

Board Office Use: Legislative File Info.	
File ID Number	22-2818
Introduction Date	1/11/2023
Enactment Number	
Enactment Date	



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education
From Kyla Johnson-Trammell, Superintendent
 Tadashi Nakadegawa, Deputy Chief, Division of Facilities Planning and Management

Board Meeting Date January 11, 2023

Subject Amendment No. 1 General Services Agreement – Mayekawa USA Inc. – The Center Project - Division of Facilities Planning and Management

Action Requested Approval by the Board of Education of Amendment No. 1 to the General Services Agreement by and between the **District** and **Mayekawa USA Inc., York, Philadelphia** for the latter to provide a final walkthrough, inspection and follow-up training for the completion of the newly installed Mayekawa Refrigeration System for **The Center Project**, in an additional amount of **\$42,641.04**, increasing the Agreement’s total not-to-exceed amount from **\$7,805.00** to **\$50,446.04** and extending the expiration of the Agreement from **December 31, 2022** to **June 30, 2023 (an additional 181 calendar days)**, and authorizing the President and Secretary of the Board to sign the Amendment for same with said Consultant.

Discussion This Amendment is for additional consulting services and one hundred eighty-one (181) calendar days extension.

LBP (Local Business Participation Percentage) 87.00%

Recommendation Approval by the Board of Education of Amendment No. 1 to the General Services Agreement by and between the **District** and **Mayekawa USA Inc., York, Philadelphia** for the latter to provide a final walkthrough, inspection and follow-up training for the completion of the newly installed Mayekawa Refrigeration System for **The Center Project**, in an additional amount of **\$42,641.04**, increasing the Agreement’s total not-to-exceed amount from **\$7,805.00** to **\$50,446.04** and extending the expiration of the Agreement from **December 31, 2022** to **June 30, 2023 (an additional 181 calendar days)**, and authorizing the President and Secretary of the Board to sign the Amendment for same with said Consultant.

Fiscal Impact Fund 21 Building Fund, Measure B

Attachments

- Amendment No. 1, including Exhibits
- Certificate of Insurance
- Routing Form
- File IDs 22-1458

AMENDMENT NO. 1

GENERAL SERVICES AGREEMENT

This Amendment is entered into between the Oakland Unified School District (OUSD) and **Mayekawa USA, Inc.** OUSD entered into an agreement with CONTRACTOR for services on **June 23, 2022** ("Agreement"), and the parties agree to amend the Agreement for the Services with **The Center Project** as follows and in the attached Exhibit A:

1.	Services:	<input type="checkbox"/> The scope of work is <u>unchanged</u> .	<input checked="" type="checkbox"/> The scope of work has <u>changed</u> .
<p>If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary.</p> <p>The CONTRACTOR agrees to provide the following amended services: To provide a final walkthrough, inspection and follow-up training for the completion of the newly installed Mayekawa Refrigeration System, as described in the Quotation dated September 16, 2022, attached to this Amendment as Exhibit A.</p>			
2.	Terms (duration):	<input type="checkbox"/> The term of the contract is <u>unchanged</u> .	<input checked="" type="checkbox"/> The term of the contract has <u>changed</u> .
<p>If term is changed: The contract term is extended by an additional <u>One Hundred Eighty-one days (181)</u>, and the amended expiration date is <u>June 30, 2023</u>. The current end date is <u>December 31, 2022</u>.</p>			
3.	Compensation:	<input type="checkbox"/> The contract price is <u>unchanged</u> .	<input checked="" type="checkbox"/> The contract price has <u>changed</u> .
<p>If the compensation is changed: The not to exceed contract price is</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> Increased by: <u>Forty-Two Thousand, Six Hundred Forty-one Dollars and 04/100 (\$42,641.04)</u>.</p> <p style="margin-left: 40px;"><input type="checkbox"/> Decreased by _____ dollars and no/100 (\$_____).</p> <p>Prior to this amendment, the not to exceed contract price was <u>Seven Thousand Eight Hundred Five Dollars and No/100 (\$7,805.00)</u>, and after this amendment, the not to exceed contract price will be: <u>Fifty Thousand Four Hundred Forty-Six Dollars and 04/100 (\$50,446.04)</u>.</p>			

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

5. **Amendment History:**

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

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

6. **Approval:** This Amendment is not effective, and no payment shall be made to Contractor based on this Amendment, until it is signed by Contractor and approved by the Board of Education.

