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Enactment Number	14-0790
Enactment Date	5/14/14



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

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

Board Meeting Date May 14, 2014

Subject Independent Consultant Agreement for Professional Services - Simplex Grinnell - Whittier Portable Installation Phase II Project

Action Requested Approval by the Board of Education of an Independent Consultant Agreement for Professional Services with Simplex Grinnell for Fire Alarm Supervision Services on behalf of the District at the Whittier Portable Installation Phase II Project, in an amount not-to exceed \$1,680.00. The term of this Agreement shall commence on May 15, 2014 and shall conclude no later than October 1, 2014.

Background Supervision is necessary for correct installation of fire alarm system.

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 an Independent Consultant Agreement for Professional Services with Simplex Grinnell for Fire Alarm Supervision Services on behalf of the District at the Whittier Portable Installation Phase II Project, in an amount not-to exceed \$1,680.00. The term of this Agreement shall commence on May 15, 2014 and shall conclude no later than October 1, 2014.

Fiscal Impact

County School Facilities Fund

Attachments

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

INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES

2014 APR 22 A 8:58

Whittier Portable Installation Project

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the **28th day of March, 2014** by and between the Oakland Unified School District, Oakland, California ("District") and **Simplex Grinnell** ("Consultant"), (together, "Parties").

NOW, THEREFORE, the Parties agree as follows:

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

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

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

The scope of the project is to provide supervision of the low-voltage installer of the fire alarm components.

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

The contract will commence May 15, 2014 and conclude no later than October 1, 2014.

3. **Submittal of Documents.** The Consultant shall not commence the Work under this Contract until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

Signed Agreement
 Workers' Compensation Certification
 Insurance Certificates and Endorsements

4. **Compensation.** Consultant's fee for the performance of Consultant's Services shall be on an hourly basis and/or a per unit basis, as indicated in **Exhibit "B"** (Prices for Services). District agrees to pay the Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed **Six thousand, six hundred and eighty dollars and no cents (\$1,680.00)**. District shall pay Consultant according to the following terms and conditions:

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

5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, except as follows: Not applicable.

6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
7. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows: Not applicable.
8. **Performance of Services.**
 - 8.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts.
 - 8.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
 - 8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.
9. **[Reserved]**
10. **[Reserved]**
11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

12. **Termination.**

- 12.1. **Without Cause By District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.
- 12.2. **Without Cause By Consultant.** Consultant may, upon thirty (30) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.
- 12.3. **With Cause By District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - 12.3.1. material violation of this Agreement by the Consultant; or
 - 12.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
 - 12.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

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

13. **Indemnification.** To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim"), to property or persons, including personal injury and/or death, to the extent that any of the above arise out of, pertain to, or relate to the negligence, recklessness, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement.

14. **Insurance.**

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

14.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

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

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

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

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

14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

14.2.3. An endorsement stating that the District and the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An

endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District.

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

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

15. **Assignment.** Consultant reserves the right to assign to a successor entity of Consultant as part of an internal reorganization of Consultant which results in Consultant being organized in a different legal entity or corporate form, where through conversion, merger, or otherwise. Only with prior written notice to District.

16. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

17. **Certificates/Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.

18. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).

20. **Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services.

21. **[Reserved]**

22. **Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE):** There is a twenty percent (20%) minimum participation requirement for all District contracts. Consultant shall comply with the twenty percent (20%) local business participation requirement at a rate of ten percent (10%) local and 10% small local and/or small local resident business participation. The requirement may be wholly satisfied by a City

of Oakland certified business. Business entities must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent participation requirement. Please refer to the District's S/SL/SLRBE Policy; a copy can be obtained for the OUSD website: www.ousd.k12.ca.us

23. **No Rights In Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
- 24.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
- 24.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
25. **Limitation of District Liability.** Other than as provided in this Agreement, Consultant and 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 Consultant or District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
26. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement. "This obligation shall not apply to any information (1) in the public domain, (b) already in the Consultant's possession free of any confidentiality agreement and not obtained from the District, (c) provided to the Consultant from a third party free of any confidentiality obligation and not obtained from the District, or (d) independently developed."
27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

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

Consultant:
Andrew Milne
Simplex Grinnell
6952 Preston Avenue
Livermore, CA 94551

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

- 28. Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
- 29. California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
- 30. Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 31. Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
- 32. Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
- 33. Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
- 34. Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
- 35. Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
- 36. Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
- 37. Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
- 38. Consultant** warrants that it has the qualifications and the skills to perform its obligations hereunder and its workmanship shall be performed in a professional workmanlike manner and material furnished under this agreement shall be new, of good quality, and free from defects for one (1) year from the date of furnishing. Where Consultant provides product or equipment of others, Consultant will warrant the product or equipment only to the extent warranted by such third party. **EXCEPT AS EXPRESSLY SET FORTH HEREIN, THIS WARRANTY DOES NOT APPLY TO ANY PRODUCT OR SOFTWARE WHICH HAS BEEN SUBJECTED TO ABUSE, MISHANDLING, OR IMPROPER USE AND CONSULTANT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MECHANABILITY OR FITNESS FOR A PARTICULAR**

