

Board Office Use: Legislative File Info.	
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Introduction Date	2-22-2017
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OAKLAND UNIFIED  
SCHOOL DISTRICT  
Community Schools. Thriving Students.

# Memo

**To** Board of Education

**From** Devin Dillon, Superintendent and Secretary, Board of Education  
By: Vernon Hal, Senior Business Officer *VEH*  
Joe Dominguez, Deputy Chief, Facilities Planning and Management *JD*

**Board Meeting Date** February 22, 2017

**Subject** Independent Consultant Agreement for Professional Services - Wilson Ihrig Acoustics, Noise & Vibration - Glenview Elementary School New Construction Project

**Action Requested** Approval by the Board of Education of an Independent Consultant Agreement for Professional Services between the District and Wilson Ihrig Acoustics, Noise & Vibration, Emeryville, CA., for the latter to provide vibration monitoring for 5 months with web site data access, vendor will develop a frequently asked questions document, coordinate with the contractor and generate monthly memos documenting exceedance events, in conjunction with the Glenview New Construction Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing February 23, 2017 and concluding no later than February 1, 2018, in an amount not-to exceed \$58,400,00.

**Discussion** To provide additional vibration monitoring services to continue to support the District during the construction phase.

**LBP** (Local Business Participation Percentage) 0.00%

**Recommendation** Approval by the Board of Education of an Independent Consultant Agreement for Professional Services between the District and Wilson Ihrig Acoustics, Noise & Vibration, Emeryville, CA., for the latter to provide vibration monitoring for 5 months with web site data access, vendor will develop a frequently asked questions document, coordinate with the contractor and generate monthly memos documenting exceedance events, in conjunction with the Glenview New Construction Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing February 23, 2017 and concluding no later than February 1, 2018, in an amount not-to exceed \$58,400,00.

**Fiscal Impact** Fund 21, Measure J

**Attachments**

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



**CONTRACT JUSTIFICATION FORM**  
**This Form Shall Be Submitted to the Board Office**  
**With Every Consent Agenda Contract.**

**Legislative File ID No.** \_\_\_\_\_

**Department:** Facilities Planning and Management

**Vendor Name:** Wilson Ihrig Acoustics, Noise & Vibration

**Project Name:** Glenview New Construction                      **Project No.:** 13134

**Contract Term:** Intended Start: 2/23/2017                      Intended End: 2/1/2018

**Annual (if annual contract) or Total (if multi-year agreement) Cost:** \$58,400.00

**Approved by:** Tadashi Nakadegawa

**Is Vendor a local Oakland Business or have they meet the requirements of the**

**Local Business Policy?**     Yes (No if Unchecked)

**How was this Vendor selected?**

To provide additional vibration monitoring to existing site.

**Summarize the services this Vendor will be providing.**

To provide:  
Task 1) Acoustical monitoring services.  
  
Task 2) Vibration monitoring for 5 months with web site data access.  
  
Vendor will develop a Frequently Asked Questions document, coordinate with the contractor and generate monthly memos documenting exceedance events.

**Was this contract competitively bid?**     Yes (No if Unchecked)

If No, please answer the following:

1) How did you determine the price is competitive?

This is Amendment No. 1 to this vendor's existing contract.

2) Please check the competitive bid exception relied upon:

- Educational Materials**
- Special Services** contracts for financial, economic, accounting, legal or administrative services
- CUPCCAA Exception** (Uniform Public Construction Cost Accounting Act)
- Professional Service Agreements** of less than \$86,000 (increases a small amount on January 1 of each year)
- Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternative energy supply sources)
- Emergency** contracts
- Technology** contracts
  - electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
  - contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
  - Western States Contracting Alliance Contracts (WSCA)
  - California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- Piggyback" Contracts** with other governmental entities
- Perishable Food**
- Sole Source**
- Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- Other, please provide specific exception**

3)  **Not Applicable - no exception - Project was competitively bid**



**INDEPENDENT CONSULTANT**  
**Less Than \$87,700**

This Independent Contractor Agreement ("Agreement" or "Contract") is made as of the **30 th day of January in the year 2017**, between the **Oakland Unified School District** ("District") and **Wilson Ihrig Acoustics, Noise & Vibration** ("Consultant"). The District and Consultant may be individually referred to herein as a "Party" or collectively referred to herein as the "Parties."