OAKLAND UNIFIED SCHOOL DISTRICT

Gary Yee, President,
Board of Education

Date

Kyla Johnson-Trammell, Superintendent
and Secretary, Board of Education

Date



12/16/2022

Tadashi Nakadegawa, Deputy Chief,
Facilities Planning and Management

Date

Approval as to form:



12/15/22

Arne B. Sandberg [name]
General Counsel, Facilities, Planning and Management

Date

CONTRACTOR



12-6-2022

Contractor Signature

Date

Dominic Quintero, National Service Manager
Print Name, Title

EXHIBIT "A"
Scope of Work for Amendment

Contractor Name: Mayekawa USA, Inc.

1. Detailed Description of Services to be provided: To provide a final walkthrough, inspection and follow-up training for the completion of the newly installed Mayekawa Refrigeration System, as described in the Quotation dated September 16, 2022, attached to this Amendment as Exhibit A.

2. Specific Outcomes:

3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:

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

Refrigeration Division

To: OUSD
955 HIGH STREET
OAKLAND, CA 94601

Quote #: 22-0121
Date: 9/16/2022
Prepare by: Dotty
Rev. Date:

Site Location: 2850 West Street

Attn: Elena Comrie
Phone: 415-916-2461
Email: ecomrie@ccorg.usa

From: Mayekawa USA, Inc
Refrigeration Div.

Customer#: 81614R

Customer Class: C3

Subject: RFQ

Model: N6KHM45

Serial#:

Package#:

SCOPE: Compressor top-end Inspection/ Site Corrections. This is quoted for 2 technicians to complete work and training on site.

SCOPE: Conduct a final walkthrough, inspection for Compressor Top-end/Site Corrections after repair and installation services were completed by two technicians for the Mayaekawa Refrigeration System.

TOTAL: \$ 42,641.04

Notes:

To schedule this service please provide a not-to-exceed contract to Mayekawa USA, Inc. The contract should include the following:

- Clear statement of scope of service
- Accurate bill to and ship to address
- Contact information of site contact, including phone number and email
- Contact information of your accounts payable department
- Contact information for the buyer associated with this project



DIVISION OF FACILITIES PLANNING AND MANAGEMENT ROUTING FORM

Project Information

Project Name	The Center Project	Site	184
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Basic Directions

Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.

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

Contractor Name	Mayekawa USA, Inc.	Agency's Contact	Dotty Schaffer				
OUSD Vendor ID #	006920	Title					
Street Address	4542 Farmtrail Road	City	York	State	PA	Zip	17406
Telephone	925-846-9023	Policy Expires					
Contractor History	Previously been an OUSD contractor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
OUSD Project #	13133						

Term of Original/Amended Contract

Date Work Will Begin (i.e., effective date of contract)	6-23-2022	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	
		New Date of Contract End (If Any)	6-30-2023

Compensation/Revised Compensation

If New Contract, Total Contract Price (Lump Sum)	\$	If New Contract, Total Contract Price (Not To Exceed)	\$
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$ 42,641.04
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
9799/9569	Fund 21, Measure B	210-9799-0-9569-8500-6274-184-9180-9901-9999-13133	6274	\$42,641.04

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.	Executive Director, Facilities Planning and Management	Signature	for Kenya Chatman		Date Approved	12/16/2022
2.	General Counsel, Department of Facilities Planning and Management	Signature	Lozano Smith, approved as to form		Date Approved	12/15/22
3.	Deputy Chief, Facilities Planning and Management	Signature			Date Approved	12/16/2022
4.	Chief Financial Officer	Signature			Date Approved	
5.	President, Board of Education	Signature			Date Approved	

