coordination with the Program Manager and the Design Phase Manager update the Construction Cost Budget for the Project based on findings from the cost estimator subconsultant. Along with the conditions identified in the preceding Phase, the following conditions apply to the revised Construction Cost Budget:

- a. Complete and credible construction cost estimate: This estimate consists of unit cost applied to the major items and quantities of work. The unit cost shall reflect the complete direct current cost of work. Complete cost includes labor, material, waste allowance, sales tax and subcontractor's mark-up.
 - (i) General conditions shall be applied separately. This estimate shall be prepared by specification section and summarized by the CSI categories.
- b. The estimate shall separate the Project's building cost from site and utilities cost.
- c. Escalation: all estimates shall be priced out at current market conditions. The estimates shall incorporate all adjustments as appropriate, relating to mid-point construction, contingency, and cost index (i.e. Lee Saylor Index).
- d. The Architect shall coordinate with the District's Program Manager and Design Phase Manager to further develop, review, and reconcile the Construction Cost Budget.
- e. At the end of this Phase, the Construction Cost Budget may include design contingencies of no more than ten percent (10%) in the cost estimates.

9. **Meetings**

10. **During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as required to complete the work of this phase of the project, Deliverables and Numbers of Copies**

Architect shall provide to the District a hard copy of the 40% Construction Documents with estimate, correspondence with DSA, if any, and an updated project work plan. The architect shall provide an interim submittal, as mutual agreed with the District's staff.

11. **Presentation**

- a. Architect shall present and review with the District the seismic retrofit scope and collateral issues, such as impacts to architectural and MEP components.

• **Phase II, 100% CONSTRUCTION DOCUMENTS**

1. Upon District's acceptance of Architect's work in the previous Phase and assuming District has not delayed or terminated the Agreement, the Architect shall prepare from the accepted deliverables from the Phase I the Construction Documents consisting of the following for each proposed system within Architect's scope of work:

Construction Documents ("CD") 100% CD's, DSA Submittal Package: Architect shall verify that all of the work of the project as indicated on the construction documents is complete, fully coordinated among the disciplines and meets the requirements of the Division of the State Architect for final submission and plan review of the project.

The Architect shall initiate and coordinate an in-house 75% CD review with the District, and Design Managers. This review shall include mandatory attendance by all of the Architect's sub-consultants and each shall present work-in-progress drawings, specifications, tables, calculations, and or other material clearly indicating that the work has progressed to the 75% CD phase.

2. **Architectural**

The construction documents shall identify structural retrofit work impact and remedial work to architectural components to form an accurate and precise scope of construction work. The documentation of this may include the following.

- a. Completed site plan. Site plan developed to show all building and improvement locations, key topographical elements and existing/proposed contour lines.
 - (i) Architectural site plans indicating the project phasing, locations of temporary housing if any, and coordinated fully with all disciplines (by ZFA Structural Engineers).
 - (ii) Demolition Plans. Where the project includes renovation of existing buildings the Construction Documents Demolition Plans shall be fully developed and coordinated among all disciplines of the project to clearly define all areas of demolition, identify any deconstruction and

quantify salvaged materials for re-use on or off-site, on the Demolition Plans.

- (A) Demolition Plans for full buildings, whether a part of the full package or a separate package for Construction shall be complete and fully coordinated indicating:
 - (1) All buildings and site elements to be demolished, deconstructed, salvaged or recycled on -site, and/or recycled or removed;
 - (2) All underground utilities, piping, footings, and other structural or non-structural elements which will impact the work;
- (B) Demolition Plans. Coordination with District's Hazardous Materials removal plans shall be complete at the end of this phase. Architect shall have reviewed with the District's Consultant all Hazardous Materials surveys and reports and clearly indicated to the Consultant any impacts due to the demolition of existing building elements required by the project. Architects plans shall reference Hazardous Materials abatement plans and specifications to be incorporated into the Construction Document set.
- (iii) Completed floor plans, elevations, and sections. Elevations (exterior and interior) developed to clearly indicate all work and reference all details, materials, schedules, and special conditions which form the basis of the work, sections and floor plans corrected to reflect design development review comments.
 - (A) Floor plans, elevations and sections coordinated referencing all relevant details of the work.
 - (B) Floor plans, elevations, and sections developed to incorporate plan review comments by the District, cost estimators, and Constructability Reviewers.
- (iv) Architectural details and enlarged plans and details fully completed to indicate the detailed relationships of the elements of the work, materials, construction sequences, structural requirements, finish elements, and fully coordinated among all of the disciplines.
- (v) Finish, door, window, and hardware schedules completed, including all details, system types, special conditions and District requirements or standards referenced and coordinated among all the disciplines of the project.
- (vi) Site utility plans completed.
- (vii) Fixed equipment, cabinets and casework details and identification completed. Schedule complete with proper references to details, sizes, configurations and standards.

