

Board Office Use: Legislative File Info.	
File ID Number	15-0983
Introduction Date	6-10-2015
Enactment Number	15-0870
Enactment Date	6-10-15



# Memo

**To** Board of Education

**From** Antwan Wilson, Superintendent and Secretary, Board of Education  
 By: Mia Settles-Tidwell, Chief Operations Officer  
 LJS Lance Jackson, Interim Deputy Chief, Facilities Planning and Management MST

**Board Meeting Date** June 10, 2015

**Subject** Independent Consultant Agreement for Professional Services - Applied Materials & Engineering, Inc. - Glenview Elementary School New Construction Project

**Action Requested** Approval by the Board of Education of an Independent Consultant Agreement for Professional Services with Applied Materials & Engineering, Inc. for Engineering Services on behalf of the District at the Glenview Elementary School New Construction Project, in an amount not-to exceed \$30,150.00. The term of this Agreement shall commence on June 10, 2015 and shall conclude no later than December 31, 2015.

**Background** The scope of the project includes the investigation of existing 1926 footings and the 1937 superstructure. In addition, vendor will perform repairs and patching needed due to the investigation and prepare a report summarizing all work and associated findings.

**Discussion** Division of State Architect (DSA) mandates that all DSA projects must have an inspector on site.

**LBP** (Local Business Participation Percentage) 100.00%

**Recommendation** Approval by the Board of Education of an Independent Consultant Agreement for Professional Services with Applied Materials & Engineering, Inc. for Engineering Services on behalf of the District at the Glenview Elementary School New Construction Project, in an amount not-to exceed \$30,150.00. The term of this Agreement shall commence on June 10, 2015 and shall conclude no later than December 31, 2015.

**Fiscal Impact** Measure J

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

**INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES**

**Glenview Elementary School New Construction**

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the **13<sup>th</sup> day of April, 2015** by and between the Oakland Unified School District, Oakland, California ("District") and **Applied Materials & Engineering, Inc.** ("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 includes the investigation of existing 1926 footings and the 1937 superstructure. In addition, vendor will perform repairs and patching needed due to the investigation and prepare a report summarizing all work and associated findings.**

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 project will commence June 10, 2015 and conclude no later than December 31, 2015.**

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 **Thirty thousand, one hundred fifty dollars and no cents (\$30,150.00)**. District shall pay Consultant according to the following terms and conditions:

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



5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, except as follows: Not applicable.
6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
7. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows: Not applicable.
8. **Performance of Services.**
  - 8.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts.
  - 8.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
  - 8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
  - 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.
9. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
10. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

12. **Termination.**

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

12.2. **Without Cause By Consultant.** Consultant may, upon thirty (30) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.

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

- 12.3.1. material violation of this Agreement by the Consultant; or
- 12.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
- 12.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

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

13. **Indemnification.** To the fullest extent permitted by California law and in accordance with California Civil Code section 2782.8, Architect shall indemnify, protect, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees and members ("Indemnified Parties") from any and all actions, assessments, counts, citations, claims, costs, damages, demands, judgments, liabilities (legal, administrative or



otherwise), losses, notices, expenses, fines, penalties, proceedings, responsibilities, violations, attorney's and consultants' fees and causes of action to property or persons, including personal injury and/or death ("Claim(s)"), to the extent that the Claim(s) arises out of, pertains to, or relates to the negligent errors or omissions (active or passive, ordinary or gross), recklessness (ordinary or gross), , or willful misconduct of Architect, its directors, officials, officers, employees, contractors, subcontractors, consultants, subconsultants or agents arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement. This indemnity excludes Architect's liability as to the active or sole negligence or willful misconduct of the District.

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

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

approved by the District. Certificates and insurance policies shall include the following:

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

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

14.2.3. An endorsement stating that the District and the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District.

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

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

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

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

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

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

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



agrees to require like compliance by all its subcontractor(s).

