

Board Office Use. Legislative File Info.	
File ID Number	18- 1139
Introduction Date	6-6-2018
Enactment Number	18-0901
Enactment Date	6/6/18 os



OAKLAND UNIFIED SCHOOL DISTRICT
 Inspiring Minds, Transforming Lives

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent and Secretary, Board of Education
 Timothy White, Deputy Chief, Facilities Planning and Management

Board Meeting Date June 6, 2018

Subject Independent Consultant Agreement less than \$90,200 - ACC Environmental - Laurel Finishing Kitchen Addition Project

Action Requested Approval by the Board of Education of an Independent Consultant Agreement less than \$90,200 between the District and ACC Environmental, Oakland, CA, for the latter to provide hazardous material oversight services including monitoring, sampling and testing during hazardous material removal activities, in conjunction with the Laurel Finishing Kitchen Addition Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing June 7, 2018 and concluding no later than June 30, 2020, in an amount not-to exceed \$14,560.00.

Discussion Professional consulting services needed to ensure proper removal of hazardous materials during construction.

LBP (Local Business Participation Percentage) 100.00%

Recommendation Approval by the Board of Education of an Independent Consultant Agreement less than \$90,200 between the District and ACC Environmental, Oakland, CA, for the latter to provide hazardous material oversight services including monitoring, sampling and testing during hazardous material removal activities, in conjunction with the Laurel Finishing Kitchen Addition Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing June 7, 2018 and concluding no later than June 30, 2020, in an amount not-to exceed \$14,560.00.

Fiscal Impact Fund 21, Measure J

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



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

Legislative File ID No. _____

Department: Facilities Planning and Management

Vendor Name: ACC Environmental

Project Name: Laurel Finishing Kitchen Addition **Project No.:** 13179

Contract Term: Intended Start: 6/7/2018 Intended End: 6/14/2020

Annual (if annual contract) or Total (if multi-year agreement) Cost: \$14,560.00

Approved by: Tadashi Nakadegawa

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

Local Business Policy? Yes (No if Unchecked)

How was this Vendor selected?

Vendor is an Oakland-based company.

Summarize the services this Vendor will be providing.

Provide hazardous material oversight services including monitoring, sampling & testing during hazardous material removal activities. Fee includes an owner contingency of \$2000.

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

If No, please answer the following:

1) How did you determine the price is competitive?

Performed evaluation of 3 proposals.

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 \$90,200 (increases a small amount on January 1 of each year)

Construction related Professional Services such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)

Energy conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternative energy supply sources)

Emergency contracts

Technology contracts

electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected

contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process

Western States Contracting Alliance Contracts (WSCA)

California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]

"Piggyback" Contracts with other governmental entities

Perishable Food

Sole Source

Change Order for Material and Supplies if the cost agreed upon in writing does not exceed ten percent of the original contract price

Other, please provide specific exception

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

LBU EVALUATION FOR OUSD VARIOUS SITES (FINISHING KITCHENS, STUDENT RESTROOMS, AND CENTRAL COMMISSARY)

HARZARDOUS MATERIAL ABATEMENT SERVICES RFP

October 2014



FIRM/TEAM	LBE/SLBE/SLRBE Firms Names	RESPONSIVE Y/N	PERCENTAGE	Preference Points	NOTES
ACC Environmental Consultants, Inc.		Y	100.0%	4pt	
	ACC Environmental Consultants	SLBE	100.0%		
PSI, Inc.		N	100.0%	0pt	Firm Did Not Meet Minimum SLBE Requirement
	PSI, Inc.	LBE	100.0%		
SCA Environmental		Y	100.0%	2pt	
	SCA Environmental	LBE	75.0%		
	Gayton Environmental	SLBE	25.0%		
Terracon		Y	50.0%	2pt	
	SCA Environmental	LBE	25.0%		
	Gayton Environmental	SLBE	25.0%		
TCR Engineers, Inc.		Y	100.0%	4pt	
	TRC Engineers, Inc.	LBE	54.0%		
	Aurora ESI	SLBE	46.0%		

City Administrator's Office, Contracts and Compliance Division

Small Local Business Enterprise

Presented to:

ACC ENVIRONMENTAL CONSULTANTS, INC.

