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Enactment Date	1/13/16 OR



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
Lance Jackson, Interim Deputy Chief, Facilities Planning and Management

Board Meeting Date January 13, 2016

Subject Independent Contractor Agreement for Professional Services - ACC Environmental - Burbank Elementary School Asphalt Paving Project

Action Requested Approval by the Board of Education of an Independent Contractor Agreement for Professional Services with ACC Environmental for Testing Services on behalf of the District at the Burbank Elementary School Asphalt Paving Project, in an amount not-to exceed \$6,976.00. The term of this Agreement shall commence on January 13, 2016 and shall conclude no later than December 31, 2016.

Background The scope of the project is to provide limited asbestos and lead paint surveys in three (3) restrooms at Burbank Elementary School for which ACC will provide a report of findings. ACC will also characterize the soil and base rock proposed for off-haul as either Class I or Class II waste. Four base rock samples and four sub-grade samples will be used.

Discussion Asbestos and hazardous materials testing is required to occur prior to demolition work in the restrooms and on site.

LBP (Local Business Participation Percentage) 100.00%

Procurement Method Initially procured as special service under prior facilities practices; subsequent RFP was issued 11-24-2015.

Recommendation Approval by the Board of Education of an Independent Contractor Agreement for Professional Services with ACC Environmental for Testing Services on behalf of the District at the Burbank Elementary School Asphalt Paving Project, in an amount not-to exceed \$6,976.00. The term of this Agreement shall commence on January 13, 2016 and shall conclude no later than December 31, 2016.

Fiscal Impact Measure J

Attachments

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

OAKLAND UNIFIED SCHOOL DISTRICT
INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES
ENVIRONMENTAL SERVICES

Burbank Elementary School Asphalt Paving Project

This Independent Contractor Agreement for Special Services ("Agreement") is made as of the **9th day of October in the year 2015**, between the **Oakland Unified School District** ("District") and **ACC Environmental Consultants** ("Contractor") (referred to herein individually as a "Party" and 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 limited asbestos and lead paint surveys in three (3) restrooms at Burbank Elementary School for which ACC will provide a report of findings. ACC will also characterize the soil and base rock proposed for off-haul as either Class I or Class II waste. Four base rock samples and four sub-grade samples will be used.

2. **Term.** Contractor shall commence providing services under this Agreement on **January 13, 2016**, and will diligently perform as required or requested by District as applicable. The term for these services shall expire on **December 31, 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"/> _____ N/A Bonds (as requested by District)	<input checked="" type="checkbox"/> _____ Other: Fingerprinting
<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, nine hundred seventy-six dollars and no cents**
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(\$6,976.00). 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 NA (\$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
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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
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	\$ 1,000,000 \$ 1,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	\$ 1,000,000 \$ 1,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 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
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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 94621

Attn: Tadashi Nakadegawa
Tel: 510-535-7038

Contractor

ACC Environmental Consultants
7977 Capwell Drive
Oakland, CA 94621

Attn: Chris Yama
Tel: 510-638-8400

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, 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>

Susie Butler-Berkley 11-18-2015

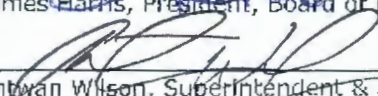
Susie Butler-Berkley
Contract Analyst

ACCEPTED AND AGREED on the date indicated below:

OAKLAND UNIFIED SCHOOL DISTRICT



James Harris, President, Board of Education 1/14/16
Date



Anthony Wilson, Superintendent & Secretary, Board of Education 1/14/16
Date



Lance Jackson, Interim Deputy Chief, Facilities Planning and Management 12/10/15
Date

CONTRACTOR



By: Mark A. Sanchez 11-16-2015
Date
Its: Vice President

APPROVED AS TO FORM:



OUSD Facilities Legal Counsel 12.9.15
Date

File ID Number: 15-2490
Introduction Date: 1/13/16
Enactment Number: 16-0026
Enactment Date: 1/13/16
By: 012

Information regarding Contractor:

Contractor: ACC Environmental Consultants, Inc. 94-300 2813
License No.: Not Applicable MCA FIN Employer Identification and/or Social Security Number
Address: 7977 Capwell Drive #100
Oakland CA 94621
Telephone: (510) 638-8400
Facsimile: (510) 638-8404
E-Mail: MSanchez@accenv.com
Type of Business Entity:
 Individual Sole
 Proprietorship
 Partnership Limited
 Partnership
 Limited Liability Company
 Corporation, State: CA
 Other: _____

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.

