

**PERALTA COMMUNITY COLLEGE DISTRICT**  
**Board of Trustees Agenda Report**  
**For the Trustee Meeting Date of November 18, 2008**

ITEM # 38

**ITEM TITLE:**

Consider Approval of Agreement for DSA Inspector of Record with Jason R. Zalinski for Laney College Modernization and Short-Term Projects

**SPECIFIC BOARD ACTION REQUESTED:**

Approval is requested for an agreement with Jason R. Zalinski to serve as the DSA Inspector of Record for the Laney Modernization and Short-Term Projects, in the not-to-exceed amount of \$114,800.

**ITEM SUMMARY:**

The services to be provided as DSA Inspector of Record include providing DSA Form 5 prior to the beginning of each project, on-site inspections, daily reports during construction for each project, adherence to all DSA regulations for accessibility, fire/life safety and structural compliance. Duties will also include review all contractor pay applications, provide support and verified reports (DSA Form 6) for each completed project, and project closeout. Jason Zalinski's services for the Laney Modernization and Short-Term Projects will be billed at an hourly rate of \$80, with a total not-to-exceed amount of \$114,800.

**BACKGROUND/ANALYSIS:**

Under provisions of the California Code of Regulations and the Education Code, the State of California Division of the State Architect (DSA) reviews plans and oversees construction projects for community college districts to ensure that plans, specifications and construction comply with the State building codes (Title 24 and California Building Codes (CBC)). For each project subject to DSA review, a qualified and certified inspector must be hired by the District and approved by DSA.

Inspectors are selected from the approved list provided by DSA. Recommendations from the Oakland DSA field inspector, availability of inspectors, and the skill level required are considerations in the employment of an inspector for each project or projects. These considerations limit the number of inspectors qualified and available for projects. Mr. Zalinski is a DSA certified inspector who has provided inspection services on other District construction projects.

**ALTERNATIVES/OPTIONS:**

Not applicable.

**EVALUATION AND RECOMMENDED ACTION:**

Approval is recommended for an agreement with Jason R. Zalinski to serve as the DSA Inspector of Record for the Laney Modernization and Short-Term Projects, in the not-to-exceed amount of \$114,800.

**SOURCE OF FUNDS (AND FISCAL/BUDGETARY IMPACT):**

Inspection services are included in the budgets for projects requiring DSA-certified inspectors. The source of funds for the Laney Modernization and Short-Term Projects is Measure A, as approved by the voters in Peralta's constituency and authorized under Resolution 05/06-45, Exhibit A-1, Laney College "Equipment, technology upgrades and facility and classroom improvements."

**OTHER DEPARTMENTS IMPACTED BY THIS ACTION (E.G. INFORMATION TECHNOLOGY):**

Yes \_\_\_\_\_ No  X

**COMMENTS:**

No additional comments.

**WHO WILL BE PRESENTING THIS ITEM AT THE BOARD MEETING?**

Vice Chancellor Ikhara

**DID A BOARD STANDING COMMITTEE RECOMMEND THE ITEM?** Yes \_\_\_\_\_ No  X

**IF "YES", PLEASE INCLUDE THAT INFORMATION IN YOUR SUMMARY.**

**PLEASE ACQUIRE SIGNATURES IN THIS ORDER:**

**DOCUMENT PREPARED BY:**  
Prepared by: Sadiq B. Ikharmo Date: 11/07/08  
Dr. Sadiq B. Ikharmo  
Vice Chancellor of General Services

**DOCUMENT PRESENTED BY:**  
Sadiq B. Ikharmo Date: 11/07/08  
Dr. Sadiq B. Ikharmo  
Vice Chancellor of General Services

**FINANCE DEPARTMENT REVIEW**  
 Finance review required  Finance review *not* required  
If Finance review is required, determination is:  Approved  Not Approved  
If not approved, please give reason: \_\_\_\_\_  
Signature: Thomas Smith Date: 11.7.08  
Thomas Smith  
Vice Chancellor for Finance and Administration

**GENERAL COUNSEL (Legality and Format/adherence to Education Codes):**  
 Legal review required  Legal review *not* required  
If Legal review is required, determination is:  Approved  Not Approved  
Signature: Thuy T. Nguyen Date: 11/6/08  
Thuy T. Nguyen, General Counsel

**CHANCELLOR'S OFFICE APPROVAL**  
 Approved, and Place on Agenda  Not Approved, but Place on Agenda  
Signature: Elihu Harris Date: 11/7/08  
Elihu Harris, Chancellor

**PERALTA COMMUNITY COLLEGE DISTRICT**

333 EAST EIGHTH STREET

OAKLAND, CA 94606

No. \_\_\_\_\_

**AGREEMENT FOR PROFESSIONAL SERVICES**

CONSULTANT:

**Jason R. Zalinski**

2518 Shiells Road

Newman, CA 95360

**I. SCOPE OF THE SERVICES**

The Services to be rendered ("Services") under this Purchase Order ("Order") consist of:

DSA Inspector of record for Laney College short term projects. Provide DSA Form 5 prior to beginning each project. Provide on site inspections and daily reports during construction for each short term project for adherence to all DSA regulations for access compliance, fire/life safety and structural analysis. Review all contractor pay applications. Provide support and Verified Reports (DSA Form 6) for each completed project to assist with project closeout.