20. **Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services.
21. **Disabled Veteran Business Enterprises.** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building to have a participation goal of at least 3 percent, per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises (DVBE). In accordance therewith, the Consultant must submit, upon request by District, appropriate documentation to the District identifying the steps the Consultant has taken to solicit DVBE participation in conjunction with this Agreement, if applicable.
22. **Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE):** There is a fifty percent (50%) minimum participation requirement for all construction related professional service contracts over the informal bidding threshold (Public Contract Code Section 20111). 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 fifty percent (50%) 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](http://www.ousd.k12.ca.us) Under the Facilities Department drop down menu, Bids and Requests for Proposals.
23. **No Rights In Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
  - 24.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
  - 24.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
26. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or

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

**District:**

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

**Consultant:**

Armen Tajirian  
Applied Materials & Engineering,  
Inc.  
980 – 41<sup>st</sup> Street  
Oakland, CA 94608

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

**28. Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

**29. California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.

**30. Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

**31. Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

**32. Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.

**33. Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.

**34. Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.

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

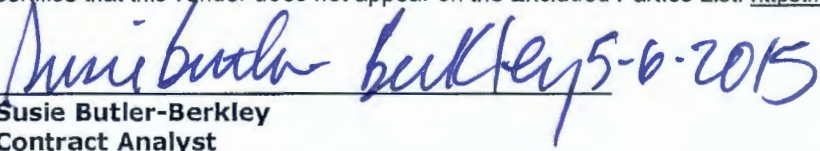


**36. Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.

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

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


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

 Susie Butler-Berkley 5-6-2015

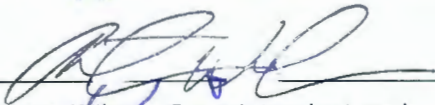
**Susie Butler-Berkley**  
**Contract Analyst**

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

**OAKLAND UNIFIED SCHOOL DISTRICT**

  
\_\_\_\_\_  
James Harris, President, Board of Education

Date: 6-11-15

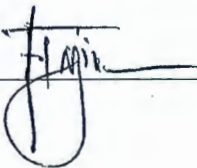
  
\_\_\_\_\_  
Antwan Wilson, Superintendent and  
Secretary, Board of Education

Date: 6-11-15

  
\_\_\_\_\_  
Lance Jackson, Interim Deputy Chief, Facilities Planning  
and Management

Date: 5/8/15

**Applied Materials & Engineering, Inc.**

  
\_\_\_\_\_

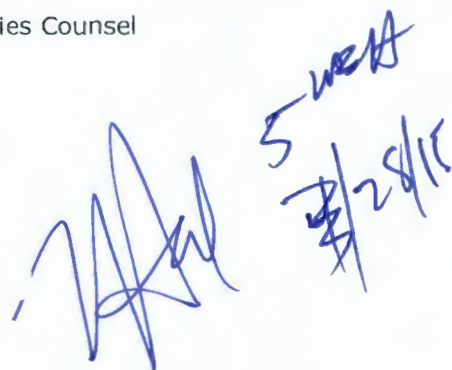
Date: 5/6/15

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Catherine Boskoff, Facilities Counsel

Date: 5-7-15

File ID Number: 15-0983  
Introduction Date: 6-10-15  
Enactment Number: 15-0870  
Enactment Date: 6-10-15  
By:

  
5-28-15



Information regarding Consultant:

Consultant: Applied Material & Eng. Inc.

License No.: N/A

Address: 980 1st Street  
OAKLAND, CA 94608

Telephone: 510-420-8190

Facsimile: 510-420-8186

E-Mail: avm@appliedeng.com

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

94-3055728:  
Employer Identification and/or Social Security Number

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

**WORKERS' COMPENSATION CERTIFICATION**

Labor Code section 3700 in relevant part provides:

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

- 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: 5/6/15  
Proper Name of Consultant: Applied Mabelex Engineering, Inc.  
Signature: [Handwritten Signature]  
Print Name: ARMEN TATIRIAN  
Title: Principal

(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: ARNEW TASTIRIAN

Title: Principal

\_\_\_\_\_ 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: 5/6/15

Proper Name of Consultant: Applied Materials & Engineering, Inc.

Signature: [Handwritten Signature]

Print Name: ARNEW TASTIRIAN

Title: Principal

**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: \_\_\_\_\_ 5/6/15 \_\_\_\_\_  
Proper Name of Consultant: \_\_\_\_\_ Applied Materials & Engineering, Inc. \_\_\_\_\_  
Signature: \_\_\_\_\_ [Signature] \_\_\_\_\_  
Print Name: \_\_\_\_\_ ADUWAL TAJIKIOW \_\_\_\_\_  
Title: \_\_\_\_\_ Principal \_\_\_\_\_



**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 THE CONSULTANT)**

Client#: 1481

APPLIMATE

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/06/2015

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: Dealey, Renton & Associates, P. O. Box 12675, Oakland, CA 94604-2675, 510 465-3090. CONTACT NAME: Mandy Guo, PHONE: 510 465-3090, FAX: 510 452-2193, E-MAIL ADDRESS: mguo@dealeyrenton.com. INSURER(S) AFFORDING COVERAGE: INSURER A: Travelers Property Casualty Co (NAIC # 25674), INSURER B: Alterra Excess & Surplus Ins. C (NAIC # 33189).