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: 11-16-2015
Proper Name of Contractor: ACC Environmental Consultants, Inc.
Signature: [Signature]
Print Name: Mark A. Sanchez
Title: Vice President

(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

Contractor shall perform the following Services:

- 1.



An Employee Owned Company

EXHIBIT A

September 25, 2015

Ms. Lee Sims
Oakland Unified School District
Facilities Planning & Management
955 High Street
Oakland, CA 94601

RE: Burbank Paving and ADA Project (OUSD Project #13194)
Burbank Elementary School
3550 64th Avenue, Oakland, California

Dear Lee:

Per your request, ACC Environmental Consultants, Inc., (ACC) is pleased to present this proposal to provide hazardous materials and soil testing in preparation of an Americans with Disabilities Act (ADA) project at Burbank Elementary School, 3550 64th Avenue, Oakland, California.

Scope of Work – Asbestos and Lead Paint Testing

ACC will perform limited asbestos and lead paint surveys in three (3) Restrooms at Burbank Elementary School that will be undergoing an ADA upgrade. The restrooms include the staff restroom along with the girl's and boy's restrooms. The limited survey will include the sampling of suspect flooring, walls and ceiling tile materials. Sampling will be performed in accordance with Asbestos Hazard Emergency Response Act (AHERA) sampling protocols. Also, ACC will also test the ceramic floor tile at the north entrance for asbestos and lead and the asphaltic concrete paving at the ramp location for asbestos. For sampling the asphalt, ACC will utilize a jackhammer and core down approximately two (2) inches and collect three (3) representative samples for asbestos analysis.

ACC will then provide a report of findings including material descriptions, locations, quantities and sample results.

For any materials identified to be asbestos-containing materials (ACMs), have any detectable asbestos, and/or are determined to have lead-containing materials, ACC will then provide a separate scope of work for abatement oversight and air monitoring services of any such materials.

Scope of Work – Soil Testing of Aggregate Base and Sub-Grade

ACC is proposing to characterize soil (sub-grade) and base rock proposed for off-haul as either Class I or Class II waste. ACC will collect samples of the base rock and the sub-grade at four (4) representative

locations. The four (4) base rock samples and the four (4) sub-grade samples will each be composited by the laboratory into respective 4:1 composite samples. At this time ACC's understanding is that proposed soil excavation will not extend beyond approximately one (1) foot below the existing asphalt. If obvious contamination is observed during sampling (visual or odors), composite analyses may not be warranted and the Client will be contacted at that time.

Six-inch-diameter cores will be removed from the asphalt at each location. Samples will be obtained from the appropriate sampling depth using a hand auger and will be collected from the barrel of the hand auger using stainless steel sleeves subsequently capped with plastic sheeting and tight-fitting plastic caps. Sampling equipment will be decontaminated in between sampling locations. The locations will be back-filled with cement slurry. The asphalt cores will be retained and submitted to the laboratory for analyses.

Samples will be stored on ice and delivered to a state-certified laboratory following standard chain-of-custody protocol. Sample analyses are based on typical landfill requirements for previously uncharacterized soil. Proposed costs are for standard laboratory turnaround of five (5) business days starting the day after sampling is conducted, which cannot be guaranteed by ACC.

A letter report will be prepared that discusses soil sampling procedures, sampling locations, analytical results and pertinent recommendations, and is intended for review by the chosen acceptance facility.

Costs associated with unusual or unforeseen circumstances, including but not limited to unidentified conduits or other non-standard construction features or conditions, are not included in this proposal. Other costs not included are as follows:

- Groundwater sampling;
- Remedial actions that may be required by the federal, state, or local agencies if contamination is detected;
- Costs for removal of investigation derived waste;
- Costs for obtaining a soil boring permit, if required, and
- Costs for underground utility locating, if required.

In the event that these conditions or circumstances are encountered or requested, Client will be notified before ACC proceeds with the work. The fees specified in this proposal would be adjusted to allow for these conditions on a time and material basis. Additional analyses could be required by chosen accepting facilities.