Board Office Use: Legislative File Info.	
File ID Number	22-1458
Introduction Date	6-22-22
Enactment Number	22-1244
Enactment Date	6/22/2022 os



OAKLAND UNIFIED
SCHOOL DISTRICT
Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Tadashi Nakadegawa, Deputy Chief, Facilities Planning and Management

Board Meeting Date June 22, 2022

Subject General Services Agreement – Mayekawa USA, Inc. - The Center Project -
Division of Facilities Planning and Management

Action Requested Approval by the Board of Education for General Services Agreement between the **District** and **Mayekawa USA, Inc.**, York, Philadelphia, for the latter to conduct a walkthrough, inspection and follow-up training and provide recommendations as necessary for correct functionality of the installed Mayekawa Refrigeration System. The refrigeration system has been experiencing frequent shutdowns. These continued shutdowns are expensive to repair using local vendors and are using a large amount of onsite staff time and resources to try to operate the system. The System is not functioning as designed and therefore investigation and analysis by the specific equipment manufacturer is required for **The Center Project**, in the not to exceed amount of **\$7,805.00**, with work scheduled to commence on **June 23, 2022**, and scheduled to last until **December 31, 2022**, pursuant to the Agreement.

Discussion Consultant will provide training services on the Refrigeration System at The Center, which does not require competitive bidding because it is a specially trained expertise and service (Public Contract Code §20111 (d), Government §53060.)

LBP (Local Business Participation Percentage) 00.00%

Recommendation Approval by the Board of Education for General Services Agreement between the **District** and **Mayekawa USA, Inc.**, York, Philadelphia, for the latter to conduct a walkthrough, inspection and follow-up training and provide recommendations as necessary for correct functionality of the installed Mayekawa Refrigeration System. The refrigeration system has been experiencing frequent shutdowns. These continued shutdowns are expensive to repair using local vendors and are using a large amount of onsite staff time and resources to try to operate the system. The System is not functioning as designed and therefore investigation and analysis by the specific equipment manufacturer is required for **The Center Project**, in the not to exceed amount of **\$7,805.00**, with work scheduled to commence on **June 23, 2022**, and scheduled to last until **December 31, 2022**, pursuant to the Agreement.

Fiscal Impact Fund 21 Building Fund, Measure J

Attachments

- Contract Justification Form
- Agreement, including Exhibits
- Insurance Certificate
- Routing Form



CONTRACT JUSTIFICATION FORM

This Form Shall Be Submitted to the Board Office With Every Agenda Contract.

Legislative File ID No. 22-1458

Department: Facilities Planning and Management

Vendor Name: Mayekawa USA, Inc.

Project Name: The Center Project

Project No.: 13133

Contract Term: Intended Start: June 23, 2022

Intended End: December 31, 2022

Total Cost Over Contract Term: \$7,805.00

Approved by: Tadashi Nakadegawa

Is Vendor a local Oakland Business or has it met the requirements of the

Local Business Policy? Yes (No if Unchecked)

How was this contractor or vendor selected?

Mayekawa USA, Inc. was selected by the District based on experience and demonstrated competence and professional qualifications with similar projects that they have performed at other Districts.

Summarize the services or supplies this contractor or vendor will be providing.

Mayekawa USA, Inc., to conduct a walkthrough, inspection and follow-up training and provide recommendations as necessary for correct functionality of the installed Mayekawa Refrigeration System. The refrigeration system has been experiencing frequent shutdowns. These continued shutdowns are expensive to repair using local vendors and are using a large amount of onsite staff time and resources to try to operate the system. The System is not functioning as designed and therefore investigation and analysis by the specific equipment manufacturer is required.

Was this contract competitively bid? Check box for "Yes" (If "No," leave box unchecked)

If "No," please answer the following questions:

1) How did you determine the price is competitive?

Based on expertise with this particular type of work, the district believes that the consultant will performed work quickly, accurately, and efficiently, and at a reasonable cost to the District.