Services Provided:

541620 Environmental Consulting Services

1640

31-Mar-18

Certification Number

Expiration Date

Shelley Darenburg

02-03-16

Shelley Darenburg,
Senior Contract Compliance Officer

Date



CITY OF OAKLAND

THIS DOCUMENT HAS A 'VERIFY FIRST' TRUE WATERMARK AND VISIBLE FIBERS DISCERNIBLE FROM BOTH SIDES

CITY OF OAKLAND

BUSINESS TAX CERTIFICATE

**ACCOUNT
NUMBER**

00004978

The issuing of a Business Tax Certificate is for revenue purposes only. It does not relieve the taxpayer from the responsibility of complying with the requirements of any other agency of the City of Oakland and/or any other ordinance, law or regulation of the State of California, or any other governmental agency. The Business Tax Certificate expires on December 31st of each year. Per Section 85.04.190A, of the O.M.C. you are allowed a renewal grace period until March 1st the following year.

DBA

ACC ENVIRONMENTAL CONSULTANTS INC

BUSINESS LOCATION

7977 CAPWELL DR STE 100
OAKLAND, CA 94621-2125

BUSINESS TYPE

F Consultant

EXPIRATION DATE

12/31/2018



ACC ENVIRONMENTAL CONSULTANTS INC
7977 CAPWELL DR STE 100
OAKLAND, CA 94621-2125

THIS DOCUMENT IS ALTERATION PROTECTED AND REFLECTS FLUORESCENT FIBERS UNDER UV LIGHT

INDEPENDENT CONSULTANT AGREEMENT
FOR PROFESSIONAL SERVICES
Less Than \$90,200

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the **18th day of April 2018**, by and between the **Oakland Unified School District** ("District") and **ACC Environmental** ("Consultant"), (together, "Parties").

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

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

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

NOW, THEREFORE, the Parties agree as follows:

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

Scope of Services to provide hazardous material oversight services including monitoring, sampling and testing during hazardous material removal activities.

2. **Term.** Consultant shall commence providing Services under this Agreement on **June 7, 2018**, and will diligently perform as required and complete performance by **June 30, 2020**, unless this Agreement is terminated and/or otherwise cancelled prior to that time. This Agreement may be extended upon mutual approval of both parties in writing on an annual basis to the extent permissible under applicable law.
3. **Submittal of Documents.** The Consultant shall not commence the Services under this Contract until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

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

4. **Compensation.** District agrees to pay Consultant for Services satisfactorily rendered pursuant to this Agreement, a fixed fee of **FOURTEEN THOUSAND FIVE HUNDRED SIXTY NO/100 Dollars (\$14,560.00)**, includes an owner's contingency of \$2,000.00, paid monthly in proportion to Services performed.

- 4.1. District shall pay Consultant for all undisputed amounts in installment payments within thirty (30) days after the Consultant submits an invoice to the District for Services actually completed and after the District's written approval of the Services, or the portion of the Services for which payment is to be made (such approval not to be unreasonably withheld or delayed).

- 4.2. Any disputed invoiced amount which cannot be resolved in good faith between the Parties within fifteen (15) business days shall be resolved in accordance with Section 25 below.
5. **Expenses.** Expenses will not be charged for Consultant's performance of these Services.
6. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
7. **Local, Small Local and Small Local Resident Business Enterprise (L/SL/SLRBE) Program:** Consultant shall comply with the requirements of District's L/SL/SLRBE Program, as applicable, which may require a fifty percent (50%) mandatory minimum local participation requirement in the performance of this Agreement. A copy of the District's Local Business Participation Policy can be obtained on the District's website, at www.ousd.k12.ca.us, under District Services, Facilities Planning & Management Department, Bids and Requests for Proposals.
8. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the Services herein contemplated, Consultant shall have the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
9. **Performance of Services / Standard of Care.**
- 9.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Consultant's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
- 9.1.1. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
- 9.1.2. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.
- 9.1.3. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.

