

Board Office Use: Legislative File Info.	
File ID Number	12-1219
Introduction Date	6-13-12
Enactment Number	12-1505
Enactment Date	6-13-12



**OAKLAND UNIFIED  
SCHOOL DISTRICT**

*Community Schools, Thriving Students*

# Memo

**To** Board of Education  
Tony Smith, Ph.D., Superintendent

**From** By: Maria Santos, Deputy Superintendent, Instruction, Leadership & Equity-in-Action  
Vernon Hal, Deputy Superintendent, Business & Operations

**Board Meeting Date** 6-13-12  
(To be completed by Procurement)

**Subject** Professional Services Contract Amendment - 1  
Software Project Consulting Piedmont CA (Contractor, City/State) -  
Student Assignment and Bilingual Testing (site/department)

**Action Requested** Ratification by the Governing Board of the amendment to the professional services contract between the District and Software Project Consulting. Services to be primarily provided to Student Assignment and Bilingual Testing for the period of 07/15/2011 through 06/29/2012, in an amount not to exceed \$ 8,000.00.

**Background**  
*A one paragraph explanation of why an amendment is needed.*

Contractor (SPCI) generated the lottery for closing schools during the closing schools process in November and December of 2011. Contractor implemented the Transitional Kindergarten into the options process. SPCI also generated all related reports for QCSD. Contractor expanded his role to include work around closing schools Options. Lottery for closing schools on December 2011. Second Lottery for Closing schools. Persistence, reports for David Montes and QCSD. Transitional Kindergarten implementation into Options process.

**Discussion**  
*One paragraph summary of the amended scope of work.*

Ratification by the Board of Education of Amendment No. 1 of the Professional Services Contract between District and Software Project Consulting, Inc., Piedmont, CA, for the latter to provide additional services around closing schools Options, the second lottery for closing schools during the closing schools, persistence reports, and QCSD Transitional Kindergarten implementation into Options process, for the period of July 15, 2011 through June 29, 2012, in the amount of \$8,000.00, increasing the agreement from \$25,000.00 to a not to exceed amount of \$33,000.00.

**Recommendation** Ratification by the Governing Board of the amendment to the professional services contract between the District and Software Project Consulting. Services to be primarily provided to Student Assignment and Bilingual Testing for the period of 07/15/2011 through 06/29/2012, in an amount not to exceed \$ 8,000.00.

**Fiscal Impact** Funding resource name (please spell out) 0522/Instructional Student Placement  
not to exceed \$ 8,000.00

- Attachments**
- Contract Amendment
  - Copy of original contract

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## AMENDMENT NO. 1 TO PROFESSIONAL SERVICES CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and Software Project Consulting (CONTRACTOR). OUSD entered into an Agreement with CONTRACTOR for services on July 15, 2011, and the parties agree to amend that Agreement as follows:

1. **Services:**     The scope of work is unchanged.                       The scope of work has changed.  
**If the scope of work has changed:** Provide brief description of revised scope of work including a measurable description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary.  
 Revised scope of work attached. OR, The CONTRACTOR agrees to provide the following amended services:  
 Lottery for closing schools on December 2011. Second Lottery for Closing schools. Persistence, reports for David Montes and QCSD. Transitional Kindergarten implementation into Options process.

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2. **Terms (duration):**     The term of the contract is unchanged.                       The term of the contract has changed.  
**If the term has changed:** The contract term is extended by an additional \_\_\_\_\_ (days/weeks/months), and the amended expiration date is 06/29/2012.

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3. **Compensation:**     The contract price is unchanged.                       The contract price has changed.  
**If the compensation has changed:** The contract price is amended by  
 Increase of \$ 8,000.00 \_\_\_\_\_ to original contract amount  
 Decrease of \$ \_\_\_\_\_ to original contract amount  
 and the new contract total is \_\_\_\_\_ dollars (\$33,000.00)

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

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

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

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

OAKLAND UNIFIED SCHOOL DISTRICT

Maria Santos                      5-10-12  
 President, Board of Education                      Date  
 Superintendent or Designee

CONTRACTOR

Paul Gerken                      4/27/12  
 Contractor Signature                      Date  
PAUL GERKEN, PRESIDENT  
 Print Name, Title

**CERTIFIED:**  
Edgar Rakestraw, Jr.                      6/4/12  
 Board of Education                      Date  
**Edgar Rakestraw, Jr., Secretary**  
**Board of Education**