2) Please check the competitive bidding exception relied upon:

Construction Contract:

- Price is at or under UPCCAA threshold of \$60,000 (as of 1/1/19)
- CMAS contract [may only include “incidental work or service”] (Public Contract Code §§10101(a) and 10298(a)) – *contact legal counsel to discuss if applicable*
- Emergency contract (Public Contract Code §§22035 and 22050) – *contact legal counsel to discuss if applicable*
- No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*
- Completion contract – *contact legal counsel to discuss if applicable*
- Lease-leaseback contract RFP process – *contact legal counsel to discuss if applicable*
- Design-build contract RFQ/RFP process – *contact legal counsel to discuss if applicable*
- Energy service contract – *contact legal counsel to discuss if applicable*
- Other: _____ – *contact legal counsel to discuss if applicable*

Consultant Contract:

- Architect, engineer, construction project manager, land surveyor, or environmental services – selected (a) based on demonstrated competence and professional qualifications (Government Code §4526), **and** (b) using a fair, competitive RFP selection process (Government Code §§4529.10 et seq.)
- Architect or engineer *when state funds being used* – selected (a) based on demonstrated competence and professional qualifications (Government Code §4526), (b) using a fair, competitive RFP selection process (Government Code §§4529.10 et seq.), **and** (c) using a competitive process consistent with Government Code §§4526-4528 (Education Code §17070.50)
- Other professional or specially trained services or advice – no bidding or RFP required (Public Contract Code §20111(d) and Government Code §53060) – *contact legal counsel to discuss if applicable*
- For services other than above, the cost of services is \$99,100 or less (as of 1/1/22)
- No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*

Purchasing Contract:

- Price is at or under bid threshold of \$99,100 (as of 1/1/22)
- Certain instructional materials (Public Contract Code §20118.3)
- Data processing systems and supporting software – choose one of three lowest bidders (Public Contract Code §20118.1)

- Electronic equipment – competitive negotiation (Public Contract Code §20118.2) – *contact legal counsel to discuss if applicable*
- CMAS contract [may only include “incidental work or service”] (Public Contract Code §§10101(a) and 10298(a)) – *contact legal counsel to discuss if applicable*
- Piggyback contract for purchase of personal property (Public Contract Code §20118) – *contact legal counsel to discuss if applicable*
- Supplies for emergency construction contract (Public Contract Code §§22035 and 22050) – *contact legal counsel to discuss if applicable*
- No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*
- Other: _____

Maintenance Contract:

- Price is at or under bid threshold of \$99,100 (as of 1/1/22)
- No advantage to bidding (including sole source) – *contact legal counsel to discuss*
- Other: _____

3) Explain in detail the facts that support the applicability of the exception marked above:

- Consultant is providing training for the new refrigeration system.

**OAKLAND UNIFIED SCHOOL DISTRICT
GENERAL SERVICES AGREEMENT**

This GENERAL SERVICES AGREEMENT (“Agreement”) is made and entered into effective **June 23, 2022** (the “Effective Date”), by and between the Oakland Unified School District (“District”) and **MAYEKAWA USA, INC.** (“Contractor”).

