

Board Office Use: Legislative File Info.	
File ID Number	16-1512
Introduction Date	6-22-2016
Enactment Number	16-1076
Enactment Date	6-22-2016



OAKLAND UNIFIED  
SCHOOL DISTRICT  
Community Schools. Thriving Students.

# Memo

**To** Board of Education

**From** Antwan Wilson, Superintendent and Secretary, Board of Education  
By: Vernon Hal, Senior Business Officer  
Joe Dominguez, Interim Deputy Chief, Facilities Planning and Management

**Board Meeting Date** June 22, 2016

**Subject** Independent Contractor Agreement for Professional Services - KDI Consultants, Inc. - Manzanita Elementary School Prop 39 Boiler Replacement Project

**Action Requested** Approval by the Board of Education of an Independent Contractor Agreement between the District and KDI Consultants, Inc., Oakland, CA., for the latter to provide inspection of Division of State Architect approved drawings and specifications for the Prop 39 new boiler units and energy management system controls. Inspector is to review all contractor daily activities including product submittals and RFI reviews, in conjunction with the Manzanita Elementary School Prop 39 Boiler Replacement Project, more specifically delineated in the scope of services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing June 22, 2016 and concluding no later than December 1, 2016, in an amount not-to exceed \$6,080.00.

**Discussion** This project has been state approved and the inspector is required by the Division of State Architect.

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

**Procurement Method** Professional Services Agreement - Formal - Advertised RFP / Awarded to entity following OUSD competitive solicitation process.

**Recommendation** Approval by the Board of Education of an Independent Contractor Agreement between the District and KDI Consultants, Inc., Oakland, CA., for the latter to provide inspection of Division of State Architect approved drawings and specifications for the Prop 39 new boiler units and energy management system controls. Inspector is to review all contractor daily activities including product submittals and RFI reviews, in conjunction with the Manzanita Elementary School Prop 39 Boiler Replacement Project, more specifically delineated in the scope of services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing June 22, 2016 and concluding no later than December 1, 2016, in an amount not-to exceed \$6,080.00.

**Fiscal Impact** Fund 21, Measure J

## Attachments

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



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

**Legislative File ID No.** 16-1512

**Department:** Facilities Planning and Management

**Vendor Name:** KDI Consultants, Inc.

**Project Name:** Manzanita ES Prop 39 Boiler Replacement **Project No.:** 15119

**Contract Term:** Intended Start: 6/22/2016 Intended End: 12/1/2016

**Annual (if annual contract) or Total (if multi-year agreement) Cost:** \$ 6,080.00

**Approved by:** Joe Dominguez, Deputy Chief

**Is Vendor a local Oakland Business or have they meet the requirements of the Local Business Policy?** Yes ☒ No ☐

**How was this Vendor selected?**

This vendor was selected through a competitive RFP process.

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

Inspection of Division of State Architect approved drawings and specifications for the Prop 39 new boiler units and energy management system controls. Inspector is to review all contractor daily activities including product submittals and RFI reviews.

**Was this contract competitively bid?** Yes ☒ No ☐

If No, please answer the following:

1) How did you determine the price is competitive?



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 alternate 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**

## OAKLAND UNIFIED SCHOOL DISTRICT

### INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES

#### Inspector of Record

**THIS CONTRACT** is made and entered into and upon Board of Education approval as indicated below ("Contract"), by and between **KDI Consultants, Inc.** ("Contractor") and Oakland Unified School District ("District"). Contractor and District may be referred to herein individually as a "Party" or collectively as the "Parties."

**WHEREAS**, the District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if those persons are specially trained and experienced and competent to perform the special services required;

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

**WHEREAS**, the Contractor 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.** The Contractor shall furnish to the District the services as described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"):

**The scope of the project is to provide inspection of Division of State Architect approved drawings and specifications for the Prop 39 new boiler units and energy management system controls. Inspector is to review all contractors' daily activities including product submittals and RFI reviews.**

2. **Term.** Contractor shall commence **June 22, 2016 and concluding no later than December 1, 2016.** This Agreement may be extended upon mutual approval of both parties on an annual basis to the extent permissible under applicable law.
3. **Submittal of Documents.** The Contractor shall not commence the Work under this Contract until the Contractor 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"/> Workers' Compensation Certificate
<input checked="" type="checkbox"/> Insurance Certificates & Endorsements	<input type="checkbox"/> <del>W-9 Form</del>
<input type="checkbox"/> Bonds (as requested by District)	<input type="checkbox"/> <del>Other: Fingerprinting</del>
<input checked="" type="checkbox"/> Debarment Certificate	