**EXHIBIT "A" Scope of Work**

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

CONTRACTOR's entire Proposal is not made part of this Agreement. **[IF A CONTRACTOR PROVIDES AN ACCEPTABLE DESCRIPTION OF SERVICES AS PART OF A PROPOSAL, THAT DESCRIPTION OF SERVICES CAN BE ATTACHED WITHOUT ANY TERMS, CONDITIONS, LIMITATIONS, ETC., FROM THAT PROPOSAL.**

**Summary for Board Memo and Board Agenda** – Must accurately align with scope of work below.

Ratification by the Board of Education of Amendment No. 1 of the Professional Services Contract between District and Software Project Consulting, Inc., Piedmont, CA, for the latter to provide additional services around closing schools Options, the second lottery for closing schools during the closing schools, persistence reports, and QCSD Transitional Kindergarten implementation into Options process, for the period of July 15, 2011 through June 29, 2012, in the amount of \$8,000.00, increasing the agreement from \$25,000.00 to a not to exceed amount of \$33,000.00.

**SCOPE OF WORK**

Software Project Consulting will provide a maximum of 660.00 hours of services at a rate of \$ 50.00 per hour for a total not to exceed \$33,000.00. Services are anticipated to begin on 07/15/2011 and end on 06/29/2012.

**1. Description of Services to be Provided:** Provide a description of the service(s) the contractor will provide. Be specific about what service(s) OUSD is purchasing and what *this* Contractor will do.

Before children can graduate from high school, they must first enroll into high school. The options process helps students attend the school in more- must have access to the programs which most fir their needs. More students will graduate if they are engaged in the high school curriculum, and choose the school which they want to attend. Students are also more likely to attend a school which they choose to attend. While it's difficult to quantify exactly how many more students are likely to attend 95% of the time or more, the numbers should increase of OUSD can provide programs that meet the needs and interests of students, and if students can access the programs that meet their interests and needs. More students will also have access to health services if students needs services which are only located at specific campuses by applying for schools through the options program.

**2. Specific Outcomes:** What are the expected outcomes from the services of this Contract? Be specific. For example, as a result of the service(s): 1) How many more Oakland children are graduating from high school? 2) How many more Oakland children are attending school 95% or more? 3) How many more students have meaningful internships and/or paying jobs? 4) How many more Oakland children have access to, and use, the health services they need? Provide details of program participation (Students will...) and measurable outcomes (Participants will be able to...). **NOT THE GOALS OF THE SITE OR DEPARTMENT.**

In order to manage the over 15,000 applications which the Student Assignment & Bilingual Testing Office processes each year, we must have the technological support to process and track these applications (updated with tracking students of closing schools as well). Students will be able to apply for their schools of choice, and receive notification of their assignment. The assignment process follows the board priorities, and different variables (Schools, capacities, Etc.) must be used to determine these assignments. The consultant will ensure that the database and software used runs properly and solve related technological problems. Specific measurable outcomes include ensuring that letters are printed on-time, ensuring that the assignment software is working properly, analyzing data to assist staff in creating school capacities, and creating several reports that provide results to the cabinet.

**3. Alignment with District Strategic Plan:** Indicate the goals and visions supported by the services of this contract: (Check all that apply.)

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

**4. Alignment with Single Plan for Student Achievement (required if using State or Federal Funds)**

Please select:

- Action Item included in Board Approved SPSA (no additional documentation required)** – Action Item Number: \_\_\_\_\_
- Action Item added as modification to Board Approved SPSA** – Submit the following documents to the Resource Manager either electronically via email of scanned documents, fax or drop off.
1. Relevant page of SPSA with action item highlighted. Page must include header with the word "Modified", modification date, school site name, both principal and school site council chair initials and date.
  2. Meeting announcement for meeting in which the SPSA modification was approved.
  3. Minutes for meeting in which the SPSA modification was approved indicating approval of the modification.
  4. Sign-in sheet for meeting in which the SPSA modification was approved.
-

PRODUCER Phone (650) 348-9130 Fax: 650-348-9135  
**HACKWORTH & COMPANY**  
 111 ANZA BLVD. #416  
 BURLINGAME CA 94010

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

INSURERS AFFORDING COVERAGE

NAIC #

Agency Lic# 0B95268

INSURED  
**SOFTWARE PROJECT CONSULTING**  
 120 RONADA AVENUE  
 PIEDMONT CA 94611

INSURER A: **Hartford Casualty Insurance Company**

29424

INSURER B:

INSURER C:

INSURER D:

INSURER E:

**COVERAGES**

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

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR _____ _____ GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	57SBAAZ1799	07/01/11	07/01/12	EACH OCCURRENCE	\$ 1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
						MED. EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS-COMP/OP AGG.	\$ 2,000,000
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS _____				COMBINED SINGLE LIMIT (Ea accident)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY - EA ACC	\$
						AGG	\$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE _____ _____ DEDUCTIBLE RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
							\$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS	OTHER
						E.L. EACH ACCIDENT	\$
						E.L. DISEASE-EA EMPLOYEE	\$
						E.L. DISEASE-POLICY LIMIT	\$
		OTHER:					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/ SPECIAL PROVISIONS  
 POLICY EXCLUDES PROFESSIONAL LIABILITY AND TESTING OR CONSULTING ERRORS & OMISSIONS. CERTIFICATE HOLDER IS NAMED AS ADDITIONAL INSURED. IN SOME CASES WE ARE UNABLE TO PROVIDE CERTAIN COVERAGE OR TERMS AND CONDITIONS THAT MIGHT APPLY TO THE VENDOR'S CONTRACT. PLEASE READ THIS CERTIFICATE CAREFULLY AND DISCUSS ANY DISCREPANCIES WITH THE POLICYHOLDER.

**CERTIFICATE HOLDER**

OAKLAND UNIFIED SCHOOL DISTRICT  
 1025 SECOND AVENUE  
 OAKLAND, CA 94606

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, IT'S AGENTS OR REPRESENTATIVES

AUTHORIZED REPRESENTATIVE

*Kathy Hackworth*  
 Kathy Hackworth

Attention:

## PROFESSIONAL SERVICES CONTRACT AMENDMENT ROUTING FORM 2011-2012

### Directions

Services beyond the original contract cannot be provided until the amendment has been fully approved and the Purchase Order amount has been increased by Procurement.

1. Contractor and OUSD contract originator reach agreement on modification to original contract.
2. Insert the amendment number (i.e. if this is the first amendment enter "1," second enter "2," etc.) at the top of the amendment.
3. If contract total amount has increased, the scope of work has changed. OUSD contract originator creates new requisition with the original PO number referenced in the item description.
4. OUSD contract originator submits amendment packet to Procurement for approval within two weeks of creating the requisition.

When the contract amendment is approved Procurement will add additional funds to the original Purchase Order.

#### Attachment Checklist

- Contract amendment packet including Board Memo and Amendment Form  
 Amended Scope of work (be specific as to what is changing)  
 Copy of original contract

**OUSD Staff Contact** Emails about this contract should be sent to: sue.woehle@ousd.k12.ca.us

### Contractor Information

Contractor Name	Software Project Consulting	Agency's Contact	Paul Gerken			
OUSD Vendor ID #	V05444	Title	President			
Street Address	120 Ronada Ave, Suite C	City	Piedmont	State	CA	Zip 94611
Telephone	(510) 601-9200	Email	paulgerken@compuserve.com			

### Compensation and Terms – Must be within the OUSD Billing Guidelines

Original Contract Amount	\$ 25,000.00	Original PO Number	P1200782		
Amended Amount	\$ 8,000.00	New Requisition #	R0204683		
New Total Contract Amount	\$ 33,000.00	Start Date	07/15/2011	End Date	06/29/2012

### 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 #	Resource Name	Org Key	Object Code	Amount
0522	Instructional Stu	9221201203	5825	\$ 8,000.00
			5825	\$
			5825	\$

### Approval and Routing (in order of approval steps)

Additional services above original contract amount cannot be provided before the amendment is fully approved and the Purchase Order amount has been increased by Procurement.

1.	<b>Site Administrator or Manager</b>	Name	Sue Wohrle	Phone	5104347752	Fax	5104347911
	Site / Department	Student Assignment and Bilingual Testing					
2.	Signature				Date Approved	4/25/12	
	<b>Resource Manager</b> , if using funds managed by: <input type="checkbox"/> State and Federal <input type="checkbox"/> Quality, Community, School Development <input type="checkbox"/> Complementary Learning / After School Programs						
3.	Signature				Date Approved	4/26/2012	
	<b>Regional or Executive Officer</b>						
4.	Signature				Date Approved	5-10-12	
	<b>Deputy Superintendent Instructional Leadership / Deputy Superintendent Business Operations</b> <input type="checkbox"/> Consultant Aggregate Under \$50,000						
5.	<b>Superintendent or Board of Education</b> Signature on the legal contract						
<b>Legal</b> Required if not using standard contract		Approved		Denied - Reason		Date	
<b>Procurement</b>	Date Received			PO Number	P1200782		