Please indicate your acceptance of this proposal by signing below and returning an executed copy to our office. This proposal is subject to the attached ACC General Terms & Conditions. Work will commence upon receipt of an executed copy of the agreement. Any additional services requested by Client after submission of the reports will be invoiced on a time and materials basis in accordance with the attached ACC fee schedule. We appreciate the opportunity to provide this proposal.

COST OF SERVICE

The cost for both services is \$6,976.00 for performance of services defined on the attached *Environmental Cost Estimate #69076*.

Additional conditions and/or exceptions to the proposed scope of services:

- 1) The above pricing is based on ACC performing the task (s) concurrently. All pricing is based on normal working hours, Monday through Friday 7 AM to 5 PM. ACC is available for evening and weekend mobilizations per client needs at additional costs. Emergency response, evening and weekend mobilizations will include an hourly surcharge as defined in the Terms and Conditions, on the attached fee schedule or identified above under "Cost of Services."
- 2) Costs include all labor, insurance, overhead, transportation, equipment and materials required to perform the work with the exception of a man-lift capable of reaching materials and/or surfaces greater than 12 feet in height. Equipment required to reach these surfaces will be provided by the client or designated client representatives.
- 3) ACC shall be provided unencumbered access to all project areas. Additional trips to the subject property because areas are not accessible will be billed at \$85.00 per hour. Encumbered access or subsequent trips may delay the delivery of the final report.
- 4) ACC excludes characterization of soils in areas on known ultramafic rock (where naturally occurring asbestos may be found in soils). ACC can conduct a geologic evaluation and subsequent sampling to determine the presence of naturally occurring asbestos at additional costs if requested. ACC can provide further detail on regulatory requirements related to naturally occurring asbestos in soils.
- 5) ACC shall not be responsible for identifying and/or sampling suspect materials concealed within walls, columns, beneath flooring, above solid ceilings, underground or in any other concealed areas, unless written direction is provided to ACC to perform intrusive and/or destructive sampling on specific building systems, the subject area (s) were unoccupied at the time of the survey, and performing destructive/intrusive sampling does not create unsafe conditions. ACC shall not be responsible for identification, sampling, and/or characterization of PCB, and water or mold impacted materials. General observations related to these items may be noted if ACC observed suspect conditions to the client either separately or within this report.
- 6) Samplings of single-ply membrane roof systems are excluded unless specifically directed to disturb the membrane by the client. Suspect roofing materials underlying membrane systems may not be identified and should be sampled prior to disturbance.
- 7) The analyzing laboratory quantifies asbestos concentrations by calibrated visual estimation using standard PLM methodology, with detection of asbestos is material/matrix dependent. Detection of trace asbestos (<1%) may not be reliable or reproducible by PLM and percentage of asbestos weight cannot be determined with standard PLM methodology. Confirmation of asbestos concentrations within complex matrices (i.e. plaster, gypsum wallboard/taping/joint compounds, stucco, resilient

flooring, roofing) or when asbestos concentrations are 1% or less may warrant additional analysis by PLM point counting, gravimetric reduction or Transmission Electron Microscopy for proper characterization of asbestos-containing materials and/or waste-stream analysis.

If you would like ACC to perform the work outlined in this proposal, please sign where indicated below and return to ACC. This proposal is subject to the terms and conditions as described in the attached "Consulting Service Agreement – General Conditions."

If you should have any questions, please feel to contact me.

Sincerely,



David Sendek,
CAC #09-4567 and CDPH #20958
Project Manager

Attachments

AUTHORIZED BY

NAME: _____

TITLE: _____

COMPANY: _____

DATE: _____

Project Cost Estimate

ACC Environmental Consultants, Inc.