**WHEREAS**, the District is authorized to contract with and employ any persons for the furnishing of special and professional services and advice if those persons are specially trained and experienced and competent to perform the services required;

**WHEREAS**, the District is in need of such services and advice and the Consultant warrants that it is specially trained, licensed and experienced and competent to perform the services required by the District;

**WHEREAS**, the Consultant agrees to perform the services described in this Agreement in accordance with the standards of its profession, to District's satisfaction, and in accordance with this Agreement.

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

1. **Services.** Consultant shall furnish to the District the following services, as more fully described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"):

**Scope of work to provide the tasks that is aforementioned in Exhibit "A" attached to this contract.**

2. **Term.** Consultant shall commence providing Services under this Agreement on **February 23, 2017**, and will diligently perform as required or requested by District as applicable. The term for these Services shall expire on **February 1, 2018**. This Agreement may be extended upon mutual approval of both parties in writing on an annual basis to the extent permissible under applicable law.
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:

<input checked="" type="checkbox"/> Signed Agreement	<input checked="" type="checkbox"/> W-9 Form
<input checked="" type="checkbox"/> Insurance Certificates & Endorsements	<input checked="" type="checkbox"/> Workers' Compensation Certificate
<input checked="" type="checkbox"/> Debarment Certification	Other: _____
<input checked="" type="checkbox"/> Fingerprinting/Criminal Background Investigation Certification	

4. **Compensation.** District agrees to pay the Consultant for Services satisfactorily rendered pursuant to this Agreement, at the rates indicated and as more specifically described in **Exhibit "B,"** on an hourly basis and a per-item basis, as applicable, and up to a **maximum amount not-to-exceed FIFTY-EIGHT THOUSAND, FOUR HUNDRED DOLLARS AND NO CENTS (\$58,400.00)**. District shall pay Consultant only for all undisputed amounts in 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 the Work. Expenses will not be charged on this Work above the

by Consultant in performing the Work. Expenses will not be charged on this Work above the maximum not-to-exceed amount of the Contract Price. Rates for expenses are included on the Schedule of Fees and Charges attached hereto as **Exhibit "B"**.

6. **Materials.** Consultant shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
7. **Local, Small Local and Small Local Resident Business Enterprise (L/SL/SLRBE) Program:** Consultant shall comply with the requirements of District's L/SL/SLRBE Program, as applicable, which may require a fifty percent (50%) mandatory minimum local participation requirement in the performance of this Agreement. A copy of the District's Local Business Participation Policy can be obtained on the District's website, at [www.ousd.k12.ca.us](http://www.ousd.k12.ca.us), under District Services, Facilities Planning & Management Department, Bids and Requests for Proposals.
8. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that he/she and all of his/her 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.
9. **Standard of Care.**
  - 9.1. 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. Consultant's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
  - 9.2. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
  - 9.3. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.
  - 9.4. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.
10. **Originality of Services.** 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.
11. **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.

## 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 sixty (60) 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 sixty (60) 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 Services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

12.4. Upon termination, Consultant shall provide the District with all documents produced maintained or collected by Consultant pursuant to this Agreement, whether or not such documents are final or draft documents.

13. **Indemnification.** To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Consultant in conjunction with this Agreement. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

## 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 insure against all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from Consultant's performance of any portion of the Services. (Form CG 0001 and CA 0001)
- 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	\$ 2,000,000
<b>Automobile Liability Insurance - Any Auto</b>	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
<b>Professional Liability</b>	\$ 1,000,000
<b>Workers Compensation</b>	Statutory Limits
<b>Employer's Liability</b>	\$ 1,000,000

- 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's 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 representatives, employees, trustees, officers, and volunteers are named additional insureds 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 shall be written on an occurrence form, except for Professional Liability which shall be on a claims-made 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. **Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.
18. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
19. **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.
20. **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, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status 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. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).
21. **Fingerprinting of Employees.** The Consultant shall comply with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Consultant shall not permit any employee to have any contact with District pupils until such time as the Consultant has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Consultant's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant. Verification of compliance with this section shall be provided in writing to the District prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student.
22. **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 three (3) 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.

**23. District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.**

The District may evaluate the Consultant in any manner which is permissible under the law. The District's evaluation may include, without limitation:

23.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.

23.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).