- (viii) Reflected ceiling plans completed and coordinated with floor plans, electrical lighting plans, schedules, details, and mechanical and electrical systems and controls.

Incorporate all information and site designs related to temporary housing, where applicable.

Structural

- (ix) Structural floor plans and sections with detailing completed. Complete wall sections for each structural system location.
- (x) Structural calculations completed.
- (xi) Structural footing and foundation plans, floor and roof framing plans with detailing completed.
- (xii) Special structural systems designed and detailed including all required bracing for shelving, special systems, brackets, and incidental elements of the design.
- (xiii) Lateral force resisting system calculations completed with system design fully developed and detailing completed and fully coordinated with architectural and other disciplines of the project.
- (xiv) Structural designs, members and systems fully coordinated by Structural Engineer with other disciplines of the project.
- (xv) Completed cover sheet with general notes, symbols and legends.

b. **Mechanical/Electrical/Plumbing**

- (i) The construction documents shall identify structural retrofit work impact and remedial work to all MEP components to form an accurate and precise scope of construction work.
- (ii) Large scale details completed, clearly referenced on plans and schedules, and coordinated with architectural disciplines, electrical, and structural engineering for the project.

c. **Construction Cost Budget**

- d. Working with the District, the cost estimator sub consultant, who shall have primary responsibility to prepare Cost Estimates for the project, develop the Construction Cost Budget for the Project. Along with the conditions identified in the Agreement and the preceding Phases, the following conditions apply to the revised Construction Cost Budget for the Construction Documents Phase:

- e. Construction Documents Estimate: This further revised estimate shall be prepared by specification section, summarized by CSI category and

divided by trade and work item. The estimate shall include individual item unit costs of materials, labor and equipment. Sales tax, contractor's mark-ups, and general conditions shall be listed separately.

- f. At this stage of the design, the Construction Cost Budget may include design contingencies of no more than 0% in the cost estimates.
- g. **Specifications**
 - (i) Complete development and final preparation of technical specifications describing materials, systems and equipment, workmanship, quality and performance criteria required for the construction of the Project in accordance with Section 2.17 of this Agreement.
 - (ii) No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless:
 - (A) The specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service, as required by Public Contract Code, section 3400, or
 - (B) The designation is allowable by a specific allowable exemption or exception pursuant to Public Contract Code, section 3400
 - (iii) Specifications shall not contain restrictions that will limit competitive bids other those required for maintenance convenience by the District and only with District's prior approval.
 - (iv) At one hundred percent (100%) review, District shall review the specifications and shall direct Architect to make corrections at no cost to the District.
 - (v) Coordination of the Specifications with specifications developed by other disciplines.
 - (vi) Specifications shall be in CSI format
 - (vii) Architect shall review and incorporate the Division 0 and Division 1 Specifications developed by the District into the Project documents.
 - (A) Architect shall prepare and complete sections of the Division 1 as required by the District for the Project: Summary of Work, or any other Divisions which may require the Architect's input for the full coordination of the Project documents.

h. Constructability Review

The District shall conduct a Constructability review of the Construction Documents. A report shall be given to the Architect who shall make necessary changes along with providing written comments for each item listed in the report.