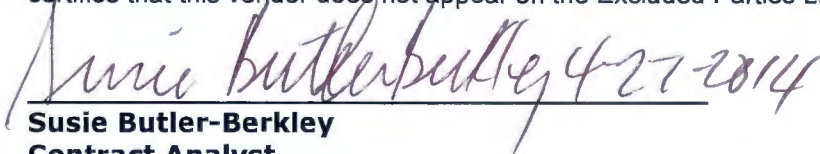
PURPOSE WITH RESPECT TO THE SERVICES PERFORMED OR THE PRODUCTS, SYSTEMS OR EQUIPMENT, IF ANY, SUPPORTED HEREIN.

Consultant shall not be responsible for abatement and/or removal and disposal of hazardous or asbestos-containing materials. Should any hazardous materials be encountered at any time, Consultant shall immediately stop all work until such hazardous or unsafe condition is rectified and the District so notifies Consultant in writing that work can safely be resumed, based on test conducted by a licensed testing organization. Timetables for delivery of Consultant products or services shall be adjusted appropriately for any associated delay.

Reciprocal Waiver of Claims (SAFETY Act). Certain of Consultants systems and services have received Certification and/or Designation as Qualified Anti-Terrorism Technologies ("QATT_ under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§441-444 (the "SAFETY Act"). As required under 6 C.F.R. 25.5 (e), to the maximum extent permitted by law, Consultant and District hereby agree to waive their right to make any claims against the other for any losses, including business interruption losses, sustained by either party or their respective employees, resulting from an activity resulting from an "Act of Terrorism" as defined in 6 C.F.R. 25.2, when QATT have been deployed in defense against, response to, or recovery from such Act of Terrorism.


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

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


Susie Butler-Berkley
Contract Analyst


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

OAKLAND UNIFIED SCHOOL DISTRICT



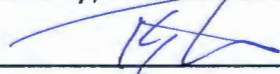
David Kakashiba, President, Board of Education

Date: 5/15/14



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


Date: 5/15/14



Timothy White, Associate Superintendent Facilities Planning and Management

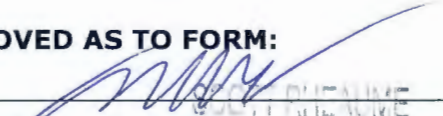
Date: _____

SIMPLEX GRINNELL



4/14/14

APPROVED AS TO FORM:



Catherine Boskoff, Facilities Counsel
DISTRICT GENERAL MANAGER

Date: 4.23.14

Information regarding Consultant:

Consultant: SimplexGrinnell LP

58-2609861 :

License No.: 986047

Employer Identification and/or Social Security Number

Address: 6452 Preston Ave, Suite A
Livermore CA 94551

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

Telephone: 925-273-0100

Facsimile: 925-273-0120

E-Mail: -

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

WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part provides:

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

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

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

Date: _____
Proper Name of Consultant: _____
Signature: SR _____
Print Name: 4/18/14 _____
Title: _____

SCOTT RHEAUME
DISTRICT GENERAL MANAGER

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

CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

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

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

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

_____The Consultant has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its sub-consultants' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122. 1. A complete and accurate list of Consultant's employees and of all of its sub-consultants' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

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

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

Name: _____

Title: _____

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

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

Date: 4/18/14

Proper Name of Consultant: _____

Signature: SC

Print Name: _____

Title: _____

**SCOTT RHEAUME
DISTRICT GENERAL MANAGER**

DRUG/SMOKE-FREE WORKPLACE CERTIFICATION

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

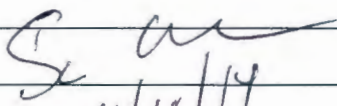
Date: _____
Proper Name of Consultant: _____
Signature:  _____
Print Name: _____
Title: _____
SCOTT RHEUME
DISTRICT GENERAL MANAGER

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

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

(PLEASE SEE THE ATTACHED PROPOSAL FROM SIMPLEX GRINNELL)

Whittier Portable #13119

EXHIBIT A



6952 Preston Ave Ste A
LIVERMORE, CA 94551
(925) 273 0100
FAX: (925) 273 0099
www.simplexgrinnell.com

SimplexGrinnell Quotation

TO:
Oakland Unified School Dist
955 High St
Buildings & Grounds
OAKLAND, CA 94601-4404
Attn: Kenya Chatman
Phone: (510) 535-7050 EXT(____) Fax: (510) 535-7042

Project: 2014- Whittier Port. FA Sup.
Customer Reference:
SimplexGrinnell Reference: 976731801
Date: 03/17/2014
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ATTENTION: Upon your request, we are providing you with line item pricing for all of the components of the system proposed. Please be aware, however, that the unit prices shown on this quotation are for reference only. Due to variations in shipping costs and potential adjustments in system configuration, the line item prices shown may or may not reflect the exact unit costs ultimately invoiced and/or those quoted in the future. The total system price displayed on this quotation will, however, remain as stated unless an authorized change order is processed.