1905

<b>Board Office Use: Legislative File Info.</b>	
File ID Number	11-1823
Introduction Date	9-19-11
Enactment Number	
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**OAKLAND UNIFIED  
SCHOOL DISTRICT**

*Community Schools, Thriving Students*

# Memo

**To** The Board of Education

**From** Tony Smith, Ph.D., Superintendent  
By: Maria Santos, Deputy Superintendent, Instruction, Leadership & Equity-in-Action  
Vernon Hal, Deputy Superintendent, Business & Operations

**Board Meeting Date**  
*(To be completed by Procurement)* 9-28-11

**Subject** Professional Services Contract -  
Software Project Consulting Inc. Piedmont CA (contractor, City State)  
Student Assignment and Bilingual Testing Office (site/department)

**Action Requested** Ratification of a professional services contract between Oakland Unified School District and Software Project Consulting Inc.. Services to be primarily provided to Student Assignment and Bilingual Testing Offi for the period of 07/15/2011 through 06/29/2012.

**Background**  
*A one paragraph explanation of why the consultant's services are needed.*

The contractor is needed to perform the following: Analyze previous year's Options data and generate accurate reports. Maintain and update pre-scheduled records to insure no duplicates and a smooth transition from CDC to K-12 databases. Make sure that assignments of SDC students in Aeries match PEC assignments. Create the CELDT lists for 2012-2013 based on Aeries data as well as maintenance of Language Fluency and Home Language data integrity. The contractor's main task will be the implementation and execution of the lottery process' data management system at the direction of the coordinator, which also includes updating addresses and maintaining the database back end to store application information and track appeals. The contractor will also use skills in Sequel and Mail Merges to make sure parents are notified by mail in a timely manner.

**Discussion**  
*One paragraph summary of the scope of work.*

Operating instructions and program fixes for:  
Generate mail merge for Parent Letters. Generate Principals Lists of students assigned for regular update from March-June. Create the Audit-1-2-3-4- report to clean up Aeries data as assignments change through Options Process in order to avoid duplicates. Generate Persistence reports to allow coordinator to have data required to optimize parent choices. Additional Options Data analysis and Demographic Data Analysis as needed. Create reports for initial CELDT testing at school sites, to meet EL compliance. Generate lists of eligible EL students for reclassification. Generate reclassification letters and certificates for parents and students.

**Recommendation** Ratification of professional services contract between Oakland Unified School District and Software Project Consulting Inc.. Services to be primarily provided to Student Assignment and Bilingual Testing Off for the period of 07/15/2011 through 06/29/2012.

**Fiscal Impact** Funding resource name (please spell out) Instructional Student Placement  
not to exceed \$ 25,000.00

**Attachments**

- Professional Services Contract including scope of work
- Fingerprint/Background Check Certification
- Commercial General Liability Insurance Certification
- TB screening documentation
- Statement of qualifications

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OAKLAND UNIFIED  
SCHOOL DISTRICT

## PROFESSIONAL SERVICES CONTRACT 2011-2012

This Agreement is entered into between the Oakland Unified School District (OUSD) and Software Project Consulting Inc. (CONTRACTOR). OUSD is authorized by Government Code Section 53060 to contract for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, and administrative matters with persons specially trained, experienced, and competent to perform such services. CONTRACTOR warrants it is specially trained, experienced, and competent to provide such services. The parties agree as follows:

1. **Services:** The CONTRACTOR shall provide the ("Services" or "Work") as described in **Exhibit "A,"** attached hereto and incorporated herein by reference.
2. **Terms:** CONTRACTOR shall commence work on 07/15/2011, or the day immediately following approval by the Superintendent if the aggregate amount CONTRACTOR has contracted with the District is below \$78,500 in the current fiscal year; or, approval by the Board of Education if the total contract(s) exceed \$78,500, whichever is later. The work shall be completed no later than 06/29/2012.
3. **Compensation:** OUSD agrees to pay CONTRACTOR for services satisfactorily rendered pursuant to this Agreement, a total fee not to exceed twenty five thousand Dollars (\$ 25,000.00 ). This sum shall be for full performance of this Agreement and includes all fees, costs, and expenses incurred by Contractor including, but not limited to, labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs, and other costs.