4. **Compensation.** District agrees to pay the Contractor for Services satisfactorily rendered pursuant to this Agreement, at the rates indicated and as more specifically described in **Exhibit "A,"** on an hourly basis and a per-item basis, as applicable, and up to **a maximum amount not-to-exceed Six thousand, eighty dollars and no cents (\$6,080.00).** District shall pay Contractor only for all undisputed amounts in installment payments within thirty (30) days after the Contractor 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 Contractor for any costs or expenses paid or incurred by Contractor in performing the Work. Expenses will not be charged on the Work above the maximum not-to-exceed amount of **Zero (\$0.00)**. Rates for expenses are included on the Schedule of Fees and Charges attached hereto as **Exhibit "B"**.
6. **Materials.** Contractor 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. **Independent Contractor.** Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor 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. 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.
8. **Standard of Care.** Contractor's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California school districts.
9. **Originality of Services.** Contractor 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 Contractor and shall not be copied in whole or in part from any other source, except that submitted to Contractor by District as a basis for such services.
10. **Copyright/Trademark/Patent.** Contractor 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. 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.
11. **Termination.**
  - 11.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by the Contractor or no later than three days after the day of mailing, whichever is sooner.
  - 11.2. **Without Cause by Contractor.** Contractor may, upon sixty (60) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Contractor for services satisfactorily rendered to the date of termination. Written notice by Contractor shall be sufficient to stop further performance of services to District. Contractor acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.
  - 11.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:



- 11.3.1. material violation of this Agreement by the Contractor; or
- 11.3.2. any act by Contractor exposing the District to liability to others for personal injury or property damage; or
- 11.3.3. Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor'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 ceases, 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 such termination, the District may secure the required services from another Contractor. If the expense, fees, and/or costs to the District exceeds the cost of providing the service pursuant to this Agreement, the Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expenses, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

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

**12. Indemnification.** To the furthest extent permitted by California law, Contractor shall, at its sole expense, defend, indemnify, and hold harmless the District, the State of California, and their agents, representatives, officers, employees, trustees, and volunteers (the "Indemnified Parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "Claims") of any kind, nature, and description, including, but not limited to, personal injury, death, property damage, and reasonable attorneys' fees and costs, directly or indirectly arising out of, connected with, or resulting from the performance of the Agreement or from any activity, work, or thing done, permitted, or suffered by the Contractor in conjunction with this Agreement, to the extent caused by the negligence or willful misconduct of Contractor, its employees or subcontractors. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the Indemnified Parties.

### **13. Insurance.**

- 13.1. The Contractor 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.

- 13.1.1. **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 Contractor's performance of any portion of the Services. (Form CG 0001 and CA 0001)

- 13.1.2. **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 Contractor 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.

- 13.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Contractor's profession.

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

- 13.2. **Proof of Carriage of Insurance.** The Contractor 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:

13.2.1. 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."

13.2.2. 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.

13.2.3. 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 Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District.

13.2.4. All policies shall be written on an occurrence form, except for Professional Liability which shall be on a claims-made form.

- 13.3. **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.

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

15. **Compliance with Laws.** Contractor 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. Contractor shall give all notices required by any law, ordinance, rule and



regulation bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Contractor 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 Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

16. **Permits/Licenses.** Contractor and all Contractor'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.
17. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor 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.
18. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the 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. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).
20. **Fingerprinting of Employees.** The Contractor 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 Contractor shall not permit any employee to have any contact with District pupils until such time as the Contractor 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 Contractor'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 Contractor. 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.
21. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor 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 Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.



**22. District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate the Contractor in any manner which is permissible under the law. The District's evaluation may include, without limitation:

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

22.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).

**23. 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.

**24. 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, Contractor shall neither rescind the Agreement nor stop Work.

**25. 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. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

**26. 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

**Attn: Tadashi Nakadegawa**

Tel: 510-535-7038

**Contractor**

KDI Consultants, Inc  
5111 Telegraph Avenue, Ste. 144  
Oakland, CA 94609

**Attn: Ken DeCarlo**

Tel: 510-333-6521

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.