SimplexGrinnell is pleased to offer for your consideration this quotation for the above project.

QTY	MODEL NUMBER	DESCRIPTION	UNIT PRICE	EXT. PRICE
		FA Supervision Labor		
12	COMM LAB SALES TAX	COMMISSIONING LABOR	140.00	1,680.00

Total net selling price, FOB shipping point, \$1,680.00

Comments

Scope of Work:

1. Provide supervision to the electrical contractor and/or low-voltage installer of the fire alarm system components during the following critical path periods:
 - Conduit Installation
 - Wire Pulling
 - Wire Continuity Review/Testing
 - Termination/Trimming of Devices
2. This proposal accounts for the presence of (1) technician during the above referenced phases during the construction schedule. The technician will be supervising installation during (3) mobilizations in (4) hour increments, or as needed.
3. This work will be on a T&M basis, in a Not to Exceed format. Work will be tracked and costs submitted as the work progresses.



TERMS AND CONDITIONS

1. Payment. Payments shall be invoiced and due in accordance with the terms and conditions set forth above. Work performed on a time and material basis shall be at the then prevailing Company rate for material, labor, and related items in effect at the time supplied under this Agreement. Company shall invoice Customer for progress payments to one hundred (100%) percent based upon equipment delivered or stored, and services performed. Customers without established satisfactory credit shall make payments of cash in advance, upon delivery or as otherwise specified by Company. Where Customer establishes and maintains satisfactory credit, payments shall be due and payable thirty (30) days from date of invoice. Company reserves the right to revoke or modify Customer's credit at its sole discretion. The Customer's failure to make payment when due is a material breach of this Agreement. If Customer fails to make any payment when due, in addition to any other rights and remedies available, Company shall have the right, at Company's sole discretion, to stop performing any Services and/or withhold further deliveries of materials, until the account is current. In the event payment is not received when due, Company may, at its discretion, assess late fees at the rate of 1.5% per month or the maximum rate allowed by law. Customer agrees to pay all costs of collection, including without limitation costs, fees, and attorney's fees. Customer's failure to make payment when due is a material breach of this Agreement until the account is current.

2. Pricing. The pricing set forth in this Agreement is based on the number of devices to be installed and services to be performed as set forth in the Scope of Work, Equipment and Services. If the actual number of devices installed or services to be performed is greater than that set forth in the Scope of Work, the price will be increased accordingly. If this Agreement extends beyond one year, SimplexGrinnell may increase prices upon notice to the Customer. Customer agrees to pay all taxes, permits, and other charges, including but not limited to state and local sales and excise taxes, however designated, levied or based on the service charges pursuant to this Agreement.

3. Alarm Monitoring Services. Any reference to alarm monitoring services in this Agreement includes, for pricing purposes only, Alarm monitoring services, as performed pursuant to the terms and conditions of Company's standard alarm monitoring services agreement.

4. Code Compliance. Company does not undertake an obligation to inspect for compliance with laws or regulations unless specifically stated in the Scope of Work. Customer acknowledges that the Authority Having Jurisdiction (e.g. Fire Marshal) may establish additional requirements for compliance with local codes. Any additional services or equipment required will be provided at an additional cost to Customer.

5. Limitation of Liability; Limitations of Remedy. It is understood and agreed by the Customer that Company is not an insurer and that insurance coverage, if any, shall be obtained by the Customer and that amounts payable to company hereunder are based upon the value of the services and the scope of liability set forth in this Agreement and are unrelated to the value of the Customer's property and the property of others located on the premises. Customer agrees to look exclusively to the Customer's insurer to recover for injuries or damage in the event of any loss or injury and that Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or Warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or services supplied by Company will detect or avert occurrences or the consequences therefrom that the equipment or service was designed to detect or avert. It is impractical and extremely difficult to fix the actual

damages, if any, which may proximately result from failure on the part of Company to perform any of its obligations under this Agreement. Accordingly, Customer agrees that, Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences therefrom, which the equipment or service was designed to detect or avert. Should Company be found liable for any loss, damage or injury arising from a failure of the equipment or service in any respect, Company's liability shall be limited to an amount equal to the Agreement price (as increased by the price for any additional work) or where the time and material payment term is selected, Customer's time and material payments to Company. Where this Agreement covers multiple sites, liability shall be limited to the amount of the payments allocable to the site where the incident occurred. Such sum shall be complete and exclusive. If Customer desires Company to assume greater liability, the parties shall amend this Agreement by attaching a rider setting forth the amount of additional liability and the additional amount payable by the Customer for the assumption by Company of such greater liability, provided however that such rider shall in no way be interpreted to hold Company as an insurer. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM(S) OR ANY OF ITS COMPONENT PARTS BY THE CUSTOMER OR ANY THIRD PARTY. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM(S) TO PERFORM. The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of company, whether direct or indirect, company's employees, agents, officers and directors.