If CONTRACTOR will be compensated hourly for services provided under this Contract, CONTRACTOR shall describe in Exhibit "A," attached hereto, the specific scope of services to be delivered on an hourly basis to OUSD

OUSD shall not be liable to CONTRACTOR for any costs or expenses paid or incurred by CONTRACTOR in performing services for OUSD, except as follows: \_\_\_\_\_

Payment for Work shall be made for all undisputed amounts in monthly installment payments within forty-five (45) days after the CONTRACTOR submits an invoice to OUSD for Work actually completed and after OUSD's written approval of the Work, or the portion of the Work for which payment is to be made

The granting of any payment by OUSD, or the receipt thereof by CONTRACTOR, shall in no way lessen the liability of CONTRACTOR to correct unsatisfactory work, although the unsatisfactory character of that work may not have been apparent or detected at the time a payment was made. Work, which does not conform to the requirements of this Agreement, may be rejected by the District and in that case must be replaced by CONTRACTOR without delay.

4. **Submittal of Documents:** CONTRACTOR shall not commence the Work under this Contract until CONTRACTOR has submitted and OUSD has approved evidence of the following
  - 1 Individual consultants:
    - Tuberculosis Clearance – Documentation from health care provider showing negative TB status within the last four years.
    - Completion of Pre-Consultant Screening Process – Attach letter from Human Resources Support Services showing completion of Pre-Consultant Screening for this current fiscal year.
    - Insurance Certificates and Endorsements – General Liability insurance in compliance with section 9 herein.
  - 2 Agencies or organizations:
    - Insurance Certificates and Endorsements – Workers' Compensation insurance in compliance with section 9 herein.
5. **Equipment and Materials:** CONTRACTOR shall provide all equipment, materials, and supplies necessary for the performance of this Agreement *except:* \_\_\_\_\_ which shall not exceed a total cost of \$ \_\_\_\_\_.

### 6. CONTRACTOR Qualifications / Performance of Services.

**CONTRACTOR Qualifications.** CONTRACTOR warrants it is specially trained, experienced, competent and fully licensed to provide the Services required by this Agreement in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and/or regulations, as they may apply.

**Standard of Care.** CONTRACTOR warrants that CONTRACTOR has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of OUSD. CONTRACTOR'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.

7. **Notices:** All notices and invoices provided for under this Agreement shall be in writing and either personally delivered during normal business hours or sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other party at the address set forth below:



Professional Services Contract

**OUSD Representative:**

Name: Michael Bonino  
Site /Dept.: Student Assignment and Bilingual Testing Office  
Address: 2111 International Blvd, Room 2  
Oakland, CA 94606  
Phone: (510) 434-7779

**CONTRACTOR:**

Name: Paul Gerken  
Title: President  
Address: 120 Ronada Ave, Suite C  
Piedmont CA 94611  
Phone: (510) 601-9200

Notice shall be effective when received if personally served or, if mailed, three days after mailing. Either party must give written notice of a change of address. CONTRACTOR shall submit invoices in a form that includes the name of the person providing the service, the service performed, the date service was rendered, and the hours spent on the work.

**8. Invoicing**

Invoices furnished by CONTRACTOR under this Agreement must be in a form acceptable to OUSD. All amounts paid by OUSD shall be subject to audit by OUSD.

1. Invoices shall include, but not be limited to: Consultant name, consultant address, invoice date, invoice sequence number, purchase order number, name of school or department service was provided to, period of service, number of hours of service, brief description of services provided, hourly rate, total payment requested.
2. Invoices from Agencies or Organizations must include evidence of compliance with section 19 herein:
  - i. Fingerprinting of Employees and Agents: Agency or organization must provide a current list of all employees, agents and volunteers working at an OUSD site when invoicing, and must include the Department of Justice ATI number for each person, and a statement that subsequent arrest records have been requested for each person listed.
  - ii. Tuberculosis Screening: The list must also include a statement that TB Clearance is on file for each person.

9. **Status of Contractor:** This is not an employment contract. CONTRACTOR, in the performance of this Agreement, shall be and act as an independent contractor. CONTRACTOR understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. CONTRACTOR 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 CONTRACTOR's employees. In the performance of the work herein contemplated, CONTRACTOR is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, OUSD being interested only in the results obtained.

**10. Insurance:**

1. Commercial General Liability Insurance. Unless specifically waived by OUSD, the following insurance is required:
  - i. If CONTRACTOR employs any person to perform work in connection with this Agreement, CONTRACTOR shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease.

Check one of the boxes below:

CONTRACTOR is 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 will comply with such provisions before commencing the performance of the Work of this Contract

CONTRACTOR does not employ anyone in the manner subject to the workers' compensation laws of California.