9.1.4. Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall use professional efforts in identifying any errors, inconsistencies, or omissions.

9.1.5. Any representations, recommendations, opinions or conclusions relating to the Services provided by Consultant must be made in writing by duly authorized representatives of Consultant.

9.2. **Meetings.** Consultant and District agree to participate in regular meetings to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.

9.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.

10. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.

11. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District (specifically excluding any underlying pre-existing intellectual property). District may, with Consultant's prior written consent, use Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

12. **Termination.**

12.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three (3) calendar days after the day of mailing, whichever is sooner.

12.2. **For Convenience by Consultant.** Consultant may, upon sixty (60) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

12.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

12.3.1. material violation of this Agreement by the Consultant; or

- 12.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
- 12.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required Services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

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

13. Indemnification. To the furthest extent permitted by California law, Consultant shall indemnify, and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims, arising out of, pertaining to or relating to the negligence, recklessness, errors or omissions, or willful misconduct of Consultant. Consultant shall, to the fullest extent permitted by California law, defend the Indemnified Parties at Consultant's own expense, including attorneys' fees and costs, from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

14. Insurance.

- 14.1. Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

- 14.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that insure against all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from Consultant's performance of any portion of the Services. (Form CG 0001 and CA 0001)

- 14.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

14.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Consultant's profession.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

14.2. **Proof of Carriage of Insurance.** Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage's have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

14.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

14.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance shall be written on an occurrence form.

14.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

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

16. **Compliance with Laws.** Consultant shall observe and comply with all applicable rules and regulations of the governing board of the District and all applicable federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement are at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole

option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant knowingly performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

17. **Certificates/Permits/Licenses/Registration.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this agreement.
18. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
19. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
20. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).
21. **Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services. Although District has determined that fingerprinting is not applicable to this Agreement, Consultant expressly acknowledges that the following conditions shall apply to any work performed by Consultant and/or Consultant's employees on a school site:
 - 21.1. All site visits shall be arranged through the District;
 - 21.2. Consultant and Consultant's employees shall inform District of their proposed activities and location at the school site, allowing District time to arrange site visits without a disruption to the educational process;
 - 21.3. Consultant and/or Consultant's employees shall check in with the school office each day immediately upon arriving at the school site;
 - 21.4. Once at such location, Consultant and Consultant's employees shall not change locations without contacting the District;
 - 21.5. Consultant and Consultant's employees shall not use student restroom facilities; and
 - 21.6. If Consultant and Consultant's employees find themselves alone with a student, Consultant and Consultant's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

22. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any manner which is permissible under the law. The District's evaluation may include, without limitation:
- 24.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
- 24.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
25. **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.
26. **Disputes:** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.
27. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of

performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

28. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

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

ACC Environmental
7977 Capwell Drive, Suite 100
Oakland, CA 94621
Tel: 510-512-8320
ATTN: Steve Jackson

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.

29. **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.

30. **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.

31. **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.

32. **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.

33. **Incorporation of Recitals and Exhibit.** The Recitals and exhibit attached hereto are hereby incorporated herein by reference.

34. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.

35. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.

36. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.

38. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
39. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
40. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

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>



Timothy White
Deputy Chief, of Facilities Planning & Management

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below:

OAKLAND UNIFIED SCHOOL DISTRICT

Aimee Eng 6/7/18
Aimee Eng, President, Board of Education Date

Kyla Johnson-Trammell 6/7/18
Kyla Johnson-Trammell, Superintendent & Secretary, Board of Education Date

Timothy White 5/11/18
Timothy White, Deputy Chief, Facilities Planning and Management Date

APPROVED AS TO FORM:

Maideh Mir 8/16/18
OUSD Facilities Legal Counsel Date

CONSULTANT

Heather Sobky 4/30/18
By: Heather Sobky Date
Its: Vice President and COO

Information regarding Consultant:

Consultant: ACC Environmental Consultants, Inc.
License No.: _____
Address: 7977 Capwell Drive, Suite 100
Oakland, CA. 94621
Telephone: 510-638-8400
Facsimile: 510-638-8404
E-Mail: sjackson@accenv.com

94-300-2813
Employer Identification and/or
Social Security Number

NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.