6. Reciprocal Waiver of Claims (SAFETY Act). Certain of SimplexGrinnell's systems and services have received Certification and/or Designation as Qualified Anti-Terrorism Technologies ("QATT") under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (5 U.S.C. §§ 441-444 (the "SAFETY Act"). As required under 6 C.F.R. 25.5 (e) to the maximum extent permitted by law, SimplexGrinnell and Customer hereby agree to waive their right to make any claims against the other for any losses, including business interruption losses, sustained by either party or their respective employees, resulting from an activity resulting from an "Act of Terrorism" as defined in 6 C.F.R. 25.2 when QATT have been deployed in defense against, response to, or recovery from such Act of Terrorism.

7. General Provisions. Customer has selected the service level desired after considering and balancing various levels of protection afforded, and their related costs. Customer acknowledges and agrees that by this Agreement, Company, unless specifically stated, does not undertake any obligation to maintain or render Customer's system or equipment as Year 2000 compliant which shall mean capable of correctly handling the processing of calendar dates before or after December 31, 1999. All work to be performed by Company will be performed during normal working hours of normal working days (P.M. 8:00 a.m. - 5:00 p.m. Monday through Friday excluding Company holidays) as defined by Company, unless additional times are specifically described in this Agreement. Company will perform the services described in the Scope of Work section ("Services") for one or more system(s) or

equipment as described in the Scope of Work section of the listed attachments ("Covered System(s)").

The Customer shall promptly notify Company of any malfunction in the Covered System(s) which comes to Customer's attention. This Agreement assumes the Covered System(s) are in operational and maintainable condition as of the Agreement date. If, upon initial inspection, Company determines that repairs are recommended, repair charges will be submitted for approval prior to any work. Should such repair work be declined, Company shall be relieved from any and all liability arising therefrom, UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT. ANY INSPECTION (AND, IF SPECIFIED, TESTING) PROVIDED UNDER THIS AGREEMENT DOES NOT INCLUDE ANY MAINTENANCE, REPAIRS, ALTERATIONS, REPLACEMENT OF PARTS, OR ANY FIELD ADJUSTMENTS WHATSOEVER, NOR DOES IT INCLUDE THE CORRECTION OF ANY DEFICIENCIES IDENTIFIED BY COMPANY TO CUSTOMER. COMPANY SHALL NOT BE RESPONSIBLE FOR EQUIPMENT FAILURE OCCURRING WHILE COMPANY IS IN THE PROCESS OF FOLLOWING ITS INSPECTION TECHNIQUES, WHERE THE FAILURE ALSO RESULTS FROM THE AGE OR OBSOLESCENCE OF THE ITEM OR DUE TO NORMAL WEAR AND TEAR. THIS AGREEMENT DOES NOT COVER SYSTEMS, EQUIPMENT COMPONENTS OR PARTS THAT ARE BELOW GRADE, BEHIND WALLS OR OTHER OBSTRUCTIONS OR EXTERIOR TO THE BUILDING, ELECTRICAL WIRING AND PIPING.

8. Customer Responsibilities. Customer shall furnish all necessary facilities for performance of its work by Company, adequate space for storage and handling of materials, light, water, heat, heat tracing, electrical service, local telephone, watchman, and crane and elevator service and necessary permits. Where wet pipe systems are installed, Customer shall supply and maintain sufficient heat to prevent freezing of the system. Customer shall promptly notify Company of any malfunction in the Covered System(s) which comes to Customer's attention. This Agreement assumes any existing system(s) are in operational and maintainable condition as of the Agreement date. If, upon initial inspection, Company determines that repairs are recommended, repair charges will be submitted for approval prior to any work. Should such repair work be declined, Company shall be relieved from any and all liability arising therefrom.

Customer shall further:

- supply required schematics and drawings unless they are to be supplied by Company in accordance with this Agreement;
- Provide a safe work environment, in the event of an emergency or Covered System(s) failure, take reasonable safety precautions to protect against personal injury, death, and property damage, continue such measures until the Covered System(s) are operational, and notify Company as soon as possible under the circumstances;
- Provide Company access to any system(s) to be serviced;
- Comply with all laws, codes, and regulations pertaining to the equipment and/or services provided under this agreement;

9. Excavation. In the event the Work includes excavation, Customer shall pay, as an extra to the contract price, the cost of any additional work performed by Company due to water, quicksand, rock or other unforeseen condition or obstruction encountered or shoring required.

10. Structure and Site Conditions. While employees of Company will exercise reasonable care in this respect, Company shall be under no responsibility for loss or damage due to the character, condition or use of foundations, walls, or other structures not erected by it or resulting from the excavation in proximity thereto, or for damage resulting from concealed piping, wiring, fixtures or other equipment or condition of water pressure, or shoring or protection of

SALE AND INSTALLATION AGREEMENT
(continued)

foundation, walls or other structures subject to being disturbed by any excavation required hereunder shall be the responsibility of Customer. Customer shall have all things in readiness for installation including, without limitation, structure to support the sprinkler system and related equipment (including tanks), other materials, floor or suitable working base, connections and facilities for erection at the time the materials are delivered. In the event Customer fails to have all things in readiness at the time scheduled for receipt of materials, Customer shall reimburse Company for all expenses caused by such failure. Failure to make areas available to Company during performance in accordance with schedules that are the basis for Company's proposal shall be considered a failure to have things in readiness in accordance with the terms of this Agreement.