1. Architect and all sub-consultants shall attend Constructability review meeting(s) to review comments and after completion of changes to the documents shall meet with the reviewers and confirm that all applicable comments have been incorporated into the plans.

a. Incorporation of the comments shall be in a timely fashion coordinated with the completion of DSA Backcheck comments to provide the District with a fully coordinated set of documents for bidding and construction.

i. Deliverables and Numbers of Copies

Architect shall provide to the District one hard copy of the following items produced in this phase, together with one copy of each item in electronic format:

- (2) Reproducible copies of working drawings
- (2) Specifications,
- (2) Response to Commissioning agent's comments on Final Design
- (2) Engineering calculations
- (2) A statement indicating acceptance of the Revised Construction Cost Budgets developed and reconciled during this phase.
- (2) Statement of requirements for testing and inspection of service for compliance with Construction Documents and applicable codes.
- (2) DSA file including all correspondence, meeting, back check comments, checklists to date.
- (2) A statement indicating any authorized changes made to the design from the last Phase and the cost impact of each change on the previously approved Construction Cost Budget. If no design changes occur but shifts of costs occur between disciplines, identify for District review.

3. Construction Documents (CD) Final Back-Check Stage

a. The Construction Documents final back-check stage shall be for the purpose of the Architect incorporating all regulatory agencies'

comments and all Owner and any Commissioning Agent's review comments into the drawings, specifications, and estimate. All changes made by the Architect during this stage shall be at no additional cost to the District.

b. The final contract documents delivered to the District upon completion of the Architect's work shall be the Bid Set and shall consist of the following:

(i) Drawings: Original copies of all drawings with each Architect/consultant's State license stamp.

(ii) Drawings: Electronic format submitted to the District on PS2.

(iii) Specifications: Original word-processed technical specifications on reproducible masters in CSI format.

c. Architect shall update and refine the consultants' completed Construction Documents.

d. **Meetings** During this Phase, Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below.

• **MEETINGS / SITE VISITS / WORKSHOPS**

1. Architect shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops, as indicated below. Architect shall chair, conduct and take minutes of all coordination meetings during the entire design phase with its consultant(s). Architect shall invite the District and/or its representative to participate in these meetings. Architect shall keep a separate log to document design/coordination comments generated in these meetings.

2. **General Meeting, Site Visit, and Workshop Requirements**

a. Architect shall always be prepared to answer questions and issues from District staff, site staff, potential bidders, and/or contractors, as applicable.

b. Architect shall maintain a log of all meetings, site visits or site observations held in conjunction with the work of this Project, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Project documentation.

c. As required, Architect shall provide to the District copies of all documents or other information needed for each meeting, site visit, and workshop. These copies shall be a reimbursable expense.

- d. Meeting times shall be as required to complete the work and shall be held at the District office or at one of the Project sites, unless otherwise indicated.

3. Meetings During Project Initiation Phase

- a. Within the first week following execution of the Agreement, the Architect shall participate in one Project kick-off meeting for all sites to determine the Project intent, scope, budget and timetable, which shall encompass the following:
 - (i) The Architect, its appropriate consultant(s), and District staff, shall attend the meeting.
 - (ii) The Project kick-off meeting will introduce key team members from the District and the Architect to each other, defining roles and responsibilities relative to the Project.
 - (iii) During this meeting, the Architect shall:
 - (A) Identify and review pertinent information and/or documentation necessary from the District for the completion of the Project.
 - (B) Review and explain the overall Project goals, general approach, tasks, work plan and procedures and deliverable products of the Project.
 - (C) Review and explain the scope of work and Project work plan for all parties present; determine any adjustments or fine tuning that needs to be made to the work plan.
 - (D) Review documentation of the Project kick-off meeting prepared by the District's representative and comment prior to distribution.

4. Initial Site Visits meetings and site reviews as required without limitation to correctly inventory and identify all pertinent elements of the existing site and buildings for consideration as a part of the Project.

- a. Architect shall visit the Project sites to complete a visual inventory and documentation of the existing conditions.

5. Meetings During Phase I

- a. Within the first two weeks following the start of the Phase I, Architect shall conduct ongoing design meetings, with the District's facilities team and site personnel to complete a basic design framework of the Project. These workshops (Site Committee Meetings) shall be ongoing and may include several meetings and shall not be concluded until the principal has indicated his or her acceptance with the Architect's

preliminary design. These Site Committee Meetings shall include the following:

- (i) Architect shall designate its team member duties and responsibilities;
- (ii) Architect and District shall review District goals and expectations;
- (iii) District shall provide input and requirements;
- (iv) Architect and District shall review Project scope and budget;
- (v) Architect shall, on an ongoing basis, prepare updated plans, drawings, sketches, renderings to respond to proposed Project configurations during this phase;
- (vi) Prepare and/or revise the scope of work list and general workplan from the Pre-Design Phase, for documentation in a computer-generated Project schedule;
- (vii) Establish and agree regarding methods to facilitate the communication and coordination efforts for the Project.