- ii. CONTRACTOR shall maintain Commercial General Liability insurance, including automobile coverage with limits of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured. Evidence of insurance must be attached. Endorsement of OUSD as an additional insured shall not affect OUSD's rights to any claim, demand, suit or judgment made, brought or recovered against CONTRACTOR. The policy shall protect CONTRACTOR and OUSD in the same manner as though each were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured.
- iii. If CONTRACTOR is offering OUSD professional advice under this Contract, CONTRACTOR shall maintain Errors and Omissions insurance or Professional Liability insurance with coverage limits of One Million Dollars (\$1,000,000) per claim.

**OR**

- iv. CONTRACTOR is not required to maintain any insurance under this agreement (Completed and approved Waiver of Insurance Form is required.) Waiver of Insurance does not release CONTRACTOR from responsibility for any claim or demand.

11 **Licenses and Permits:** CONTRACTOR shall obtain and keep in force all licenses, permits, and certificates necessary for the performance of this Agreement.

**Professional Services Contract**

12. **Assignment:** The obligations of CONTRACTOR under this Agreement shall not be assigned by CONTRACTOR without the express prior written consent of OUSD.
13. **Anti-Discrimination.** It is the policy of OUSD 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 CONTRACTOR 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 OUSD policy. In addition, the CONTRACTOR agrees to require like compliance by all its subcontractor(s). Contractor shall not engage in unlawful discrimination in employment on the basis of actual or perceived; race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation.
14. **Drug-Free / Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, CONTRACTORS, or subcontractors are to use drugs on these sites.
15. **Indemnification:** CONTRACTOR agrees to hold harmless, indemnify, and defend OUSD and its officers, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation in connection with the performance of this Agreement. CONTRACTOR also agrees to hold harmless, indemnify, and defend OUSD and its elective board, officers, agents, and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to CONTRACTOR in connection with the performance of this Agreement. This provision survives termination of this Agreement.
16. **Copyright/Trademark/Patent/Ownership.** CONTRACTOR understands and agrees that all matters produced under this Agreement shall become the property of OUSD and cannot be used without OUSD's express written permission. OUSD 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 OUSD. CONTRACTOR consents to use of CONTRACTOR's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium. These matters include, without limitation, drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, or other documents prepared by CONTRACTOR or its Sub-CONTRACTORS in connection with the Services performed under this Agreement. All works shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in those works are the property of OUSD.
17. **Waiver:** No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.
18. **Termination:** OUSD may at any time terminate this Agreement upon written notice to CONTRACTOR. OUSD shall compensate CONTRACTOR for services satisfactorily provided through the date of termination. In addition, OUSD may terminate this Agreement for cause should CONTRACTOR fail to perform any part of this Agreement. In the event of termination for cause, OUSD may secure the required services from another contractor. If the cost to OUSD exceeds the cost of providing the services pursuant to this Agreement, CONTRACTOR shall pay the additional cost.
19. **Conduct of Consultant.** CONSULTANT will adhere to the following staff requirements and provide OUSD with evidence of staff qualifications, consistent with invoicing requirements outlined in Section 8, which include:
  1. **Tuberculosis Screening**
  2. **Fingerprinting of Employees and Agents.** The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to CONTRACTOR's services under this Agreement and CONTRACTOR certifies its compliance with these provisions as follows: "CONTRACTOR certifies that CONTRACTOR has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all CONTRACTOR's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by OUSD, or acting as independent contractors of CONTRACTOR, who may have contact with OUSD pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. Contractor further certifies that it has received and reviewed fingerprint results for each of its Employees and Contractor has requested and reviews subsequent arrest records for all Employees who may come into contract with OUSD pupils in providing services to the District under this Agreement.  
Contractor initial, PK
20. **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.
21. **OUSD's Evaluation of CONTRACTOR and CONTRACTOR's Employees and/or Subcontractors.** OUSD may evaluate the CONTRACTOR's work in any way that OUSD is entitled to do so pursuant to applicable law. The OUSD's evaluation may include, without limitation:
  1. Requesting that OUSD employee(s) evaluate the CONTRACTOR and the CONTRACTOR's employees and subcontractors and each of their performance.
  2. Announced and unannounced observance of CONTRACTOR, CONTRACTOR's employee(s), and/or subcontractor(s).

Professional Services Contract

- 22. **Limitation of OUSD Liability.** Other than as provided in this Agreement, OUSD'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 OUSD 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.
- 23. **Confidentiality** The CONTRACTOR and all CONTRACTOR's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. CONTRACTOR 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. Contractors will be permitted access to student data only where permissible under state and federal law and only after executing OUSD's Confidentiality Agreement Regarding Student Data.
- 24. **Conflict of Interest.** CONTRACTOR shall abide by and be subject to all applicable OUSD policies, regulations, statutes or other laws regarding conflict of interest. CONTRACTOR shall not hire any officer or employee of OUSD to perform any service by this Agreement.  
  