1. **Contractor Services.** Contractor agrees to provide the following services to District (collectively, the “Basic Services”) for the Center project (“Project”): Mayekawa USA, Inc. to conduct a walkthrough, inspection and follow-up training and provide recommendations as necessary for correct functionality of the installed Mayekawa Refrigeration System. The refrigeration system has been experiencing frequent shutdowns. These continued shutdowns are expensive to repair using local vendors and are using a large amount of onsite staff time and resources to try to operate the system. The System is not functioning as designed and therefore investigation and analysis by the specific equipment manufacturer is required. nThe Basic Services include all work described in the May 10, 2022, quotation, which is attached to this Agreement as *Exhibit A*. Contractor may only provide other services related to the Project (“Additional Services”) after authorized in writing by District. “Services” shall mean Basic and Additional Services.
2. **Contractor Qualifications.** Contractor represents and warrants to District that Contractor, and all of Contractor’s employees, agents or volunteers (the “Contractor Parties”), have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. Contractor and any Contractor Parties performing services shall be competent to perform those services.
3. **Term.** The term for performance of the Services shall begin on **June 23, 2022**, and shall end on **December 31, 2022** (“Term”), except as otherwise stated in Section 4 below, and Contractor shall complete the Services within the Term. There shall be no extension of the Term without an amendment signed by all Parties and approved by the District’s governing board. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contractor Parties. In the event of early termination, Contractor shall be paid for satisfactory Services performed to the date of termination. Upon payment by District, District shall be under no further obligation to Contractor, monetarily or otherwise, and District may proceed with the work in any manner District deems proper.
4. **Termination.** Either party may terminate this Agreement at any time by giving thirty (30) days advance written notice to the other party. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially breaches any of the terms of this Agreement, any act or omission of Contractor or the Contractor Parties exposes District to potential liability or may cause an increase in District’s insurance premiums, Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed because of Contractor’s insolvency. Such termination shall be effective immediately upon Contractor’s receipt of the notice.
5. **Payment of Fees for Services.** District agrees to pay Contractor based on the hourly rates listed

in **Exhibit B** for Services satisfactorily performed. Contractor shall not increase these hourly rates over the course of this Agreement. Total fees paid by District to Contractor for Services under the Agreement shall not exceed **SEVEN THOUSAND EIGHT HUNDRED FIVE Dollars (\$7,805.00)**, which consists of a not-to-exceed amount of **SEVEN THOUSAND EIGHT HUNDRED FIVE Dollars (\$7,805.00)** for performance of the Basic Services, and a not-to-exceed contingency amount of **ZERO Dollars (\$0)** for performance of any Additional Services. Contractor shall perform all Services required by the Agreement even if the applicable not-to-exceed amount has already been paid and no more payments will be forthcoming. Contractor acknowledges that the not-to-exceed amount for Basic Services, above, includes contingency compensation in the event that more time and costs than originally anticipated may be necessary to complete the Basic Services. District agrees to make payment within sixty (60) days of receipt of a detailed invoice from Contractor based on hours worked and hourly rates, including any additional supporting documentation that District reasonably requests. Contractor shall not submit its invoices to District more frequently than monthly. Contractor shall not be reimbursed directly for any of its expenses, as the fees to be paid under this Agreement include compensation for any and all of Contractor's expenses.

6. **Indemnity.** Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Trustees, members of the Board of Trustees (collectively, the "District Parties"), from and against any and all claims, demands, liabilities, damages, losses, suits and actions, and expenses (including, but not limited to attorney fees and costs including fees of consultants) of any kind, nature and description (collectively, the "Claims") directly or indirectly arising out of, connected with, or resulting from any act, error, omission, negligence, or willful misconduct of Contractor, the Contractor Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees in the performance of or failure to perform Contractor's obligations under this Agreement, including, but not limited to Contractor's or the Contractor Parties' use of the site, Contractor's or the Contractor Parties' performance of the Services, Contractor's or the Contractor Parties' breach of any of the representations or warranties contained in this Agreement, or for injury to or death of persons or damage to property or delay or damage to the District or the District Parties. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph.

7. **Equipment and Materials.** Contractor at its sole cost and expense shall provide and furnish all tools, labor, materials, equipment, transportation services and any other items (collectively, "Equipment") which are required or necessary to perform the Services in a manner which is consistent with generally accepted standards of the profession for similar services. Notwithstanding the foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contractor Parties by District. Furthermore, District may reject any Equipment or workmanship that does not conform to the requirements of this Agreement and Contractor must then promptly remedy or replace it at no additional cost to District and subject to District's reasonable satisfaction.