6. Citizens' Bond Oversight: Committee Meetings

Architect acknowledges that the Project is subject to oversight by the District's citizen bond oversight committee. Architect shall, at the District's direction, attend one District citizen bond oversight committee meeting and present the Architect's design to the District's citizen bond oversight committee for review and recommendation to the District's governing board.

7. Governing Board Meetings

Architect acknowledges that the District's governing board must approve all designs. Architect shall, at the District's direction, attend up to two District governing board meeting(s) and present the Architect's design to the District's governing board for review and approval.

EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA WORK

The following Extra Work to the Agreement shall be performed by Architect if needed and if authorized or requested by the District:

- A. Making revisions in drawings, specifications, or other documents when such revisions are:
 - 1. Inconsistent with approvals or instructions previously given by the District.
 - 2. Required by the enactment or revisions of codes, laws, or regulations subsequent to the preparation of the Conforming Set.
 - 3. Due to changes required as a result of the District's failure to respond to a written request from the Architect within a reasonable time, as requested by Architect.
- B. Providing Work required because of significant documented changes in a Project initiated by the District, including but not limited to size, quality, complexity, the District's schedule, or method of bidding or negotiating and contracting for construction.
- C. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing Work required in connection with replacement of that work.
- D. Providing Work made necessary by the default of contractor(s), by major defects, or deficiencies in the work of contractor(s).
- E. In the absence of a final Certificate of Payment or Notice of Completion, providing Work more than sixty (60) days after the date of completion of work by contractor(s) and after Architect has completed all of its obligations and tasks under the Agreement.
- F. Providing deliverables or other items in excess of the number indicated in **Exhibit "A."** Before preparing, providing, sending, or invoicing for extra deliverables, Architect shall inform the District that expected deliverables may be in excess of the number indicated in **Exhibit "A,"** so that District can procure the additional deliverables itself or direct Architect to procure the deliverables at District's expense or on District's account at a specific vendor.
- G. Providing Work as directed by the District that are not part of the Work of this Agreement.
- H. Providing Work as an expert and/or witness for the District in any mediation, arbitration, and/or trial in which the Architect is (1) not a party, and (2) did not in any way cause the dispute that is being adjudicated.
- I. Providing training, adjusting, or balancing of systems and/or equipment

- J. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for extra Work and shall not be changed for the term of the Agreement.

Job Title	Hourly Rate
Principal In Charge:	\$180.00
Senior Engineer:	\$135.00
Engineer:	\$110.00
Drafter:	\$80.00

- K. The mark-up on any approved item of Extra Work shall not exceed five percent (5%).

EXHIBIT "C"

SCHEDULE OF WORK

- A. Promptly after the execution of this Agreement, the Architect shall prepare and submit for approval to the District a Schedule of Work showing the order in which Architect proposes to carry out Architect's work ("Schedule of Work"). The Schedule of Work shall apply to the completion of all Work listed hereunder within the times established by this Agreement. The Schedule of Work shall be in the form of a progress chart clearly delineating all important increments and review dates. Architect shall update the Schedule of Work on a monthly basis and deliver two (2) copies to the District along with the monthly billing.
- B. Architect shall complete all Work and Services required under Phase I within 6 months after written authorization from the District to proceed.
- C. Architect shall complete all Work and Services required under Phase II within 6 months after written authorization from District to proceed.
- D. The durations stated above include the review periods required by the District and all other regulatory agencies.
- E. All times to complete tasks set forth in this Exhibit are of the essence, as indicated in the Agreement. If delays in the Schedule of Work are imposed by the District's inability to comply with requested meeting schedules, Architect shall maintain the right to request an adjustment in the Schedule of Work if deemed necessary to meet the deadlines set forth in this Exhibit. If approved, those extensions shall be authorized in writing by the District.