**24. 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.

**25. Disputes:** In the event of a dispute between the parties as to performance of Work, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Consultant shall neither rescind the Agreement nor stop Work.

**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. 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:

**Oakland Unified School District**  
955 High Street  
Oakland, CA 94601  
Tel: 510-535-7038; Fax: 510-535-7082  
ATTN: Tadashi Nakadegawa

**Consultant**  
~~Wilson Ihrig Acoustics, Noise & Vibration~~  
6001 Shellmond Street, Ste. 400  
Emeryville, CA 94608  
Tel: 510-658-6719 Fax:  
ATTN: Deborah Jue

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 California county in which the District's administration 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. **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>

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



ACCEPTED AND AGREED on the date indicated below:

**OAKLAND UNIFIED SCHOOL DISTRICT**

[Signature]  
James Harris, President, Board of Education

2/23/17

Date

[Signature]  
Devin Dillon Interim Superintendent & Secretary, Board of Education

2/23/17

Date

[Signature]  
Joe Dominguez, Deputy Chief, Facilities Planning and Management

Date

**APPROVED AS TO FORM:**

[Signature]  
OUSD Facilities Legal Counsel

4/31/17

Date

**CONSULTANT**

[Signature]

1/12/17

Date

**Information regarding Consultant:**

Consultant: WILSON IHRIG

License No.: N/A

Address: 6001 SHELLMOUND ST  
SUITE 400  
510 658-6719

Telephone: DJUE@WIAI.COM

Facsimile: \_\_\_\_\_

E-Mail: djue@wiai.com

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

<p>94-1624151 Employer Identification and/or Social Security Number</p> <p><b>NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.</b></p>
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**WORKERS' COMPENSATION CERTIFICATION**

Labor Code section 3700 in relevant part provides:

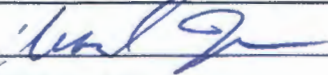
Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- 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: JANUARY 12, 2017

Proper Name of Consultant: WILSON IHRIG & ASSOCIATES

Signature: 

Print Name: DEBORAH A. JUE

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.)

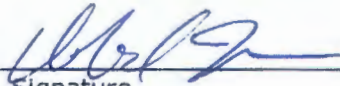


**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

I am aware of and hereby certify that neither WILSON IHRIG [Type name of Consultant] nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. I further agree that I will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

Where the Consultant or any lower participant is unable to certify to this statement, it shall attach an explanation hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named Consultant on the 12<sup>th</sup> day of JANUARY 2017 for the purposes of submission of this Agreement.

By:   
Signature

DEBORAH A. JUE  
Typed or Printed Name

PRINCIPAL  
Title

**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 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):

\_\_\_\_\_ Consultant has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its subcontractors' 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 subcontractors' 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 subcontractors' employees is

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

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

Date: JANUARY 12, 2017

Proper Name of Consultant: WILSON, IHRIG & ASSOCIATES

Signature: 

Print Name: DEBORAH A. JUE

Title: PRINCIPAL



**EXHIBIT "A"**  
**Scope of Services**

Consultant shall perform the following Services:

**[INCLUDE/ATTACH A DETAILED SCOPE OF WORK (DO NOT INCLUDE ANY TERMS FROM CONTRACTOR'S PROPOSAL)]**

SEE ATTACHED



WI #16-085

September 8, 2016

**EXHIBIT A**

Tadashi Nakadegawa  
Director of Facilities Planning and Management  
Oakland Unified School District  
955 High Street  
Oakland, CA 94601

**Subject:** Glenview Elementary Replacement Project  
Proposal for Acoustical Consulting Services, Add Services 1

Dear Mr. Nakadegawa:

This provides our proposal to provide additional acoustical consulting services to continue to support the District during the construction phase, including construction noise monitoring.

**Proposed Services**

**Task 2. Public Meeting:** Support and preparation for and attendance at community meeting on September 1.

**Task 3. Construction Noise Monitoring (18 months)**

- a. Coordination, deployment and demobilization of two noise loggers at the project site near noise sensitive receptors (e.g., at Wellington and Hampel)
- b. Monthly usage and maintenance of two (2) noise loggers for up to 18 months. Basic exterior noise logger with remote access and data plan. No sound recordings included.
- c. Weekly noise reports summarizing noise levels – first six months, conformance with Oakland requirements (e.g., Leq 65 dBA) and incorporating basic construction activities information. In-depth review of noise exceedance recordings is not included in this basic task.
- d. Monthly noise reports for the latter 10 months of monitoring.