8. **Insurance.** Without in any way limiting Contractor's liability, or indemnification obligations set forth in Paragraph 6 above, Contractor shall secure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits of not less than

\$1,000,000 each occurrence and \$2,000,000 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate, if applicable; and (iii) worker's compensation insurance as required by Labor Code section 3200, *et seq.*, if applicable. Neither Contractor nor any of the Contractor Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverages have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insureds. All of the policies shall be amended to provide that the insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to District. If such a notice is not given or even if District receives a notice, District may, at its sole option, terminate this Agreement. All insurance policies shall include an endorsement stating that it is primary to any insurance or self-insurance maintained by District and shall waive all rights of subrogation against District and/or the District Parties. A copy of the declarations page of Contractor's insurance policies shall be attached to this Agreement as proof of insurance.

9. **Independent Contractor Status.** Contractor is engaged in an independently established trade, occupation, or business to provide the Services required by this Agreement and is hereby retained to provide specialized services for District that are outside the usual course of District's business. Contractor is free from the control and direction of District in connection with the manner in which it provides the Services to District. Contractor understands and agrees that Contractor and the Contractor Parties shall not be considered officers, employees, agents, partners, or joint venturers of District, and are not entitled to benefits of any kind or nature normally provided to employees of District and/or to which District's employees are normally entitled.

10. **Taxes.** All payments made by District to Contractor pursuant to this Agreement shall be reported to the applicable federal and state taxing authorities as required. District will not withhold any money from fees payable to Contractor, including FICA (social security), state or federal unemployment insurance contributions, or state or federal income tax or disability insurance. 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 and the Contractor Parties and otherwise in connection with this Agreement.

11. **Fingerprinting/Criminal Background Investigation Certification.** Contractor and the Contractor Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1. Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information which differs in any way from the information learned or provided pursuant to Section 45125.1, or Contractor or Contractor Parties add personnel who will provide Services under this Agreement, Contractor shall immediately notify District and prohibit any new personnel from interacting with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any interaction is permissible.

12. **Tuberculosis Certification.** Contractor and the Contractor Parties shall at all times comply with

the tuberculosis (“TB”) certification requirements of Education Code section 49406. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:

A. Contractor and Contractor Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

B. The following Contractor and Contractor Parties shall have **more than limited contact** (as determined by District) with District students during the Term of this Agreement and, at no cost to District, have received a TB test in full compliance with the requirements of Education Code section 49406:

_____. [Attach and sign additional pages, as needed.]

Contractor shall maintain on file the certificates showing that the Contractor and Contractor Parties were examined and found free from active TB. These forms shall be regularly maintained and updated by Contractor and shall be available to District upon request or audit.

Contractor further agrees and acknowledges that all new personnel hired after the Effective Date of this Agreement by Contractor and Contractor Parties are subject to the TB certification requirements and shall be prohibited from having any contact with District students until the TB certification requirements have been satisfied and District determines whether any contact is permissible.

13. **Confidential Information.** Contractor shall maintain the confidentiality of, and protect from unauthorized disclosure, any and all individual student information received from the District, including but not limited to student names and other identifying information. Contractor shall not use such student information for any purpose other than carrying out the obligations under this Agreement. Upon termination of this Agreement, Contractor shall turn over to District all educational records related to the services provided to any District student pursuant to this Agreement.

14. **Assignment/Successors and Assigns.** Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations under this Agreement without the prior written consent of District. Subject to the foregoing, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.

15. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

16. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by both parties and approved by the governing board.

17. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its choice of law rules. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Alameda, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by the District.

18. **Written Notice.** Written notice shall be deemed to have been duly served if delivered in person to Contractor at the address located next to the party signatures below, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who sends the notice.

19. **Compliance with Law.** Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. Contractor shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances, including but not limited to fingerprinting under Education Code section 45125.1, confidentiality of records, Education Code section 49406 and others. Contractor agrees that it shall comply with all legal requirements for the performance of duties under this Agreement and that failure to do so shall constitute material breach.

20. **Non-Discrimination.** There shall be no unlawful discrimination in the contracting of persons under this Agreement because of race, color, national origin, age, ancestry, religion, sex, or sexual orientation of such persons.

21. **Attorneys' Fees.** If any legal action is taken to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other reasonable costs and expenses incurred in connection with that legal action.