EXHIBIT "D"
PAYMENT SCHEDULE

A. Compensation

1. The payment of consideration to Architect as provided herein shall be full compensation for all of Architect's Work incurred in the performance hereof, including, without limitation, all costs for personnel, travel within two hundred (200) miles of a Project location, offices, per diem expenses, printing and shipping of deliverables in the quantities set forth in **Exhibit "A,"** or any other direct or indirect expenses incident to providing the Work. Except as expressly set forth in the Agreement and **Exhibit "B,"** there shall be no payment for extra costs or expenses.
2. The total compensation to Architect shall be as stated in Article 6 of the Agreement.
3. District shall pay Architect as follows for all Work contracted for under this Agreement:

PERCENTAGE OF TOTAL FEE PER PHASE	
Phase	Phase Amount
Phase I: Pre-Design Activities	3.1%
Phase I: 25% Complete	12.4%
Phase I: 50% Complete	15.5%
Phase I: 75% Complete	15.5%
Phase I: 100% Complete	15.5%
Phase II: 30% Complete	11.4%
Phase II: 60% Complete	11.4%
Phase II: 100% Complete	15.2%
TOTAL BASE COMPENSATION	100%

B. Method of Payment

1. Invoices shall be on a form approved by the District and are to be submitted in triplicate to the District via the District's authorized representative.
2. Architect shall submit to the District for approval a copy of the Architect's pay request format.
3. Upon receipt and approval of Architect's invoices, the District agrees to make payments within thirty (30) days of receipt of the invoice.

EXHIBIT "E"

INSURANCE REQUIREMENTS

- A. Architect shall procure prior to commencement of the Work of this Agreement and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by the Architect, his agents, representatives, employees and consultant(s). Architect's liabilities, including but not limited to Architect's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Architect's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement, as required or when requested, may be treated as a material breach of contract by the District.
- B. **Minimum Scope and limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:
1. **Commercial General Liability.** 2 million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to each project/location or the general aggregate limit shall be twice the required occurrence limit.
 2. **Commercial Automobile Liability, Any Auto.** 1 million dollars (\$1,000,000) per accident for bodily injury and property damage.
 3. **Workers' Compensation Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Architect shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide employers' liability coverage with minimum liability coverage of 1 million dollars (\$1,000,000) per accident for bodily injury or disease. The Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 4. **Employers' Liability.** For all of the Architect's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Architect shall keep in full force and effect, an Employment Practices Liability policy. That policy shall provide employers' liability coverage with minimum liability coverage of 1 million dollars (\$1,000,000) per occurrence. The Architect shall provide an endorsement that the insurer waives the right of subrogation against the District and its respective elected officials, officers, employees, agents, representatives, consultants, trustees, and volunteers.
 5. **Professional Liability.** This insurance shall cover the prime design professional and his/her consultant(s) for 2 million dollars (\$2,000,000).

- C. The District reserves the right to modify the limits and coverages described herein, with appropriate credits or changes to be negotiated for such changes.
- D. **Deductibles and Self-Insured Retention:** The Architect shall inform the District in writing if any deductibles or self-insured retention exceeds NA thousand dollars (\$___,000). At the option of the District, either:
1. The District can accept the higher deductible;
 2. The Architect's insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or
 3. The Architect shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- E. **Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
1. The District, the District's Program Manager, Construction Manager, or both, their representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Architect; instruments of Service and completed operations of the Architect; premises owned, occupied or used by the Architect; or automobiles owned, leased, hired or borrowed by the Architect. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
 2. For any claims related to the projects, the Architect's insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of the Architect's insurance and shall not contribute with it.
 3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
 4. The Architect's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.
- F. **Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII. The Architect shall inform the District in writing if any of its insurer(s) have an A.M. Best's rating less than A:VII. At the option of the District, either:
1. The District can accept the lower rating; or

2. Require the Architect to procure insurance from another insurer.
- G. **Verification of Coverage:** Architect shall furnish the District with:
1. Certificates of insurance showing maintenance of the required insurance coverage; and
 2. Original endorsements affecting general liability and automobile liability coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before Work commence.

Client#: 452

ZFASTRUCT

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
05/20/11

PRODUCER
Dealey, Renton & Associates
P. O. Box 12675
Oakland, CA 94604-2675
510 465-3090

INSURED
ZFA Structural Engineers
2277 Fair Oaks Blvd., Suite 320
Sacramento, CA 95825

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURER A: Travelers Property Casualty Co of Am
INSURER B: Travelers Casualty & Surety Co. Amer
INSURER C:
INSURER D:
INSURER E:

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> 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	6806746L839	02/01/11	02/01/12	EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS GARAGE LIABILITY <input type="checkbox"/> ANY AUTO EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	BA313M1350	02/01/11	02/01/12	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$ EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	UB5283Y562	02/01/11	02/01/12	<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
B	OTHER Professional Liability	105398557	02/01/11	02/01/12	\$2,000,000 per Claim \$2,000,000 Annl Aggr.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
 General Liability Policy excludes claims arising out of the performance of professional services.