Project Information

ACC Project No.: 69076

Project Name: **Burbank Paving and ADA Project #13194**

Project Location: Burbank Elementary School
3550 64th Avenue
Oakland, CA

Client Information

Lee Sims
Oakland Unified School District
955 High Street
Oakland, CA 94601

Date Prepared: Friday, September 25, 2015

Task Number and Description	Unit Price	Units	Quantity	Amount
Task 1: Asbestos and Lead Paint Testing				
Administrative Support Personnel	\$65.00	Hours	6	\$390.00
Lead Bulk Sample	\$20.00	Each	15	\$300.00
PLM (Asb. Bulk) >24 Hours	\$20.00	Samples	40	\$800.00
Project Manager	\$125.00	Hours	12	\$1,500.00
			Task Sub-total:	\$2,990.00
Task 2A: Soil Testing on Ramp Project Coordination				
Professional Geologist	\$200.00	Hours	2	\$400.00
			Task Sub-total:	\$400.00
Task 2B: Soil Testing on Ramp Soil Sampling				
Concrete Coring Subcontractor	\$415.00	Day	1	\$415.00
Sampling Equipment	\$100.00	Lump Sum	1	\$100.00
Staff Geologist	\$95.00	Hours	8	\$760.00
			Task Sub-total:	\$1,275.00
Task 2C: Soil Testing on Ramp Laboratory Analysis				
600/R-93-116 - Asbestos	\$20.00	Each	2	\$40.00
6010 - CAM 17 Metals (Soil)	\$142.00	Each	2	\$284.00
6010 - STLC Metal	\$35.00	Each	1	\$35.00
8015 - TPH-g, -d and -mo	\$64.00	Each	2	\$128.00
8082 - PCBs and Aroclors	\$65.00	Each	2	\$130.00
8260 - Volatile Organic Compounds	\$127.00	Each	2	\$254.00
8270 - Semi-Volatile Organic Compounds	\$230.00	Each	2	\$460.00
STLC Extraction	\$65.00	Each	2	\$130.00
TCLP Extraction	\$65.00	Each	2	\$130.00
			Task Sub-total:	\$1,591.00
Task 2D: Soil Testing on Ramp Letter Report				
CAD Draftsperson	\$70.00	Hours	2	\$140.00
Professional Geologist	\$200.00	Hours	1	\$200.00
Staff Geologist	\$95.00	Hours	4	\$380.00
			Task Sub-total:	\$720.00
Total Environmental Consulting Services Cost:				\$6,976.00

All services subject to the Terms & Conditions between ACC and Client as of the date indicated above. Where no specific Terms & Conditions between ACC and Client exist, ACC's 2015 Standard Terms & Conditions apply to all services.

No. Cal. Office: 7977 Capwell Drive, Suite 100 • Oakland, California 94621 • Phone (510) 638-8400 • Fax: (510) 638-8404
So. Cal. Office: 1055 Wilshire Blvd., Suite 1450 • Los Angeles, CA 90017 • (213) 353-1240 • Fax: (213) 353-1244

EXHIBIT B
Hourly Personnel Rates
and
Schedule of Fees and Charges

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, _____, 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.

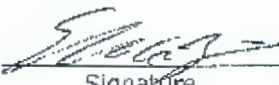
Date: 11-16-2015
Name of Consultant or Company: ACC Environmental Consultants, Inc.
Signature: 
Print Name and Title: Mark A. Sanchez Vice President

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

I am aware of and hereby certify that neither ACC Environmental 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 16 day of November 2014 for the purposes of submission of this Agreement. 2015

By: 
Signature

Mark A. Sorecher
Typed or Printed Name

Vice President
Title



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
11/18/2015

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).

PRODUCER ISU INS SERV - BC ENV BROKERAGE 1037 Suncast Ln Ste 103 El Dorado Hills, CA 95762	CONTACT NAME		
	PHONE (A/C No. Ext)	(916) 939-1080	FAX (A/C No) (916) 939-1085
E-MAIL ADDRESS			
INSURER(S) AFFORDING COVERAGE			NAIC#
INSURER A	ADMIRAL INSURANCE COMPANY		24856
INSURER B	UNITED FINANCIAL		11770
INSURER C	OAK RIVER INS. CO.		34630
INSURER D	QBE INS. CO.		39217
INSURER E			
INSURER F			