11. Confined Space. If access to confined space by Company is required for the performance of Services, Services shall be scheduled and performed in accordance with Company's then-current hourly rate.

12. Hazardous Materials. Customer represents that, except to the extent that Company has been given written notice of the following hazards prior to the execution of this Agreement, to the best of Customer's knowledge there is no:

- "permit confined space," as defined by OSHA,
- risk of infectious disease,
- need for air monitoring, respiratory protection, or other medical risk,
- asbestos, asbestos-containing material, formaldehyde or other potentially toxic or otherwise hazardous material contained in or on the surface of the floors, walls, ceilings, insulation or other structural components of the area of any building where work is required to be performed under this Agreement.

All of the above are hereinafter referred to as "Hazardous Conditions".

Company shall have the right to rely on the representations listed above. If hazardous conditions are encountered by Company during the course of Company's work, the discovery of such materials shall constitute an event beyond Company's control and Company shall have no obligation to further perform in the area where the hazardous conditions exist until the area has been made safe by Customer as certified in writing by an independent testing agency, and Customer shall pay disruption expenses and re-mobilization expenses as determined by Company.

This Agreement does not provide for the cost of capture, containment or disposal of any hazardous waste materials, or hazardous materials, encountered in any of the Covered System(s) and/or during performance of the Services. Said materials shall at all times remain the responsibility and property of Customer. Company shall not be responsible for the testing, removal or disposal of such hazardous materials.

13. OSHA Compliance. Customer shall indemnify and hold Company harmless from and against any and all claims, demands and/or damages arising in whole or in part from the enforcement of the Occupational Safety Health Act (and any amendments or changes thereto) unless said claims, demands or damages are a direct result of causes within the exclusive control of Company.

14. Interferences. Customer shall be responsible to coordinate the work of other trades (including but not limited to ducting, piping, and electrical) and for and additional costs incurred by Company arising out of interferences to Company's work caused by other trades.

15. Modifications and Substitutions. Company reserves the right to modify materials, including substituting materials of later design, providing that such modifications or substitutions will not materially affect the performance of the Covered System(s).

16. Changes, Alterations, Additions. Changes, alterations and additions to the Scope of Work, plans, specifications or construction schedule shall be invalid unless approved in writing by Company. Should changes be approved by Company, that increase or decrease the cost of the work to Company, the parties shall agree, in writing, to the change in price prior to

performance of any work. However, if no agreement is reached prior to the time for performance of said work, and Company elects to perform said work so as to avoid delays, then Company's estimate as to the value of said work shall be deemed accepted by Customer. In addition, Customer shall pay for all extra work requested by Customer or made necessary because of incompleteness or inaccuracy of plans or other information submitted by Customer with respect to the location, type of occupancy, or other details of the work to be performed. In the event the layout of Customer's facilities has been altered, or is altered by Customer prior to the completion of the Work, Customer shall advise Company, and prices, delivery and completion dates shall be changed by Company as may be required.

17. Commodities Availability. Company shall not be responsible for failure to provide services, deliver products, or otherwise perform work required by this Agreement due to lack of available steel products or products made from plastics or other commodities. 1) In the event Company is unable, after reasonable commercial efforts, to acquire and provide steel products, or products made from plastics or other commodities, if required to perform work required by this Agreement, Customer hereby agrees that Company may terminate the Agreement, or the relevant portion of the Agreement, at no additional cost and without penalty. Customer agrees to pay Company in full for all work performed up to the time of any such termination. 2) If Company is able to obtain the steel products or products made from plastics or other commodities, but the price of any of the products has risen by more than 10% from the date of the bid, proposal or date Company executed this Agreement, whichever occurred first, then Company may pass through that increase through a reasonable price increase to reflect increased cost of materials.

18. Project Claims. Any claim of failure to perform against Company arising hereunder shall be deemed waived unless received by Company, in writing specifically setting forth the basis for such claim, within ten (10) days after such claims arises.

19. Backcharges. No charges shall be levied against the Seller unless seventy-two (72) hours prior written notice is given to Company to correct any alleged deficiencies which are alleged to necessitate such charges and unless such alleged deficiencies are solely and directly caused by Company.

20. System Equipment. The purchase of equipment or peripheral devices (including but not limited to smoke detectors, passive infrared detectors, card readers, sprinkler system components, extinguishers and hoses) from Company shall be subject to the terms and conditions of this Agreement. If, in Company's sole judgment, any peripheral device or other system equipment, which is attached to the Covered System(s), whether provided by Company or a third party, interferes with the proper operation of the Covered System(s), Customer shall remove or replace such device or equipment promptly upon notice from Company. Failure of Customer to remove or replace the device shall constitute a material breach of this Agreement. If Customer adds any third party device or equipment to the Covered System(s), Company shall not be responsible for any damage to or failure of the Covered System(s) caused in whole or in part by such device or equipment.