Ref: Professional Services Facilities Contract. The Oakland Unified School District, its Directors, Officers, Employees, Agents and Representatives (See Attached Descriptions)

CERTIFICATE HOLDER	ADDITIONAL INSURED; INSURER LETTER:	CANCELLATION
Oakland Unified School District Attn: Susie Butler-Berkley 955 High Street Oakland, CA 94601		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL BE OBLIGATED TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. AUTHORIZED REPRESENTATIVE <i>Shardell - ODCU</i>

DESCRIPTIONS (Continued from Page 1)

are included as Additional Insured for General and Automobile Liability.
Primary insurance and severability of interests apply per policy form. A
Waiver of Subrogation applies to Workers' Compensation.

POLICY NUMBER: 6806746L839

COMMERCIAL GENERAL LIABILITY

ISSUE DATE: 5/20/2011

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S): The Oakland Unified School District, its Directors, Officers, Employees, Agents and Representatives.

PROJECT/LOCATION OF COVERED OPERATIONS: All Operations of the Named Insured.

PROVISIONS

A. The following is added to WHO IS AN INSURED (Section II):

The person or organization shown in the Schedule above is an additional insured on this Coverage Part, but only with respect to liability for bodily injury, "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations;
- b. In connection with premises owned by or rented to you; or
- c. In connection with your work and included within the "products-completed operations hazard."

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

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

- d. This insurance does not apply to the rendering of or failure to render any "professional services".
 - e. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the LIMITS OF INSURANCE (Section III) for this Coverage Part.
- B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):
However, if you specifically agree in a contract or agreement requiring insurance that, for the additional insured shown in the Schedule, the insurance provided to that additional insured under this

COMMERCIAL GENERAL LIABILITY

Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance" for such additional insured. But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when the additional insured is also an additional insured under any other insurance.

- C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

We waive any rights of recovery we may have against the additional insured shown in the Schedule above because of payments we make for "bodily injury", "property damage" or "personal

injury" arising out of "your work" on or for the project, or at the location, shown in the Schedule above, performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that additional insured. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with that additional insured entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

- D. The following definition is added to DEFINITIONS (Section V):

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include the person or organization shown in the Schedule as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY

ENDORSEMENT WC 99 03 76 (00) --

POLICY NUMBER: UB5283Y562

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS
ENDORSEMENT - CALIFORNIA
(BLANKET WAIVER)**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be _____ % of the California workers' Compensation premium otherwise due on such remuneration.

Schedule

Person or Organization:

Oakland Unified School District
Attn: Susie Butler-Berkley
955 High Street
Oakland, CA 94601

Job Description:

Ref: Professional Services
Facilities Contract. A Waiver of
Subrogation applies in favor of The
Oakland Unified School District,
its Directors, Officers, Employees,
Agents and Representatives.

DATE OF ISSUE: 05/20/11



PROFESSIONAL SERVICES CONTRACT ROUTING FORM

Project Information			
Project Name	District-wide Seismic Safety Enhancement Project	Site	District-wide
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		

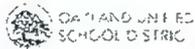
Contractor Information			
Contractor Name	ZFA Structural Engineers	Agency's Contact	Mark A. Moore, SE, LEED, A.P
OUSD Vendor ID #		Title	Executive Principal
Street Address	555 Howard Street	City	San Francisco State CA Zip 94105
Telephone	415-243-4091	Policy Expires	2-1-2012
Contractor History	Previously 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 #	NA		

Term			
Date Work Will Begin	June 23, 2011	Date Work Will End By (not more than 5 years from start date)	June 30, 2012

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$ 692,000.00
Pay Rate Per Hour (if Hourly)	\$	If Amendment, Changed Amount	\$ 160,000.00
Other Expenses		Requisition Number	