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

WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part provides:

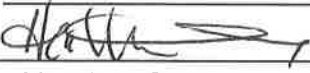
Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.
- b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: 4/30/18

Proper Name of Consultant: ACC Environmental Consultants, Inc.

Signature: 

Print Name: Heather Sobky

Title: Vice President & COO

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)


CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

The undersigned is aware of and hereby certify that neither ACC Environmental ("Consultant") nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Further, the undersigned agrees to include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

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

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named Consultant on the 30th day of April 2018 for the purposes of submission of this Agreement.

By:



Signature

Heather Sobky

Typed or Printed Name

Vice President & COO

Title

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 Professional Services ("Agreement"):

- 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: _____

District Representative's 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, Stephen E. Jackson, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.
- Surveillance of Employees by District personnel.

Date: _____

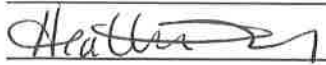
District Representative's Name and Title: _____

District Representative's Signature: _____

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: 4/30/18

Name of Consultant: ACC Environmental Consultants, Inc.

Signature: 

Print Name and Title: Heather Sobky, Vice President & COO

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

BASIC SCOPE OF SERVICES

ACC Environmental proposes to provide the following scope of services:

Scope of Services to provide hazardous material oversight services including monitoring, sampling and testing during hazardous material removal activities.



Environmental Project Cost Estimate

Project Information

Laurel Finishing Kitchen Project #13179
Laurel Elementary School
3750 Brown Avenue
Oakland, CA

Client Information

Mary Ledezma
Oakland Unified School District
955 High Street
Oakland, CA 94601

EXHIBIT A

ACC Project No.: 73280

Date Prepared: Friday, March 16, 2018

Scope of Work Description

Task 1 - Meetings and Submittal Review

The ACC project manager will attend the pre-construction meeting and review the abatement contractor submittals and work plan

Task 2 - Abatement Oversight and Air Monitoring

ACC will provide part time oversight of the abatement activities associated with the Laurel Finishing Kitchen project. ACC will provide any combination of half or full shifts of oversight for a total of 10 shifts or 80 hours of oversight. The estimated abatement schedule is expected to be 20 shifts. During our oversight, ACC will conduct visual inspection of setup, work practices, work progress and final visual inspections. Additionally, while onsite, ACC will collect a combination of asbestos PCM samples and/or lead air from areas outside but adjacent to the work.

Final Asbestos Clearance samples will be collected and analyzed by the AHERA method. Lead wipe clearance samples will be collected at the completion of interior lead work.

Non-viable fungal air samples will be collected at the completion of the mold work at the multipurpose ceiling.

A final project report will be submitted.

Task 3 - Owner Contingency



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
4/30/2018

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 certificateholder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATIONS 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 certificateholder in lieu of such endorsement(s).

PRODUCER ISU INS SERV - BC ENV BROKERAGE 1037 Suncastr Ln Ste 103 El Dorado Hills, CA 95762	CONTACT NAME: DINA ATHEY	
	PHONE (AC, No, Ext): (916) 939-1080 FAX (AC, No): (916) 939-1085	
INSURED ACC ENVIRONMENTAL CONSULTANTS, INC. 7977 CAPWELL DRIVE, SUITE 100 OAKLAND, CA 94621	INSURER(S) AFFORDING COVERAGE	NAIC#
	INSURER A: ADMIRAL INSURANCE COMPANY A+	24856
	INSURER B: UNITED FINANCIAL A+	11770
	INSURER C: OAK RIVER INS. CO. A++	34630
	INSURER D: QBE INS. CORP. A	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	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 <input checked="" type="checkbox"/> POLLUTION LIAB <input type="checkbox"/> CLAIMS MADE GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			FEI-ECC-10782-05 CPL RETRO: 03/20/89	10/28/17	10/28/18	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COM/PIOPAGG \$ 5,000,000
	B			02447227-6	01/13/18	01/13/19	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			ACWC921840	05/01/18	05/01/19	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	PROF. LIAB. CLAIMS MADE			FEI-ECC-10782-05 RETRO: 03/20/89	10/28/17	10/28/18	\$5,000,000 OCCURRENCE \$5,000,000 AGGREGATE
D	PROP/EQUIPMENT			2751132	12/30/17	12/30/18	