21. Reports. Where inspection and/or test services are selected, such inspection and/or test shall be completed on Company's then current Report form, which shall be given to Customer, and, where applicable, Company may submit a copy thereof to the local authority having jurisdiction. The Report and recommendations by Company are only advisory in nature and are intended to assist Customer in reducing the risk of loss to property by indicating obvious defects or impairments noted to the system and equipment inspected and/or tested. They are not intended to imply that no other defects or hazards exist or that all aspects of the Covered System(s), equipment, and components are under control at the time of inspection. Final responsibility for the condition and operation of the Covered System(s) and equipment and components lies with Customer.

22. Limited Warranty. Subject to the limitations below, Company warrants any equipment (as distinguished from the Software) installed pursuant to this Agreement to be free from defects in material and workmanship under normal use for a period of one (1) year from the date of first beneficial use or all or any part of the Covered System(s) or 18 months after Equipment shipments, whichever is earlier, provided however, that Company's sole liability, and Customer's sole remedy, under this limited warranty shall be limited to the repair or replacement of the Equipment or any part thereof, which Company determines is defective, at Company's sole option and subject to the availability of service personnel and parts, as determined by Company. Company warrants expendable items, including, but not limited to video and print heads, television camera tubes, video monitor displays tubes, batteries and certain other products in accordance with the applicable manufacturer's warranty. Company does not warrant devices designed to fail in protecting the System, such as, but not limited to, fuses and circuit breakers.

Company warrants that any Company software described in this Agreement, as well as software contained in or sold as part of any Equipment described in this Agreement, will reasonably conform to its published specifications in effect at the time of delivery and for ninety (90) days after delivery. However, Customer agrees and acknowledges that the software may have inherent defects because of its complexity. Company's sole obligation with respect to software, and Customer's sole remedy, shall be to make available published modifications, designed to correct inherent defects, which become available during the warranty period.

If Repair Services are included in this Agreement, Company warrants that its workmanship and material for repairs made pursuant to this Agreement will be free from defects for a period of ninety (90) days from the date of furnishing.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES PERFORMED OR THE PRODUCTS, SYSTEMS OR EQUIPMENT, IF ANY, SUPPORTED HEREUNDER. COMPANY MAKES NO WARRANTY OR REPRESENTATION, AND UNDERTAKES NO OBLIGATION TO ENSURE BY THE SERVICES PERFORMED UNDER THIS AGREEMENT, THAT COMPANY'S PRODUCTS OR THE SYSTEMS OR EQUIPMENT OF THE CUSTOMER WILL CORRECTLY HANDLE THE PROCESSING OF CALENDAR DATES BEFORE OR AFTER DECEMBER 31, 1999.

Warranty service will be performed during Company's normal working hours. If Customer requests warranty service at other than normal working hours, service will be performed at Company's then current rates for after hours services. All repairs or adjustments that are or may become necessary shall be performed by and authorized representative of Company. Any repairs, adjustments or interconnections performed by Customer or any third party shall void all warranties.

23. Indemnity. Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third party claims for personal injury, death, property damage or economic loss, including specifically any damages resulting from the exposure of workers to Hazardous Conditions whether or not Customer pre-notifies Company of the existence of said hazardous conditions, arising in any way from any act or omission of Customer or Company relating in any way to this Agreement, including but not limited to the Services under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Company reserves the right to select counsel to represent it in any such action.

24. Insurance. Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and



Project: 2014- Whittier Port, FA Sup.
 Customer Reference:
 SimplexGrinnell Reference: 976731801
 Date: 03/17/2014
 Page 4 of 4

SALE AND INSTALLATION AGREEMENT
 (continued)

representatives, as additional insureds on Customer's general liability and auto liability policies.

25. Termination. Any termination under the terms of this Agreement shall be made in writing. In the event Customer terminates this Agreement prior to completion for any reason not arising solely from Company's performance or failure to perform, Customer understands and agrees that Company will incur costs of administration and preparation that are difficult to estimate or determine. Accordingly should Customer terminate this Agreement as described above, Customer agrees to pay all charges incurred for products and equipment installed and services performed, and in addition pay an amount equal to twenty (20%) percent of the price of products and equipment not yet delivered and Services not yet performed, return all products and equipment delivered and pay a restocking fee of twenty (20%) percent the price of products or equipment returned.

Company may terminate this Agreement immediately at its sole discretion upon the occurrence of any Event of Default as hereinafter defined. Company may also terminate this Agreement at its sole discretion upon notice to Customer if Company's performance of its obligations under this Agreement becomes impracticable due to obsolescence of equipment at Customer's premises or unavailability of parts.