**Task 4. Vibration monitoring (3 months) - OPTIONAL**

- a. Deployment of 2 vibration monitors, with web site data access





### Estimated effort and cost proposal

Task 2. \$5,000 T&M

Task 3 a. Coordination, mobilization/demobilization \$2,500 T&M

b. Monthly usage and maintenance \$400/mo per location => \$800/mo x 16 = \$14,400

c. Weekly reports \$900/mo T&M – six months for 2 locations = \$5,400

d. Monthly reports \$700/mo T&M – ten months for 2 locations = \$7,000

e. As-needed services \$1,000/mo T&M – initial budget of \$5,000

Task 4 OPTIONAL Vibration monitoring, 2 locations 3 months \$600/mo = \$1,800

Subtotal: Task 3 not to exceed \$34,300 for 16 months on a T&M basis

Total, Tasks 2 and 3, \$39,300 fees and expenses

This work will be done on a time and materials basis in accordance with our current fee schedule:

Senior Principal	\$300/hour
Principal	\$250/hour
Associate Principal	\$200/hour
Senior Consultant	\$175/hour
Associate	\$150/hour
Assistant	\$120/hour
Senior Technician	\$110/hour
Project Assistant	\$ 75/hour

Our General Terms and Conditions are attached. We would be happy to execute a PO or contract based on these terms or mutually agreed upon terms. This proposal is valid for 90 days.

Please feel free to contact me if you would like to discuss any aspect of this proposal.

Very truly yours,

WILSON IHRIG

Deborah A. Jue

Principal

## **General Terms and Conditions**

### **DIRECT EXPENSES**

Authorized direct expenses, such as those for mileage, travel, photo developing, and long distance telephone, will be billed at cost plus 0%. Fees and expenses will be invoiced monthly unless specifically agreed otherwise.

### **PAYMENT**

The invoice will indicate the fees and expenses expended on the assignment during the invoice period. Payment is expected within 30 days of receipt. Client agrees to pay a finance charge of one and one half percent (1-1/2%) per month, or the maximum rate allowed by law on fees 60 days past due or longer. WIA reserves the right to terminate all services on any accounts in arrears more than 90 days from the date of invoice. For work away from our office, staff travel time is charged at fee rate for portal to portal.

### **RETAINER**

For new clients, it is our policy to require a retainer equal to 50-100% of the estimated fees and expenses before work commences. Thus, for this project, we require 0 prior to starting work. The retainer will be applied to our final invoice. Please be advised that WIA reserves the right to assert a Mechanic's Lien, Design Professional's Lien or a Stop Notice if payments are not made according to our agreement.

### **DELAYS**

Delays not under WIA control, such as access denied due to owner absence, will be charged in addition to the proposed fees on a Time & Materials basis at the schedule of fees listed above.

### **STANDARD OF CARE**

WIA will strive to perform services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other warranty, express or implied, is made.

### **OWNERSHIP OF DOCUMENTS**

All reports, field data and notes, laboratory analysis, calculations, estimates and other documents prepared by WIA, as instruments of service, shall remain the property of WIA. Client agrees that any



interpretation or use of these documents without consultation with WIA will be at Client's own risk of liability.

#### DISPUTES

In the unlikely event that a dispute should arise between the client and consultant during the design and construction of the Project or following the completion of the Project, the parties agree to participate in nonbinding mediation unless mutually agreed otherwise. If the mediation is unsuccessful, either party may instigate litigation. The exclusive jurisdiction and venue for any such litigation shall be the state courts and federal courts for Alameda County, California, and each party expressly consents to jurisdiction and venue therein. These Terms and Conditions will be interpreted and construed in accordance with the laws of the State of California, without regard to conflict of law principles. In any legal proceeding arising out of or related to this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred, including but not limited to court costs, staff time, attorneys' fees, and collection agency fees.

#### INDEMNIFICATION

Consultant (WIA) agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against all liabilities, but shall not be responsible for the cost of the Client's defense, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its sub-consultants or anyone for whom the Consultant is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and sub-consultants (collectively, Consultant) against all liabilities, but shall not be responsible for the cost of the Consultant's defense, to the extent caused by the Client's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable. Neither the Client nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.