**27. Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE Program).** Contractor shall comply with the requirements of the 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 L/SL/SLRBE Program can be obtained on the District website, at [www.ousd.k12.ca.us](http://www.ousd.k12.ca.us), under the Facilities Planning & Management Department drop down menu, Bids and Requests for Proposals.

**28. Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and



agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

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

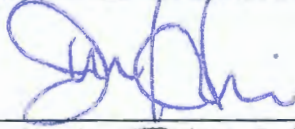
The District certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation 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>

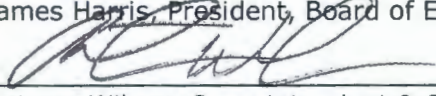
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**Susie Butler-Berkley**  
**Contract Analyst**

ACCEPTED AND AGREED on the date indicated below:

**OAKLAND UNIFIED SCHOOL DISTRICT**

  
James Harris, President, Board of Education 6/23/16  
Date

  
Antwan Wilson, Superintendent & Secretary, Board of Education 6/23/16  
Date

  
Joe Dominguez, Deputy Chief, Facilities Planning and Management Date

**CONTRACTOR**

KDI Consultants, Inc. 5/23/2016  
By: Ken DeCarlo Date  
Its: CEO

**APPROVED AS TO FORM:**

  
OUSD Facilities Legal Counsel 6.2.16  
Date

File ID Number: 16-1512  
Introduction Date: 6-22-2016  
Enactment Number: 16-1076  
Enactment Date: 6-22-2016  
By: 01



**Information regarding Contractor:**

Contractor: KDI Consultants, Inc.  
License No.: 4704  
Address: 5111 Telegraph Ave.  
Oakland, CA 94609  
Telephone: (510) 333-6521  
Facsimile: \_\_\_\_\_  
E-Mail: ken@kdiconsultants.com  
Type of Business Entity:  
☐ Individual ☐ Sole  
Proprietorship  
☐ Partnership ☐ Limited  
Partnership  
☐ Limited Liability Company  
☒ Corporation, State: CA  
☐ Other: \_\_\_\_\_

**EIN** 26-1237460Employer Identification and/or Social  
Security Number

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

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**WORKERS' COMPENSATION CERTIFICATION**

Labor Code Section 3700 in relevant part provides that every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- 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 its 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: May 23, 2016  
Proper Name of Contractor: Kenneth DeCarlo  
Signature: *Ken DeCarlo*  
Print Name: Kenneth DeCarlo  
Title: CEO

(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 District prior to performing any Work under this Contract.)

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

See the attached Proposal from the Contractor:



## Construction Quality Management Proposal for Prop 39 Manzanita Boiler Replacement

March 23, 2016

### EXHIBIT A

1 DSA Inspector of Record		\$4,560
2 DSA Punch List/Close-out & Documentation (30 Days)		<u>\$1,520</u>
Project Total	Estimated Project Fee	\$6,080

### GENERAL ASSUMPTIONS

- Total Project Construction estimated cost \$106,000
- Construction Schedule: Preliminary schedule provided is 10 weeks.
- Project Plans- not provided
- Proposal excludes special inspection required by Title 24 CBC Chapter 17 and DSA-103

### Basis of Charges/Terms and Conditions

- Estimated project fee is a not to exceed cost billed and submitted under the standard hourly rate.
- KDI invoices will be submitted on a monthly basis.
- Project Inspection includes construction quality assurance only of all contractor daily activities, including product submittals and RFI review.
- Project Proposal is an estimate and based on general assumptions. Any additions in scope via addendum, ASIs, or Change Orders requiring additional inspections or cost outside of those assumptions provided will be billed separately on a Time & Material Basis at a basic Inspector hourly rate of **\$95.00**.
- Premium Time:
  - Overtime, Holidays and Saturdays: add 50% to basic rate.
  - Sundays; or over 12 hours; over 8 hours on Saturday; add 100% to basic rate
  - KDI observed holidays are recognized per opm.gov guidelines
  - Night Shifts: add 15% to basic rate (between hours of 6pm-6am)
  - Weekends and Holidays are a 4 hour minimum.
- Premium time is excluded within this proposal.
- Offsite material verification and inspections are excluded.
- Minimum Time: 2 hours/day for inspection/show up time, over 4 hours: minimum 8 hours time billing.
- **All** reinspection fees, inspections requested without minimum 24 hour notice, necessitating inspector standby time will be documented and issued to the Owner under a separate line item as this cost is excluded within this proposal.
- KDI excludes reproduction fees for plans, specifications and submittals. This costs shall be billed as reimbursables +10% to the District.