26. No Option to Solicit. Customer shall not directly or indirectly, on its own behalf or on behalf of any other person, business, corporation or entity, solicit or employ any Company employee or induce any Company employee to leave his or her employment with Company, for a period of two years after the termination of this Agreement.

27. Default. An Event of Default shall be 1) failure of the Customer to pay any amount within ten (10) days after the amount is due and payable; 2) abuse of the System or the Equipment; 3) dissolution, termination, discontinuance, insolvency or business failure of Customer. Upon the occurrence of an Event of Default, Company may pursue one or more of the following remedies: 1) discontinue furnishing Services; 2) by written notice to Customer declare the balance of unpaid amounts due and to become due under the this Agreement to be immediately due and payable, provided that all past due amounts shall bear interest at the rate of 1 1/2% per month (18% per year) or the highest amount permitted by law; 3) receive immediate possession of any equipment for which Customer has not paid; 4) proceed at law or equity to enforce performance by Customer or recover damages for breach of this Agreement; and 5) recover all costs and expenses, including without limitation reasonable attorneys' fees, in connection with enforcing or attempting to enforce this Agreement.

28. Exclusions. Unless expressly included in the Scope of Work, this Agreement expressly excludes, without limitation, testing, inspection and repair of duct detectors, beam detectors, and UV-IR equipment, provision of fire watches, clearing of ice blockage, draining of improperly pitched piping, replacement of batteries, recharging of chemical suppression systems, reloading of, upgrading, and maintaining computer software, system upgrades and the replacement of obsolete systems, equipment, components or parts, making repairs or replacements necessitated by reason of negligence or misuse of components or equipment or changes to Customer's premises, vandalism, corrosion (including but not limited to micro-bacterially induced corrosion (MIC)), power failure, current fluctuation, failure due to non-Company installation, lightning, electrical storm, or other severe weather, water, accident, fire, acts of God or any other cause external to the Covered System(s). Repair Services provided pursuant to this Agreement do not cover and specifically excludes system upgrades, and the replacement of obsolete systems, equipment, components or parts. All such services may be provided by Company at Company's sole discretion at an additional charge. If Emergency Services are expressly included in the scope of work section, the Agreement price does not include travel expenses.

29. Force Majeure: Delays. Company shall not be liable for any damage or penalty for delays or failure to perform work due to acts of God, acts or omissions of Customer, acts of civil or military authorities, Government regulations or priorities, fires, epidemics, quarantine, restrictions, war, acts, civil disobedience or unrest, strikes, delays in transportation, vehicle shortages, differences with workmen, inability to obtain necessary labor, material or manufacturing facilities, defaults of Company's subcontractors, failure or delay in furnishing complete information by Customer with respect to location or other details of work to be performed, impossibility or impracticability of performance or any other cause or causes beyond Company's control, whether or not similar to the foregoing. In the event of any delay caused as aforesaid, completion shall be extended for a period equal to any such delay, and this contract shall not be void or voidable as a result of the delay. In the event work is temporarily discontinued by any of the foregoing, all unpaid installments of the contract price, less an amount equal to the value of material and labor not furnished, shall be due and payable upon receipt of invoice by Customer.

30. One-Year Limitation on Actions: Choice of Law. It is agreed that no suit, or cause of action or other proceeding shall be brought against either party more than one (1) year after the accrual of the cause of action or one (1) year after the claim

arises, whichever is shorter, whether known or unknown and the claim arises or whether based on tort, contract or any other legal theory. The laws of Massachusetts shall govern the validity, enforceability, and interpretation of this Agreement.

31. Assignment. Customer may not assign this Agreement without Company's prior written consent. Company may assign this Agreement to an affiliate without obtaining Customer's consent.

32. Entire Agreement. The parties intend this Agreement, together with any attachments or Riders (collectively, the "Agreement") to be the final, complete and exclusive expression of their Agreement and the terms and conditions thereof. This Agreement supersedes all prior representations, understandings, or agreements between the parties, written or oral, and shall constitute the sole terms and conditions of sale for all equipment and services. No waiver, change, or modification of any terms or conditions of this Agreement shall be binding on Company unless made in writing and signed by an Authorized Representative of Company.

33. Severability. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement will continue to be valid as to the other provisions and the remainder of the affected provision.

34. Legal Fees. Company shall be entitled to recover from the customer all reasonable legal fees incurred in connection with Company enforcing the terms and conditions of this Agreement.

35. License Information (Security System Customers): AL: Alabama Electronic Security Board of Licensure, 7896 Vaughn Road, Pmb 392, Montgomery, Alabama 36115 (334) 264-9382; AR: Regulated by: Arkansas Board of Private Investigators And Private Security Agencies, #1 State Police Plaza Drive, Little Rock 72209 (501)618-8500. CA: Alarm company operators are licensed and regulated by the Bureau of Security and Investigative Services, Department of Consumer Affairs, Sacramento, Ca. 95814. Upon completion of the installation of the alarm system, the alarm company shall thoroughly instruct the purchaser in the proper use of the alarm system. Failure by the licensee, without legal excuse, to substantially commence work within 20 days from the approximate date specified in the agreement when the work will begin is a violation of the Alarm Company Act; NY: Licensed by N.Y.S. Department of the State; TX: Texas Commission on Private Security, 5806 H. Lamar Blvd., Austin, 78752-4422, 512-424-7710. License numbers available at www.simplexgrinnell.com or contact your local SimplexGrinnell office.