22. **Liability of District.** Notwithstanding anything stated herein to the contrary, District shall not be liable for any special, consequential, indirect or incidental damages, including but not limited to lost profits in connection with this Agreement.

23. **Time.** Time is of the essence for performance of the Services under this Agreement.

24. **Waiver.** No delay or omission by District in exercising any right under this Agreement shall operate as a waiver of that or any other right and no single or partial exercise of any right shall preclude the District from any or further exercise of any right or remedy.

25. **Entire Agreement.** This Agreement is intended by the parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.

26. **Ambiguity.** The parties to this Agreement, and each of them, hereby represent that the language contained herein is to be construed as jointly proposed and jointly accepted, and in the event of any subsequent determination of ambiguity, all parties shall be treated as equally responsible for such ambiguity.

27. **Execution of Other Documents.** The parties to this Agreement shall cooperate fully in the

execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

28. **Execution in Counterparts.** This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, facsimile, or an original, with all signatures appended together, shall be deemed a fully executed agreement.

29. **Warranty of Authority.** The persons who have signed this Agreement warrant that they are legally authorized to do so on behalf of the respective parties, and by their signatures to bind the respective parties to this Agreement.

30. **Local Business.** Contractor shall comply with the requirements of the District’s Local, Small Local, and Small Local Resident Business Enterprise Program, which may require a 50% minimum local participation requirement in the performance of this Agreement. A copy of this program may be obtained at www.ousd.k12.ca.us, under the Facilities Planning & Management Department drop down menu, at “Bids and Requests for Proposals.”

31. **Forms.** The following forms, attached to the proposal, are incorporated into the contract:

- ~~Roof project certification (if required; see Public Contract Code §3006).~~
- Fingerprinting Notice and Acknowledgement.
- ~~Iran Contracting Act Certification.~~
- Workers’ Compensation Certification.
- Drug-Free Workplace Certification.
- ~~Buy American Certification.~~
- ~~Local Business Participation Form.~~

Within ten (10) days after award and before commencement of the services, the signed agreement and insurance documentation shall be submitted to the District.

32. **Mediation.** A party to this Agreement shall, as a condition precedent to initiating any litigation against the other party, demand mediation of any dispute. The parties shall endeavor to include any third party claimant in the mediation. The parties shall select a mediator and schedule the mediation within thirty (30) days of the initial demand for mediation. If the parties cannot agree on a mediator, the mediator shall be appointed by JAMS. The parties to the mediation, including the parties to this Agreement, shall pay equal shares of the mediator’s fees. Each party shall bear its own attorney’s fees related to the mediation.

* * * * *

DISTRICT:

OAKLAND UNIFIED SCHOOL DISTRICT

850.40 6/23/2022
Gary Yee, President, Board of Education Date

[Signature] 6/23/2022
Kyla Johnson-Trammell, Superintendent Date
and Secretary, Board of Education

[Signature] 6/23/2022
Tadashi Nakadegawa, Deputy Chief, Date
Facilities Planning and Management

CONTRACTOR:

Mayekawa USA, Inc.

Signature: [Signature]

Title: National Service Manager

Date: 5/19/2022

Address for District Notices:

Oakland Unified School District
955 High Street
Oakland, CA 94601
Attn: Tadashi Nakadegawa

Address for Contractor Notices:

Mayekawa USA, Inc.
3395 Farmtrail Road
York, PA 17404
Attn: Dotty Schaffer

Approved As To Form:

[Signature] 6/2/2022
OUSD Facilities Legal Counsel Date

Exhibit A

Scope of Basic Services

Refrigeration Division

**To: OUSD
955 HIGH STREET
OAKLAND, CA 94601**

**Quote #: 22-0097
Date: 5/10/2022**

**Site Location: 2850 West Street
Attn: Elena Comrie
Phone: 415-916-2461
Email: ecomrie@ccorp.usa**

**Prepare by: Dotty Schaffer
Rev. Date:**

Customer#: 81614R

Customer Class: C3

**Subject: Request for Scope
Package :
Serial#:**

From: Mayekawa USA, Inc
Refrigeration Div.
3395 Farmtrail Road
York, PA 17404
717-779-0138

SCOPE: Conduct a walkthrough, inspection and follow-up training and provide recommendations as necessary for correct functionality of the installed Mayekawa Refrigeration System. The refrigeration system has been experiencing frequent shutdowns. These continued shutdowns are expensive to repair using local vendors and are using a large amount of onsite staff time and resources to try to operate the system. The System is not functioning as designed and therefore investigation and analysis by the specific equipment manufacturer is required. The proposed hourly rate of \$140 is accepted as this is a specialized field.