COVERAGES CERTIFICATE NUMBER: 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.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSR, SUBR, WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes rows for General Liability, Automobile Liability, Umbrella Liability, and Workers Compensation and Employers' Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required) Thirty(30)Day Notice of Cancellation Applies. Ten Days for Non-Payment of Premium. Project: Glenview New Construction

CERTIFICATE HOLDER: Oakland Unified School District, Division of Faci, Plan & Mgmt, Susie Butler-Berkley, Contract Analyst, 955 High Street, Oakland, CA 94601. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: [Signature]





April 6, 2015

**EXHIBIT A**

Mr. Wil Newby  
**OAKLAND UNIFIED SCHOOL DISTRICT**  
955 High Street  
Oakland, CA 94601

Email: [William.Newby@ousd.k12.ca.us](mailto:William.Newby@ousd.k12.ca.us)

Subject: Exploration and Testing  
Portico of Glenview Elementary School, Oakland USD, CA

Dear Mr. Newby:

As requested, Applied Materials & Engineering, Inc. (AME) is pleased to submit the following revised proposal for performing the subject work.

This proposal makes reference to drawings; these drawings are those prepared by R.P. Gallagher Associates, Inc., dated March 12, 2015.

**SCOPE OF WORK**

**I. Investigation of 1926 Footings**

1. Footing Size: Verify the footing width, length and depth, verify the stem wall thickness, and determine the depth of the footing below the top of the slab (or brick) for the footings at the following the locations:
  1. Two footings under Portico rear wall (footing shown in Section L-L on Sheet 2 of the 1926 drawings).
  2. One footing under Portico side walls (footing shown on Section J-J of Sheet 2 of the 1926 drawings).

The excavation and repairs to the excavation work will be performed by others.

2. Concrete Strength: Take a total of six (6) cores from the 1926 foundations, two from each verified footings above, and determine compressive strengths.
3. Reinforcement Placement: Verify the size and placement of reinforcement, from one side of each footing, at one (1) location for each of the following:
  1. Two footings under Portico rear wall (footing shown in Section L-L of 1926 drawings).
  2. One footing under Portico side walls (footing shown on Section J-J of the 1926 drawings).

Concrete shall be scanned to locate reinforcement. No cutting or damage shall be allowed to reinforcement when chipping away cover to determine bar size.

4. Strength of Reinforcing Steel: Take two (2) strength samples for each bar size from following elements and test for yield and ultimate strength. A total of six (6) tests shall be made.

1. 1926 Foundation Walls (3/8", 1/2" and 5/8" square bars)

An ASTM A615 replacement bar is to be spliced at the place where the coupon is taken, and the concrete patched with non-shrink grout. A Bar Lock rebar coupler by Dayton Industries (ESR-2495) or approved equal shall be used to make the splice. If Bar Lock does not work, then weld in a new splice bar.

5. Edge of Footing Location: Measure the distance "D" between the edge of the footing and the wall as shown on Figure A4. Do this at four (4) locations at exposed footings, and as shown on Figure A5.

## II. Investigation of 1937 Superstructure

1. Concrete Strength: Take cores and determine concrete compressive strengths. Take three (3) cores in each of the following elements:
  1. Rear wall (one each at one 8" side wall, upper level and lower level 8" rear walls).
  2. Front wall (one each at one 12" side wall, and exterior and interior columns).

Concrete shall be scanned to locate reinforcement before cores are made. No cutting of reinforcing steel shall be allowed when taking cores.

2. Strength of Reinforcing Steel: Take two (2) strength samples for each bar size from following elements and test for yield and ultimate strength. A total of six (6) tests shall be made.

1. Walls (3/8", 1/2" and 3/4" diameter bars).

An ASTM A615 replacement bar is to be spliced at the place where the coupon is taken, and the concrete patched with non-shrink grout. A Bar Lock rebar coupler by Dayton Industries (ESR-2495) or approved equal shall be used to make the splice.