**II. COMPENSATION FOR SERVICES**

Consultant's total compensation for Services performed under this Order is a not to exceed basis of \$114,800., to be paid as:

- (1)  lump sum;
- (2)  lump sum with progress payments based on hourly rates. Rates are to be \$80. per hour.
- (3)  per attached schedule of rates and charges, with a guaranteed not to exceed price of \$\_\_\_\_\_.

**III. SCHEDULE OF PERFORMANCE**

Consultant shall commence the Services by August 10, 2008 and complete the Services by December 31, 2009

- (1)  \_\_\_\_\_; or,
- (2)  within [\_\_\_\_\_] days of commencement of the Services.

**IV. TERMS AND CONDITIONS**

- (1) Consultant shall perform the Services in accordance with the terms and conditions of this Order, INCLUDING THE GENERAL TERMS AND CONDITIONS ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE. Consultant has read, negotiated and expressly accepts all terms incorporated herein, including Section 5 relating to indemnity and liability.
- (2) Order number must appear on all invoices and correspondence. Send invoices in duplicate to Peralta Community College District, 333 East Eighth Street, Oakland, CA 94606 immediately upon performance.
- (3) Changes made to printed Terms and Conditions on this Order are null and void unless approved in writing by the District Project Manager and General Counsel.
- (4) Consultant must comply with Appendix A.