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	ADDD INSD	BUBR 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			FEI-ECC-10782-03 CPL RETRO: 03/20/89	10/28/15	10/28/16	EACH OCCURRENCE \$ 5,000,000
	<input checked="" type="checkbox"/> POLLUTION LIAB <input checked="" type="checkbox"/> CLAIMS MADE						PERSONAL & ADV INJURY \$ 5,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER						GENERAL AGGREGATE \$ 5,000,000
							PRODUCTS - COM/OP AGG \$ 5,000,000
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS			02447227-7	01/13/15	01/13/16	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						BODILY INJURY (Per person) \$
	UMBRELLA LIAB EXCESS LIAB						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						PROPERTY DAMAGE (Per accident) \$
	DED RETENTION \$						\$
C	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	N/A	ACWC603145	05/01/15	05/01/16	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER
							E L EACH ACCIDENT \$ 1,000,000
A	PROF. LIAB. CLAIMS MADE			FEI-ECC-10782-03 RETRO: 03/20/89	10/28/15	10/28/16	\$5,000,000 OCCURRENCE
D	PROP/EQUIPMENT			2751132	12/30/14	12/30/15	\$5,000,000 AGGREGATE

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: ALL OPERATIONS/BURBANK ELEMENTARY SCHOOL ASPHALT PAVING PROJECT
OAKLAND UNIFIED SCHOOL DISTRICT AND ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES HAVE BEEN NAMED AS ADDITIONAL INSURED WITH RESPECT TO THE GENERAL LIABILITY. PRIMARY COVERAGE APPLIES. WAIVER OF SUBROGATION APPLIES TO W/C COVERAGE. (BLANKET ENDORSEMENTS ATTACHED)

CERTIFICATE HOLDER OAKLAND UNIFIED SCHOOL DISTRICT ATTN: SUSIE BUTLER-BERKLEY 955 HIGH STREET OAKLAND, CA 94607	CANCELLATION 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 <i>Matthew C Walker</i>
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Automatic Additional Insured – Owners, Lessees or Contractors

This endorsement, effective 10/28/2015 attaches to and forms a part of Policy Number FEI-ECC-10782-03. This endorsement changes the Policy. Please read it carefully.

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART
CONTRACTORS POLLUTION LIABILITY COVERAGE PART**

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.



**Automatic Primary and Non-Contributory
Insurance Endorsement
Designated Work Or Project(s)**

This endorsement, effective 10/28/2015 attaches to and forms a part of Policy Number FEI-ECC-10782-03. This endorsement changes the Policy. Please read it carefully.

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of an additional premium of \$Applied and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that this policy shall be considered primary to any similar insurance held by third parties in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.



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

Legislative File ID No. 15-2490

Department: Oakland Unified School District - Facilities

Vendor Name: ACC Environmental Consultants

Project Name: Burbank Asphalt Paving Project No.: 13194

Contract Term: Start Date: 11/12/15 End Date: 12/31/16

Annual (if annual contract) or Total (if multi-year agreement) Cost: \$ 6,976.00

Approved by: Tadashi Nakadegawa/Lance Jackson

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

Why was this Vendor selected?

There was an RFQ process for hazardous materials testing services for OUSD projects. This vendor was selected from that pool after submitting a proposal for this project based on their credentials and past work with the district.

Summarize the services this Vendor will be providing.

Limited asbestos and lead paint surveys in three (3) restrooms at Burbank Elementary School for which ACC will provide a report of findings. ACC will also characterize the soil and base rock proposed for off haul as either Class I or Class II waste. Four base rock samples and four sub-grade samples will be used.

Was this contract competitively bid? Yes No

If No, answer the following:

1) How did you determine the price is competitive?

[Empty box for answer]

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**



INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES ROUTING FORM

Project Information

Project Name	Burbank Elementary School Asphalt Paving	Site	104
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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	ACC Environmental Consultants	Agency's Contact	Chris Yama		
OUSD Vendor ID #	V057331	Title	Project Manager		
Street Address	7977 Capwell Drive, Suite 100	City	Oakland	State	CA
Telephone	510-638-8400	Policy Expires		Zip	94621
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Worked as an OUSD employee?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
OUSD Project #	13194				

Term

Date Work Will Begin	1-13-2016	Date Work Will End By <small>(not more than 5 years from start date)</small>	12-31-2016
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Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$35,392.00
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	Measure J	1049906890	6170	\$6,975.00

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: 11/18/15		
2.	General Counsel, Department of Facilities Planning and Management	Signature	Date Approved: 12.9.15		
3.	Interim Deputy Chief, Facilities Planning and Management	Signature	Date Approved: 12/10/15		
4.	Chief Operations Officer, Board of Education	Signature	Date Approved:		
5.	President, Board of Education	Signature	Date Approved:		