Budget Information				
If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.				
Fund #	Resource Name	Org Key	Object Code	Amount
2122	GO Bond-Measure B	9189901828	5825	\$ 160,000.00
				\$

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				
1.	Division Head	Charles Love	Phone	510-535-7081 Fax 510-879-3673
	Capital Program Contract & Accounting Manager			
	Signature		Date Approved	8-12-11
2.	General Counsel, Department of Facilities Planning and Management			
	Signature		Date Approved	8-15-11
3.	Assistant Superintendent, Facilities Planning and Management			
	Signature		Date Approved	
4.	President, Board of Education			
	Signature		Date Approved	



PROFESSIONAL SERVICES CONTRACT ROUTING FORM

Project Information

Project Name	Various School Sites	Site	Various School Sites
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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	ZFA Structural Engineers	Agency's Contact	Mark Moore
OUSD Vendor ID #		Title	Structural Engineer
Street Address	555 Howard Street, Suite 202	City	San Francisco
Telephone	415-243-4091	State	CA
Contractor History	Previously been an OUSD contractor? <input type="checkbox"/> Yes X No	Zip	94105
OUSD Project #	Various sites	Policy Expires	2-1-2018
		Worked as an OUSD employee?	<input type="checkbox"/> Yes X No

Term

Date Work Will Begin	6-23-2011	Date Work Will End By	6-30-2012
		(not more than 5 years from start date)	

Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$532,000.00
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.

Fund #	Resource Name	Org Key	Object Code	Amount
2122	GO Bond-Measure B	9189901828	5825	\$532,000.00
				\$

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	Charles Love	Phone	510-879-8389	Fax	510-879-3673
1.	Capital Program Contract & Accounting Manager					
	Signature		Date Approved	5-24-11		
2.	General Counsel, Department of Facilities Planning and Management					
	Signature		Date Approved	5-31-11		
3.	Assistant Superintendent, Facilities Planning and Management					
	Signature		Date Approved			
4.	President, Board of Education					
	Signature		Date Approved			

POLICY NUMBER: 6806746L839

COMMERCIAL GENERAL LIABILITY
ISSUE DATE: 02/01/12

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S): Oakland Unified School District
Attn: Susie Butler-Berkley
955 High Street
Oakland, CA 94601

PROJECT/LOCATION OF COVERED OPERATIONS:

ZFA project #11256.10 OUSD Seismic Safety Enhancement Program. NAME OF ADDITIONAL INSURED PERSON(S) OR ORGANIZATION(S) CONT.: The Oakland Unified School District, its Directors, Officers, Employees, Agents and Representatives

PROVISIONS

A. The following is added to WHO IS AN INSURED (Section II):

The person or organization shown in the Schedule above is an additional insured on this Coverage Part, but only with respect to liability for bodily injury, "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations;
- b. In connection with premises owned by or rented to you; or
- c. In connection with your work and included within the "products-completed operations hazard."

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

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

- d. This insurance does not apply to the rendering of or failure to render any "professional services".
 - e. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the LIMITS OF INSURANCE (Section III) for this Coverage Part.
- B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):
However, if you specifically agree in a contract or agreement requiring insurance that, for the additional insured shown in the Schedule, the insurance provided to that additional insured under this

COMMERCIAL GENERAL LIABILITY

Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance" for such additional insured. But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when the additional insured is also an additional insured under any other insurance.

- C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

We waive any rights of recovery we may have against the additional insured shown in the Schedule above because of payments we make for "bodily injury", "property damage" or "personal

injury" arising out of "your work" on or for the project, or at the location, shown in the Schedule above, performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that additional insured. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with that additional insured entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

- D. The following definition is added to DEFINITIONS (Section V):

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include the person or organization shown in the Schedule as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

ZFA Structural Engineers

**WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY**

ENDORSEMENT WC 99 03 76 (00) --

POLICY NUMBER: UB5283Y562

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS
ENDORSEMENT - CALIFORNIA
(BLANKET WAIVER)**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be % of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization:

Oakland Unified School District
Attn: Susie Butler-Berkley
955 High Street
Oakland, CA 94601

Job Description:

ZFA project #11256.10 OUSD Seismic Safety Enhancement Program. A Waiver of Subrogation applies in favor of The Oakland Unified School District, its Directors, Officers, Employees, Agents and Representatives.

DATE OF ISSUE: 02/01/12