## **FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION**

One of the three boxes below **must** be checked, with the corresponding certification provided, and this form attached to the Independent Consultant Agreement for Independent Contractor Agreement- Special Services ("Agreement"):

☐ **[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]** Consultant's employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Education Code § 45125.1 (c))

Date: \_\_\_\_\_

District Representative's Name and Title: \_\_\_\_\_

Signature: \_\_\_\_\_

☐ The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant's services under this Agreement and Consultant certifies its compliance with these provisions as follows: *"Consultant certifies that the Consultant has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Consultant's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant, who may have contact with District 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. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*

☐ Consultant's services under this Agreement shall be limited to the construction, reconstruction, rehabilitation, or repair of a school facility and although all Employees will have contact, other than limited contact, with District pupils, pursuant to Education Code section 45125.2 District shall ensure the safety of the pupils by at least one of the following as marked:

\_\_\_\_\_ The installation of a physical barrier at the worksite to limit contact with pupils.

☒ Continual supervision and monitoring of all Consultant's on-site employees of Consultant by an employee of Consultant, Kenneth DeCarlo, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

\_\_\_\_\_ Surveillance of Employees by District personnel. **[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]**

Date: \_\_\_\_\_

District Representative's Name and Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**Megan's Law (Sex Offenders).** I have verified and will continue to verify that the employees of Contractor 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/>).

**[MUST BE COMPLETED BY CONSULTANT'S AUTHORIZED REPRESENTATIVE.]** I am a representative of the Consultant entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.



Date: May 23, 2016  
Name of Consultant or Company: KDI Consultants, Inc.  
Signature: *Ken DeCarlo*  
Print Name and Title: Kenneth DeCarlo SR

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

I am aware of and hereby certify that neither KDI Consultants, Inc. [Type name of Contractor] 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 Contractor 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 Contractor on the 23rd day of May 2016 for the purposes of submission of this Agreement.

By: Ken DeCarlo  
Signature  
Kenneth DeCarlo SR  
Typed or Printed Name  
CEO  
Title





# CERTIFICATE OF LIABILITY INSURANCE

OP ID: DB

DATE (MM/DD/YYYY)

01/29/2016

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

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

<b>PRODUCER</b> Vallejo Insurance Associates P. O. Box 4446 Vallejo, CA 94590 Jeanne Kilkeny-Turk		<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 707-554-6080 FAX (A/C, No): 707-554-2198 E-MAIL ADDRESS: dboyanich@vallejoinsurance.com PRODUCER CUSTOMER ID #: KDICO-1	
<b>INSURED</b> KDI Consultants, Inc. 5111 Telegraph Ave Ste. 144 Oakland, CA 94609		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Nationwide Mutual Insurance Co INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 23787	

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X		ACP7854334300	02/04/2015	02/04/2016	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY	X		ACP7854334300	02/04/2015	02/04/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input checked="" type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (PER ACCIDENT) \$
A	<input checked="" type="checkbox"/> HIRED AUTOS			ACP7864334300	02/04/2016	02/04/2017	\$
A	<input checked="" type="checkbox"/> NON-OWNED AUTOS						\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DEDUCTIBLE						\$
	RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					OTH-ER
	If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
Certificate holder is named as additional insured with respects to work done for Oakland Unified School District Dept of Facilities Planning & Management Building & Grounds, & Custodial Services, as per the attached endorsements, CG20100413 & CA2048.

**CERTIFICATE HOLDER****CANCELLATION**

Oakland Unified School District, Timothy W. White Assist. Superintendent 955 High St. Oakland, CA 94601	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE Jeanne Kilkeny-Turk 
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

SCHEDULE

Name of Person(s) or Organization(s):

OAKLAND UNIFIED SCHOOL DISTRICT  
TIMOTHY E WHITE ASSISTANT SUPERINTENDENT

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.