TOTAL: \$ 7,805.00

Notes:

To schedule this service please provide a **not-to-exceed contract** to **Mayekawa USA, Inc.** The contract should include the following:

- Clear statement of scope of service
- Accurate bill to and ship to address
- Contact information of site contact, including phone number and email
- Contact information of your accounts payable department
- Contact information for the buyer associated with this project

Exhibit B

Hourly Rates

Consulting Services - \$140.00 per hour



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/19/2022

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

PRODUCER Assurance, a Marsh & McLennan Agency LLC company 20 N Martingale Road Suite 100 Schaumburg IL 60173	CONTACT NAME: Jennifer Odegard PHONE (A/C No. Ext): (847) 463-7206 FAX (A/C, No): (847) 440-9127 E-MAIL ADDRESS: jodegard@assuranceagency.com	
	INSURER(S) AFFORDING COVERAGE	
INSURED Mayekawa U.S.A., Inc. 130 Smart Park Drive Lebanon TN 37090	INSURER A: Somp America Insurance Servis	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 135385229

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			COL40093P0	6/1/2021	6/1/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			ACV40587J0	6/1/2021	6/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			CPU40413N0	6/1/2021	6/1/2022	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000 \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	WCN40473V0	6/1/2021	6/1/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000


DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Workers Compensation and Employers' Liability: Any Proprietor/Partner/Executive Officer/Member, as listed on the policy, is excluded.
 RE: All work performed by the Named Insured on behalf of the Certificate Holder

It is agreed that the Certificate Holder is an Additional Insured, when required by written contract, on the General Liability on a Primary & Non-Contributory basis and Additional Insured on the Automobile Liability with respect to operations performed by the Named Insured in connection with this project.

A Waiver of Subrogation in favor of the Additional Insureds applies to the General Liability and Automobile policies, when required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

Oakland Unified School District 1000 Broadway, Suite 680 Oakland CA 94607	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 
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DIVISION OF FACILITIES PLANNING AND MANAGEMENT ROUTING FORM

Project Information

Project Name	The Center Project	Site	184
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Basic Directions

Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.

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

Contractor Name	Mayekawa USA, Inc.	Agency's Contact	Dotty Schaffer				
OUSD Vendor ID #	006920	Title					
Street Address	4542 Farmtrail Road	City	York	State	PA	Zip	17406
Telephone	925-846-9023	Policy Expires					
Contractor History	Previously been an OUSD contractor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
OUSD Project #	13133						

Term of Original/Amended Contract

Date Work Will Begin (i.e., effective date of contract)	6-23-2022	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	12-31-2022
		New Date of Contract End (If Any)	

Compensation/Revised Compensation

If New Contract, Total Contract Price (Lump Sum)	\$	If New Contract, Total Contract Price (Not To Exceed)	\$7,805.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$
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
9350-9569	Fund 21, Measure J	210-9350-0-9569-8500-6289-184-9180-9905-9999-13133	6289	\$7,805.00

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.	Executive Director, Facilities Planning and Management				
	Signature	Date Approved	6/6/2022		
2.	General Counsel, Department of Facilities Planning and Management				
	Signature Lezano Smith, approved as to form	Date Approved	6/2/2022		
3.	Deputy Chief, Facilities Planning and Management				
	Signature	Date Approved	6/6/2022		
4.	Chief Financial Officer				
	Signature	Date Approved			
5.	President, Board of Education				
	Signature	Date Approved			