CONTRACTOR affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between CONTRACTOR's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to OUSD's attention in writing.  
  
Through its execution of this Agreement, CONTRACTOR acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event CONTRACTOR receives any information subsequent to execution of this Agreement, which might constitute a violation of said provisions, CONTRACTOR agrees it shall notify OUSD in writing.
- 25. **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.
- 26. **Litigation:** This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California. The Alameda County Superior Court shall have jurisdiction over any state court litigation initiated to enforce or interpret this Agreement. If litigation is initiated, the prevailing party shall be entitled to reasonable attorney's fees and costs.
- 27. **Contract Contingent on Governing Board Approval:** The District shall not be bound by the terms of this Agreement until it has been formally approved by the District's Governing Board, and no payment shall be owed or made to CONTRACTOR absent formal approval. This Agreement shall be deemed to be approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.
- 28. **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 given the proper authority and empowered to enter into this Agreement.
- 29. **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
- 30. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

Summary of terms and compensation:

Anticipated start date: 07/15/2011 Work shall be completed by: 06/29/2012 Total Fee. \$ 25,000.00

OAKLAND UNIFIED SCHOOL DISTRICT

Mario Santos  
 President, Board of Education  
 Superintendent or Designee

\_\_\_\_\_  
Secretary, Board of Education

8-8-11  
Date

\_\_\_\_\_  
Date

CONTRACTOR

Paul Gerken  
Contractor Signature

Paul Gerken President  
Print Name, Title

7/15/11  
Date

EXHIBIT "A" Scope of Work

DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR's entire Proposal is not made part of this Agreement. [IF A CONTRACTOR PROVIDES AN ACCEPTABLE DESCRIPTION OF SERVICES AS PART OF A PROPOSAL, THAT DESCRIPTION OF SERVICES CAN BE ATTACHED WITHOUT ANY TERMS, CONDITIONS, LIMITATIONS, ETC., FROM THAT PROPOSAL.]

Summary for Board Memo and Board Agenda – Must accurately align with scope of work below.

Operating instructions and program fixes for:

Generate mail merge for Parent Letters. Generate Principals Lists of students assigned for regular update from March-June. Create the Audit-1-2-3-4- report to clean up Aeries data as assignments change through Options Process in order to avoid duplicates. Generate Persistence reports to allow coordinator to have data required to optimize parent choices. Additional Options Data analysis and Demographic Data Analysis as needed. Create reports for initial CELDT testing at school sites, to meet EL compliance. Generate lists of eligible EL students for reclassification. Generate reclassification letters and certificates for parents and students.

SCOPE OF WORK

Software Project Consulting Inc. will provide a maximum of 500.00 hours of services at a rate of \$50.00 per hour for a total not to exceed \$25,000.00.

Services are anticipated to begin on 07/15/2011 and end on 06/29/2012.

1. Description of Services to be Provided Please provide a one or two paragraph program description and how as a result of the service(s) the contractor will provide: 1) How many more Oakland children are graduating from high school? 2) How many more Oakland children are attending school 95% or more? 3) How many more students have meaningful internships and/or paying jobs? 4) And, how many more Oakland children have access to, and use, the health services they need?

Before children can graduate from high school, they must first enroll into high school. The options process helps students attend the school in Oakland which best meets their needs. Students who are interested in the various industry sectors- from Arts to Health to Hospitality and many more- must have access to the programs which most fit their needs. More students will graduate if they are engaged in the high school curriculum, and choose the school which they want to attend. Students are also more likely to attend a school which they chose to attend. While it's difficult to quantify exactly how many more students are likely to attend 95% of the time or more, the numbers should increase if OUSD can provide programs that meet the needs and interests of students, and if students can access the programs that meet their interests and needs. More students will also have access to health services if students need services which are only located at specific campuses by applying for schools through the options program.

2. Specific Duties and Outcomes: Be specific as to what this consultant will do. Provide details as to program participation (Students will...) and measurable outcomes (Participants will be able to...). NOT THE GOALS OF THE SITE OR DEPARTMENT. In order to manage the over 15,000 applications which the Student Assignment & Bilingual Testing Office processes each year, we must have the technological support to process and track these applications. Students will be able to apply for their schools of choice, and receive notification of their assignment. The assignment process follows the board priorities, and different variables (schools, capacities, etc.) must be used to determine these assignments. The consultant will ensure that the database and software used runs properly and solve related technological problems. Specific measurable outcomes include ensuring that letters are printed on-time, ensuring that the assignment software is working properly, analyzing data to assist staff in creating school capacities, and creating several reports provide results to the cabinet.