WI #16-085

November 7, 2016

Tadashi Nakadegawa  
Director of Facilities Planning and Management  
Oakland Unified School District  
955 High Street  
Oakland, CA 94601

Subject: Glenview Elementary Replacement Project  
Proposal for Acoustical Consulting Services, Add Services 2

Dear Mr. Nakadegawa:

This provides our proposal to provide additional acoustical consulting services to continue to support the District during the construction phase, including construction vibration monitoring.

### Proposed Services

#### Task 4. Vibration monitoring (5 months)

- a. Deployment of 2 vibration monitors, with web site data access
- b. Develop a Frequently Asked Questions document and develop monitoring threshold.
- c. Communicate with the Contractor to identify the source of any vibration events that exceed the monitoring threshold
- d. Monthly memos documenting exceedance events.

### Estimated effort and cost proposal

Task 4 a. Vibration location coordination, mobilization/demobilization \$1,500 T&M

- a1. Vibration monitoring maintenance, Hampel 5 months \$200/mo = \$1,000 T&M
- a2. Vibration monitoring maintenance, Wellington 4 months \$150/mo = \$600 T&M
- a3. Monthly usage and rental \$800/mo per location => \$7,200 T&M
- b. FAQ \$1,000 T&M
- c. Communicate with Contractor – 15 events assumed => \$4,000 T&M





d. Monthly documentation memo, 5 memos => \$2,000

Subtotal: **Task 4 not to exceed \$14,100 for 5 months on a T&M basis**

This work will be done on a time and materials basis in accordance with our current fee schedule:

Senior Principal	\$300/hour
Principal	\$250/hour
Associate Principal	\$200/hour
Senior Consultant	\$175/hour
Associate	\$150/hour
Assistant	\$120/hour
Senior Technician	\$110/hour
Project Assistant	\$ 75/hour

Our General Terms and Conditions are attached. We would be happy to execute a PO or contract based on these terms or mutually agreed upon terms. This proposal is valid for 90 days.

Please feel free to contact me if you would like to discuss any aspect of this proposal.

Very truly yours,

WILSON IHRIG

Deborah A. Jue

Principal

wi ousd glenview elementaryconstruction monitoring vibration.docx





## DESCRIPTIONS (Continued from Page 1)

Waiver of Subrogation applies to Commercial General Liability, Automobile Liability and Workers Compensation. Cancellation provisions are solely as shown on this certificate. Cancellation: 30 Day/10 Day for Non-Payment of Premium.

Insured: Wilson, Ihrig & Associates, Inc.  
Insurer: Sentinel Insurance Co. LTD  
Policy Number: 57SBWLT8087  
Policy Effective Date: 07/27/2016  
Additional Insured:

NAME OF PERSON OR ORGANIZATION CONTINUATION: Oakland Unified School District, the State and their representatives, employees, trustees, officers, and volunteers.

EXCERPTS FROM: Hartford Form SS 00 08 04 05

## BUSINESS LIABILITY COVERAGE FORM

### C. WHO IS AN INSURED

#### 6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit. A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

#### f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury, "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (a) In the performance of your ongoing operations;
- (b) In connection with your premises owned by or rented to you; or
- (c) In connection with "your work" and included within the "products- completed operations hazard, but only if
  - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
  - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to: "Bodily injury, "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including: inspection, or engineering

#### E.5. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

#### E.7.b.(7).(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

#### E.8.b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.





DEPARTMENT OF FACILITIES PLANNING AND MANAGEMENT ROUTING FORM

Project Information

Table with Project Name, Site, and values: Glenview Elementary School New Construction, 119

Basic Directions

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

Attachment Checklist table with checkboxes for insurance and workers compensation.

Contractor Information

Contractor Information table with fields for Contractor Name, Agency's Contact, Street Address, Telephone, etc.

Term

Term table with Date Work Will Begin, Date Work Will End By, and values: 2-23-2017, 2-1-2018

Compensation

Compensation table with Total Contract Amount, Pay Rate Per Hour, and other expenses.

Budget Information

If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.

Budget Information table with Resource #, Funding Source, Org Key, Object Code, and Amount.

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.

Approval and Routing table with 5 rows for signatures and dates of approval.