PERALTA COMMUNITY COLLEGE DISTRICT

CONSULTANT: JASON R. ZALINSKI

Sign here \_\_\_\_\_ Date \_\_\_\_\_

*Jason R. Zalinski*  
\_\_\_\_\_

Print Name & Title \_\_\_\_\_

owner \_\_\_\_\_ 9-15-08  
[ title ] \_\_\_\_\_ Date

REQUISITION NO. \_\_\_\_\_ DATE \_\_\_\_\_ BY \_\_\_\_\_

## GENERAL TERMS AND CONDITIONS

1. Purchase Order ("Order") Force and Effect. District is not responsible for services rendered without the authority of an Order on this form. This Order shall supercede and control over all inconsistent provisions in any proposal. The provisions of this Order (which may include attachments) constitute the entire agreement between the Consultant and District regarding the work and services described herein. No representation, term or covenant not expressly specified in this Order shall, whether oral or written, be a part of this agreement. No modification of this Order shall be effective unless it is in writing. This Order shall supersede all other prior purchase orders and agreements between Consultant and District with respect to the work and services described herein. This Order may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by fully authorized representatives of District and Consultant. The headings in this Order are for convenience only and do not affect the construction of this Order.
2. Performance of Services/No Assignment. Time is of the essence in the performance of the Services. Consultant represents that it is skilled in the professional discipline necessary to perform the services ("Services") under this Order. Consultant will perform its Services in a skillful manner, comply fully with criteria established by District, and with applicable laws, codes, and all applicable professional standards, including by not limited to, the California Education Code and Title 24. Consultant shall not contract any portion of the Services or otherwise assign this Order without prior written approval of District. (Consultant shall remain responsible for compliance with all terms of this Order, regardless of the terms of any such assignment.) Consultant's authorized representative is the individual signing this Order unless Consultant otherwise informs District in writing. The granting of any payment, and any inspections, reviews, approvals or oral statements by any District representative, or certification by any governmental entity, shall in no way limit Consultant's obligations under this Order.
3. Records and Payment Requests. Consultant shall submit all billings with all necessary invoices or other appropriate evidence of performance, after which District shall make payment within thirty (30) days. District shall have the right to audit the Consultant's work records. Consultant shall make available to District, its authorized agents, officers, or employees, any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursement charged to District, for examination. Consultant shall furnish to District, its authorized agents, officers, or employees, such other evidence or information as District may require with regard to any such expenditure or disbursement charged by Consultant. Consultant shall maintain all documents and records prepared by or furnished to Consultant during the course of performing the services for at least three (3) years following completion of the Services, except that all such items pertaining to hazardous materials shall be maintained for at least thirty (30) years. Such records include, but are not limited to, correspondence, internal memoranda, calculations, books and accounts, accounting records documenting its work under its Order, and invoices, payrolls, records and all other data related to matters covered by this Order. Consultant shall permit District to audit, examine and make copies, excerpts and transcripts from such records. The State of California or any federal agency having an interest in the subject of Order shall have the same rights conferred to District by this section. Such rights shall be specifically enforceable.
4. Independent Contractor. Consultant is an independent Contractor and does not act as District's agent in any capacity, whatsoever. Consultant is not entitled to any benefits that District provides to District employees, including, without limitation, worker's compensation benefits or payments, pension benefits, health benefits or insurance benefits. Terms within this Order regarding direction apply to and concern the result of the Consultant's provision of Services not the means, methods, or scheduling of the Consultant's work. Consultant shall be solely responsible for the means, methods, techniques, sequences and procedures with respect to its provision of Services under this Order. Consultant shall pay all payroll taxes imposed by any governmental entity and will pay all other taxes not specifically identified in this Order as District's responsibility.
5. Indemnity/Liability. To the extent of its proportionate fault and permitted by law, Consultant shall defend, indemnify and save the District, and all of its officers, directors, representatives, agents and employees (together "Indemnitees"), from and against any and all claims and liability of any type resulting from Consultant's negligent performance of this Order. Defense counsel retained under this section shall be subject to the Indemnitees's reasonable approval. Notwithstanding any provision of this Order, the Indemnitees shall not be liable, in contract or tort, for any special, consequential, indirect or incidental damages arising out of or in connection with this Order or the Services. The Indemnitees's rights and remedies, whether under this Contract or other applicable law, shall be cumulative and not subject to limitation.
6. Conflict of Interest. Consultant represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of work and services required under this Order. Without limitation, Consultant represents to and agrees with District that Consultant has no present, and will have no future conflict of interest between providing District services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to District, as determined in the reasonable judgment of District.
7. Confidentiality. Any information, whether proprietary or not, made known to or discovered by Consultant during the performance of or in connection with this Order for District, will be kept confidential and not be disclosed to any other person. Consultant will immediately notify District in writing if it is requested to disclose any information made known to or discovered by during the performance of or in connection with this Order. These conflict of interest, confidentiality and future service provisions and limitations shall remain fully effective indefinitely after termination of services to District hereunder.
8. Ownership of Results. Any interest (including copyright interests) of Consultant or its contractors or subconsultants (together, "Subconsultants"), in studies, reports, memoranda, computational sheets, drawings, plans or any other documents (including electronic

Appendix A to Professional Services Agreement

**INSURANCE**

- A. Commercial general liability insurance, written on an "occurrence" basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, liability for slander, false arrest and invasion of privacy, blanket contractual liability, broad form endorsement, and completed operations, personal and advertising liability, with limits of not less than **\$1,000,000** general aggregate and **\$500,000** each occurrence, subject to a deductible of not more than **\$25,000** payable by Consultant.
- B. Business automobile liability insurance with limits not less than **\$500,000** each occurrence including coverage for owned, non-owned and hired vehicles, subject to a deductible of not more than **\$10,000** payable by Consultant.
- C. Workers' Compensation Employers' Liability limits not less than **AS REQUIRED BY STATE** each accident, **AS REQUIRED BY STATE** per disease and **AS REQUIRED BY STATE** aggregate. Consultant's Workers' Compensation Insurance policy shall contain a Waiver of Subrogation. In the event Consultant is self-insured, it shall furnish Certificate of Permission to Self-Insure signed by Department of Industrial Relations Administration of Self-Insurance, State of California.
- D. Professional Liability Insurance with limits not less than **\$1,000,000** each claim and aggregate, all with respect to negligent acts, errors or omissions in connection with services to be provided under this Agreement, and any deductible not to exceed **\$10,000** for each claim, with no exclusion for claims of one insured against another insured and with tail coverage for a period of three (3) years after the completion of the Services.
- E. Insurance policies in Appendix A shall contain an endorsement containing the following terms:
  - 1. PERALTA COMMUNITY COLLEGE DISTRICT and their respective affiliates, directors, officers, officials, partners, representatives, employees, consultants, subconsultants and agents, shall be named as additional insureds, but only with respect to liability arising out of the activities of the named insured, and there shall be a waiver of subrogation as to each named and additional insured.
  - 2. The policies shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.
  - 3. Written notice of cancellation, non-renewal or of any material change in the policies shall be mailed to District thirty (30) days in advance of the effective date thereof.
  - 4. Insurance shall be primary insurance and no other insurance or self insured retention carried or held by any named or additional insureds other than Consultant shall be called upon to contribute to a loss covered by insurance for the named insured.
- F. Certificates of Insurance and Endorsements shall have clearly typed thereon the title of the Contract, shall clearly describe the coverage and shall contain a provision requiring the mailing of written notices of cancellation described in clause E.3 above.