(Rev. 10/08)

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IMPORTANT NOTICE TO CUSTOMER

In accepting this Proposal, Customer agrees to the terms and conditions contained herein including those on the following pages of this Agreement and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that the Customer may issue. Any changes in the system requested by the Customer after the execution of this Agreement shall be paid for by the Customer and such changes shall be authorized in writing. **ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS ON THE FOLLOWING PAGES. This Proposal shall be void if not accepted in writing within thirty (30) days from the date of the Proposal.**

Offered By:
 SimplexGrinnell LP, License# 966851

Accepted By: (Customer)

5002 Preston Ave Ste A
 IVEERVALE, CA 94541

Company

Telephone: (925) 273-0100 Fax: (925) 273-0120

Address

Representative: and/or

Signature

Email: amillne@simplexgrinnell.com

Title:

P.C.#:

Date:



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/21/2014

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

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

PRODUCER Marsh USA Inc. 1166 Avenue of the Americas New York, NY 10036	CONTACT NAME: Bhavna Chauhan	
	PHONE (A/C, No, Ext): (212) 345-8735	FAX (A/C, No): (212) 948-8852
INSURED SimplexGrinnell LP 6952 PRESTON AVENUE LIVERMORE, CA 94551 United States	E-MAIL ADDRESS: Please see bottom of 2nd page	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: ACE American Insurance Company	NAIC # 22667
	INSURER B: Indemnity Insurance Company of North America	43575

COVERAGES**CERTIFICATE NUMBER:** 1227142 - A**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X	X	HDO G27326699 (Primary GL)	10/1/2013	10/1/2014	EACH OCCURRENCE \$ \$1,000,000.00 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ \$1,000,000.00 MED EXP (Any one person) \$ \$10,000.00 PERSONAL & ADV INJURY \$ \$1,000,000.00 GENERAL AGGREGATE \$ \$2,000,000.00 PRODUCTS - COMP/OP AGG \$ \$2,000,000.00
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS	X	X	ISA H0872264A (All Other States) ISA H08722687 (NH) (Primary AL)	10/1/2013 10/1/2013	10/1/2014 10/1/2014	COMBINED SINGLE LIMIT (Ea accident) \$ \$1,000,000.00 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ NEW HAMPSHIRE (CSL) \$ \$250,000.00
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE PRODUCTS - \$ NEW HAMPSHIRE (CSL) \$
A B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	SCF C47323526 (Wf only) WLR C47323484 (CA, MA) WLR C47323447 (All Other States)	10/1/2013 10/1/2013 10/1/2013	10/1/2014 10/1/2014 10/1/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ \$2,000,000.00 E.L. DISEASE - EA EMPLOYEE \$ \$2,000,000.00 E.L. DISEASE - POLICY LIMIT \$ \$2,000,000.00

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

Project: Whitier Portable Supervision 2014

Please refer to attached ACORD 101 for further remarks.

CERTIFICATE HOLDER

Oakland Unified School District
Department of Facilities Planning and Management
955 High Street
Oakland, CA 94601
United States

CANCELLATION

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

AUTHORIZED REPRESENTATIVE*Jessica Cullen*

MARSH USA INC, BY:
Jessica Cullen, Casualty Program

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INDEPENDENT CONSULTANT AGREEMENT ROUTING FORM

Project Information			
Project Name	Whittier Portable Installation Phase II	Site	163
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	Simplex Grinnell	Agency's Contact	Andrew Milne
OUSD Vendor ID #	I015439	Title	Project Manager
Street Address	6952 Preston Avenue	City	Livermore State CA Zip 94551
Telephone	925-273-0100	Policy Expires	10-1-2014
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 #	13119		

Term			
Date Work Will Begin	5-15-2014	Date Work Will End By (not more than 5 years from start date)	10-1-2014

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$1,680.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$
Other Expenses		Requisition Number	

Budget Information				
If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.				
Resource #	Funding Source	Org Key	Object Code	Amount
7710	County School Facilities	1639003891	6265	\$1,680.00

Approval and Routing (in order of approval steps)				
Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.				
	Division Head	Phone	510-535-7038	Fax 510-535-7082
1.	Director, Facilities Planning and Management			
	Signature 	Date Approved	4/22/14	
2.	General Counsel, Department of Facilities Planning and Management			
	Signature 	Date Approved	4.23.14	
3.	Associate Superintendent, Facilities Planning and Management			
	Signature 	Date Approved		
	Deputy Superintendent, Board of Education			
4.	Signature 	Date Approved	4/26/14	
	President, Board of Education			
5.	Signature	Date Approved		