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

RE: LAUREL ELEMENTARY SCHOOL; FINISHING KITCHEN ADDITION PROJECT (OUSD #13179)
OAKLAND UNIFIED SCHOOL DISTRICT AND ITS DIRECTORS, REPRESENTATIVES, OFFICERS, EMPLOYEES, TRUSTEES, AGENTS AND VOLUNTEERS HAVE BEEN NAMED AS ADDITIONAL INSURED WITH RESPECT TO THE GENERAL LIABILITY. PRIMARY COVERAGE APPLIES. WAIVER OF SUBROGATION APPLIES TO W/C COVERAGE. 30 DAY NOTICE APPLIES.
(BLANKET ENDORSEMENTS ATTACHED)

CERTIFICATE HOLDER Oakland Unified School District 955 High Street Oakland, CA. 94601	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 
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Automatic Additional Insured – Owners, Lessees or Contractors

This endorsement, effective 10/28/2017 attaches to and forms a part of Policy Number FEI-ECC-10782-05. This endorsement changes the Policy. Please read it carefully.

In consideration of an additional premium of \$Applied, 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.



Additional Insured – Owners, Lessees or Contractors – Completed Operations

This endorsement, effective 10/28/2017 attaches to and forms a part of Policy Number
FEI-ECC-10782-05. This endorsement changes the Policy. Please read it carefully.

In consideration of an additional premium of \$Applied, this endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
<p>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.</p>	<p>Those project locations where this endorsement is required by contract.</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".



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

This endorsement, effective 10/28/2017 attaches to and forms a part of Policy Number FEI-ECC-10782-05. This endorsement changes the Policy. Please read it carefully.

This endorsement modifies insurance provided under the Coverage Part(s) indicated below:

COMMERCIAL GENERAL LIABILITY COVERAGE
CONTRACTORS POLLUTION LIABILITY COVERAGE
PROFESSIONAL LIABILITY COVERAGE

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.



Automatic Waiver of Subrogation Endorsement

This endorsement, effective 10/28/2017 attaches to and forms a part of Policy Number FEI-ECC-10782-05. 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) to whom the *Named Insured* agrees, in a written contract, to provide a waiver of subrogation. However, this status exists only for the project specified in that contract.

The Company waives any right of recovery it may have against the person or organization shown in the above Schedule because of payments the Company makes for injury or damage arising out of the *insured's* work done under a contract with that person or organization. The waiver applies only to the person or organization in the above Schedule.

Under no circumstances shall this endorsement act to extend the policy period, change the scope of coverage or increase the Aggregate Limits of Insurance shown in the Declarations.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA
BLANKET BASIS

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

The additional premium for this endorsement shall be 2% of the total manual premium otherwise due on such remuneration. The minimum premium for this endorsement is \$350.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE

BLANKET WAIVER

Person/Organization	Blanket Waiver- Any person or organization for whom the Named insured has agreed by written contract to furnish this waiver.	
Job Description	Waiver Premium	
All CA Operations	350.00	

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
{The information below is required only when this endorsement is issued subsequent to preparation of the policy.}

Endorsement Effective 05/01/18

Policy No. ACWC921840

Endorsement No.

Insured

Premium\$

Insurance Company O a k River Insurance Company

Countersigned

Carrie Schleisman