Students who need the initial CELDT will be identified by the consultant who will also provide reports detailing the students who have been tested and still need testing.

3. Alignment with Single Plan for Student Achievement (required if using State or Federal Funds)

Please select:

- Action Item included in Board Approved SPSA (no additional documentation required) Action Item Number:
Action Item added as modification to Board Approved SPSA – Submit the following documents to the Resource Manager either electronically via email of scanned documents, fax or drop off.
1. Relevant page of SPSA with action item highlighted. Page must include header with the word "Modified" and the modification date, school site name, both principal and school site council chair initials and date.
2. Meeting announcement for meeting in which the SPSA modification was approved.
3. Minutes for meeting in which the SPSA modification was approved indicating approval of the modification.
4. Sign-in sheet for meeting in which the SPSA modification was approved.

# PROFESSIONAL SERVICES CONTRACT ROUTING FORM 2011-2012

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

- Contractor and OUSD contract originator (principal or manager) reach agreement about scope of work and compensation.
- Ensure contractor has OUSD Vendor Number and meets the consultant requirements (including insurance and background check)
- Contractor and OUSD contract originator complete the contract packet together and attach required attachments.
- OUSD contract originator creates the requisition.
- Within 2 weeks of creating the requisition the OUSD contract originator submits complete contract packet for approval.

Attachment Checklist	<input checked="" type="checkbox"/> For individual consultants: HRSS Pre-Consultant Screening Letter for current fiscal year
	<input checked="" type="checkbox"/> For individual consultants: Proof of negative tuberculosis status within past 4 years
	<input checked="" type="checkbox"/> For All Consultants: Statement of qualifications (organization); or resume (individual consultant)
	<input checked="" type="checkbox"/> For All Consultants: Proof of Commercial General Liability insurance naming OUSD as an Additional Insured
	<input type="checkbox"/> For All Consultants with employees: Proof of workers compensation insurance

OUSD Staff Contact *Emails about OUSD contracts go to:* michael.bonino@ousd.k12.ca.us

### Contractor Information

Contractor Name	Software Project Consulting Inc.	Agency's Contact	Paul Gerken		
OUSD Vendor ID #	V054448	Title	President		
Street Address	120 Ronada Ave, Suite C	City	Piedmont	State	CA Zip 94611
Telephone	(510) 601-9200	Email	paulgerken@compuserve.com		
Contractor History	Previously been an OUSD contractor? <input type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

### Compensation and Terms – Must be within the OUSD Billing Guidelines

Anticipated start date	07/15/2011	Date work will end	06/29/2012	Other Expenses	
Pay Rate Per Hour (required)	\$ 50.00	Number of Hours	500.00	Total Contract Amount	\$ 25,000.00

### Budget Information

0522	Instructional Staff	9221201203	5825	\$ 25,000.00
			5825	\$
			5825	\$
<b>Requisition No.</b>	<b>R0200211</b>		<b>Total Contract Amount</b>	<b>\$ 25,000.00</b>

### 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.	<b>Administrator / Manager (Originator)</b>	Name: Michael Bonino	Phone: (510) 434-7779
	Site / Department	Student Assignment and Bilingual Testing Office	Fax: (510) 434-7911
	Signature	<i>[Signature]</i>	Date Approved: 7/14/11
2.	<b>Resource Manager, if using funds managed by:</b> <input checked="" type="checkbox"/> State and Federal <input type="checkbox"/> Quality, Community, School Development <input type="checkbox"/> Complementary Learning / After School Programs	<input type="checkbox"/> Scope of work indicates compliant use of restricted resource and is in alignment with school site plan (SPSA)	
	Signature	Date Approved	
	Signature (if using multiple restricted resources)	Date Approved	
3.	<b>Regional Executive Officer</b>	<input type="checkbox"/> Services described in the scope of work align with needs of department or school site	
		<input type="checkbox"/> Consultant is qualified to provide services described in the scope of work	
	Signature	Date Approved	
4.	<b>Deputy Superintendent Instructional Leadership / Deputy Superintendent Business Operations</b>	<input type="checkbox"/> Consultant Aggregate Under \$50,000	
	Signature: Maria Santos	Date Approved: 8-8-11	
5.	<b>Superintendent, Board of Education: Signature on the legal contract</b>		

<b>Legal Required if not using standard contract</b>	Approved	Denied - Reason	Date
<b>Procurement</b>	Date Received	PO Number	P1200782

1157