Copyright, Insurance Services Office, Inc., 1998



POLICY NUMBER: ACP7864334300

COMMERCIAL GENERAL LIABILITY  
CG 20 10 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)
OAKLAND UNIFIED SCHOOL DISTRICT, DEPARTMENT OF FACILITIES PLANNING & MANAGEMENT BUILDING & GROUNDS & CUSTODIAL SERVICES TIMOTHY E WHITE, ASSISTANT SUPERINTENDENT 955 HIGH ST OAKLAND, CA 94601-4404
Location(s) Of Covered Operations
955 HIGH ST OAKLAND CA 94601-4404
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

CG 20 10 04 13

2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
  2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**All terms and conditions apply unless modified by this endorsement.**





P.O. BOX 8192, PLEASANTON, CA 94588

## CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

ISSUE DATE: 01-06-2016

GROUP:

POLICY NUMBER: 9149494-2015

CERTIFICATE ID: 1

CERTIFICATE EXPIRES: 12-25-2016

12-25-2015/12-25-2016

OAKLAND UNIFIED SCHOOL DISTRICT  
955 HIGH ST  
OAKLAND CA 94601-4404

NA

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon 10 days advance written notice to the employer.

We will also give you 10 days advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policy listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of insurance may be issued or to which it may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions, of such policy.

Authorized Representative

President and CEO

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: \$1,000,000 PER OCCURRENCE.

ENDORSEMENT #1600 - DECARLO, KEN PRES SEC TRES - EXCLUDED.

EMPLOYER

KDI CONSULTANTS, INC.  
5111 TELEGRAPH AVE #144  
OAKLAND CA 94609

NA

[LTY,CN]



P.O. BOX 8192, PLEASANTON, CA 94588

**CERTIFICATE OF WORKERS' COMPENSATION INSURANCE**

ISSUE DATE: 01-06-2016

GROUP:

POLICY NUMBER: 9149494-2015

CERTIFICATE ID: 1

CERTIFICATE EXPIRES: 12-25-2016

12-25-2015/12-25-2016

OAKLAND UNIFIED SCHOOL DISTRICT  
955 HIGH ST  
OAKLAND CA 94601-4404

NA

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon 10 days advance written notice to the employer.

We will also give you 10 days advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policy listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of insurance may be issued or to which it may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions, of such policy.

A handwritten signature in cursive script, appearing to read "Kent R. Lauf".

Authorized Representative

A handwritten signature in cursive script, appearing to read "Vernon Steiner".

President and CEO

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: \$1,000,000 PER OCCURRENCE.

ENDORSEMENT #1600 - DECARLO, KEN PRES SEC TRES - EXCLUDED.

EMPLOYER

KDI CONSULTANTS, INC.  
5111 TELEGRAPH AVE #144  
OAKLAND CA 94609

NA

[LTY,CN]





## INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES ROUTING FORM

### Project Information

Project Name	Manzanita Elementary School Prop 39 Boiler Replacement Project	Site	137 ✓
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### Basic Directions

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

Attachment Checklist	<input type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider
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### Contractor Information

Contractor Name	KDI Consultants, Inc.	Agency's Contact	Ken DeCarlo				
OUSD Vendor ID #	V057341	Title	Inspector of Record				
Street Address	5111 Telegraph Avenue, Suite 144	City	Oakland	State	CA	Zip	94609
Telephone	510-333-6521	Policy Expires	2-4-17				
Contractor History	Previously been an OUSD contractor? x Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes x No				
OUSD Project #	15119						

### Term

Date Work Will Begin	6-22-2016	Date Work Will End By (not more than 5 years from start date)	12-1-2016
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### Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$6,080.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$
Other Expenses		Requisition Number	

### Budget Information

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

Resource #	Funding Source	Org Key	Object Code	Amount
9350	Fund 21, Measure J	1379905892	6235	\$6,080.00

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

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Director, Facilities Planning and Management				
	Signature			Date Approved	5/26/16
2.	General Counsel, Department of Facilities Planning and Management				
	Signature			Date Approved	5/26/16
3.	<del>Interim</del> Deputy Chief, Facilities Planning and Management				
	Signature			Date Approved	
4.	Senior Business Officer				
	Signature			Date Approved	
5.	President, Board of Education				
	Signature			Date Approved	