## III. Repairs and Patching

Openings made in concrete elements to expose reinforcement, or to take concrete cores, shall be filled with non-shrink grout having a minimum compressive strength of 4,000 psi. The surface of the repair shall be smoothed to match the existing finish. Painting is not required.



IV. Report

All work shall be summarized in a written report signed by a California registered Civil Engineer. A draft shall be submitted to the structural engineer for review prior to submission of the final report. Copies of the final report shall be submitted to the District, the architect, and the structural engineer.

COSTS

I. Investigation of 1926 Footings

1. 3 footing investigations @ \$650/footing	= \$ 1,950.00
2. 6 cores @ \$450/core	= \$ 2,700.00
3. 3 footings reinforcing investigation @ \$750/investigation	= \$ 2,250.00
4. 6 reinforcing bars for tensile + repairs @ \$1,200/bar	= \$ 7,200.00
5. 4 edge measurements @ \$150/measurement	= \$ 600.00

II. Investigation of 1937 Superstructure

1. 6 cores @ \$450/core	= \$ 2,700.00
2. 6 reinforcing bars for tensile + repairs @ \$1,200/bar	= \$ 7,200.00

III. Repairs and Patching

30 patches with non-shrink grout @ \$105/patch	= \$ 3,150.00
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IV. Report

Report & engineering supervision: 16 hours @ \$150/hour	= \$ 2,400.00
<b>Total</b>	<b>= \$30,150.00</b>

CONDITIONS & OTHER TERMS

1. All work is performed during regular work hours. Work is performed portal-to-portal. All work performed outside regular hours will be billed at a 50% premium.
2. All areas of work are made available to us.
3. No repairs are performed by us, except those noted above.

INDEMNIFICATION

In addition, and notwithstanding any other provisions of this Agreement, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless AME, its officers, directors, employees and sub-consultants (collectively, Consultant) against all damages, liabilities of costs including reasonable attorney's fees and defense costs, arising out of or in any way connected with

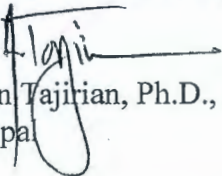
Mr. Wil Newby  
**OAKLAND UNIFIED SCHOOL DISTRICT**  
Foundation and Testing  
April 6, 2015  
Page 4

this Project, excepting only those damages, liabilities or costs attributable to the negligent acts or negligent failure to act by the Consultant.

If you approve of our proposal and would like us to proceed, please sign and return the enclosed copy. We appreciate the opportunity to submit this proposal and look forward to working with you.

Sincerely,

**APPLIED MATERIALS & ENGINEERING, INC.**

  
Armen Tajirian, Ph.D., PE  
Principal

C.c.: Ron Gallagher, R.P. GALLAGHER ASSOCIATES, INC. (email)

**ACCEPTANCE**

I have read the proposal set forth in the terms above and accept the proposal with the understanding that it includes those terms.

\_\_\_\_\_  
(Signature) (Title) (Date)





## INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES ROUTING FORM

Project Information			
Project Name	Glenview Elementary School – New Construction	Site	119
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	Applied Materials & Engineering, Inc.	Agency's Contact	Arman Tajirian
OUSD Vendor ID #	V015478	Title	Project Manager
Street Address	980 – 41 <sup>st</sup> Street	City	Oakland State CA Zip 94608
Telephone	510-420-8190	Policy Expires	2-11-2016
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 #	13134		

Term			
Date Work Will Begin	6-10-2015	Date Work Will End By <small>(not more than 5 years from start date)</small>	12-31-2015

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$30,150.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$
Other Expenses		Requisition Number	

Budget Information				
<i>If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.</i>				
Resource #	Funding Source	Org Key	Object Code	Amount
9350	Measure J	1199905820	6252	\$30,150.00

Approval and Routing (in order of approval steps)					
Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.					
1.	Division Head	Phone	510-535-7038	Fax	510-535-7082
	Director, Facilities Planning and Management				
	Signature	Date Approved	5/7/15		
2.	General Counsel, Department of Facilities Planning and Management				
	Signature	Date Approved	5-7-15		
	Interim Deputy Chief, Facilities Planning and Management				
3.	Signature	Date Approved	5/8/15		
	Chief Operations Officer, Board of Education				
4.	Signature	Date Approved	5/15/15		
	President, Board of Education				
5.	Signature	Date Approved			