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Enactment Date	5/24/2023 er



OAKLAND UNIFIED SCHOOL DISTRICT
Community Schools, Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Kenya Chatman, Executive Director, Division of Facilities Planning and Management

Board Meeting Date May 24, 2023

Subject General Services Agreement – ACC Environmental Consultants – Allendale Elementary School Site Improvements Project - Division of Facilities Planning and Management

Action Requested Approval by the Board of Education of General Services Agreement by and between the **District** and **ACC Environmental Consultants**, Oakland, California, for the latter to provide environmental services which consist of soil sampling, testing for lead and arsenic, and soil waste characterization, conducting data review, report writing and consulting services, for the **Allendale Elementary School Site Improvements Project**, in the total not-to-exceed amount of **\$8,064.10**, which includes a not-to-exceed amount of **\$733.00** for additional services, as the selected consultant, with the work scheduled to commence on **May 25, 2023**, and scheduled to last until **July 30, 2023**, pursuant to the Agreement.

Discussion Consultants is providing environmental services at the Allendale Elementary School Site Improvements Project and was selected based on a (a) demonstrated competence and professional qualifications (Government Code §4526), and (b) a fair competitive RFP selection process (Government Code §§4529.10 et seq.).

LBP (Local Business Participation Percentage) 100.00%

Recommendation Approval by the Board of Education of General Services Agreement by and between the District and ACC Environmental Consultants, Oakland, California, for the latter to provide environmental services which consist of soil sampling, testing for lead and arsenic, and soil waste characterization, conducting data review, report writing and consulting services, for the Allendale Elementary School Site Improvements Project, in the total not-to-exceed amount of \$8,064.10, which includes a not-to-exceed amount of \$733.00 for additional services, as the selected consultant, with the work scheduled to commence on May 25, 2023, and scheduled to last until July 30, 2023, pursuant to the Agreement.

Fiscal Impact Fund 01, Child Development Fund, ESSER III

- Attachments**
- Contract Justification Form
 - Agreement, including Exhibits
 - Certificate of Insurance
 - Routing Form



CONTRACT JUSTIFICATION FORM

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

Legislative File ID No. 23-0986

Department: Facilities Planning and Management

Vendor Name: ACC Environmental Consultants

Project Name: Allendale Elementary School Site Improvements

Project No.: 22145

Contract Term: Intended Start: May 25, 2023

Intended End: July 30, 2023

Total Cost Over Contract Term: \$8,064.10

Approved by: Kenya Chatman

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

Local Business Policy? Yes (No if Unchecked)

How was this contractor or vendor selected?

ACC Environmental Consultants, was selected through an RFQ/P process, based on scores.

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

ACC Environmental Consultants, the latter to provide environmental services which consist of soil sampling and testing of soils for lead and arsenic and soil waste characterization, conducting data review, report writing and consulting services, for the Allendale Elementary School Site Improvements Project.

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

If "No," please answer the following questions:

1) How did you determine the price is competitive?

The district received proposals through an RFQ/P process, which includes review/scoring of proposals. ACC Environmental Consultants was selected based on receiving the highest scores and their prices were fair and reasonable compared to the prices submitted by the other responding consultants.

2) Please check the competitive bidding exception relied upon:

Construction Contract:

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

Consultant Contract:

- Architect, engineer, construction project manager, land surveyor, or environmental services – selected (a) based on demonstrated competence and professional qualifications (Government Code §4526), **and** (b) using a fair, competitive RFP selection process (Government Code §§4529.10 et seq.)
- Architect or engineer *when state funds being used* – selected (a) based on demonstrated competence and professional qualifications (Government Code §4526), (b) using a fair, competitive RFP selection process (Government Code §§4529.10 et seq.), **and** (c) using a competitive process consistent with Government Code §§4526-4528 (Education Code §17070.50)
- Other professional or specially trained services or advice – no bidding or RFP required (Public Contract Code §20111(d) and Government Code §53060) – *contact legal counsel to discuss if applicable*
- For services other than above, the cost of services is \$109,300 or less (as of 1/1/23)
- No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*

Purchasing Contract:

- Price is at or under bid threshold of \$109,300 (as of 1/1/23)
- Certain instructional materials (Public Contract Code §20118.3)
- Data processing systems and supporting software – choose one of three lowest bidders (Public Contract Code §20118.1)

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

Maintenance Contract:

- Price is at or under bid threshold of \$109,300 (as of 1/1/23)
- No advantage to bidding (including sole source) – *contact legal counsel to discuss*
- Other: _____

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

- Consultant is providing environmental services for the Allendale Elementary School Site Improvements Project for the District..

OAKLAND UNIFIED SCHOOL DISTRICT GENERAL SERVICES AGREEMENT

This general services agreement (“Agreement”) is made and entered into effective **May 25, 2023** (the “Effective Date”), by and between the Oakland Unified School District (“District”) and **ACC ENVIRONMENTAL CONSULTANTS** (“Contractor” and together with District, the “Parties”).

1. **Contractor Services.** Contractor agrees to provide the following services to District (collectively, the “Basic Services”): For the Allendale Elementary School Site Improvements Project, to provide environmental services which consist of soil sampling and testing of soils for lead and arsenic and soil waste characterization, conducting data review, report writing and consulting services. (“Project”), (as further described in the February 22, 2023 proposal, which is attached as *Exhibit A* to this Agreement). Contractor shall provide services related to the Project other than Basic Services (i.e., “Additional Services”) if directed in writing by District to perform specific Additional Services and if sufficient contract funds for Additional Services remain to pay for the directed Additional Services (see Section 5, below). “Services” shall mean Basic and Additional Services. Contractor agrees to perform such Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Services and the Project. All services performed by the Contractor under this Agreement shall be conducted in a manner consistent with the level of care and skill ordinarily exercised by ACC Environmental Consultants, consultants specially qualified to provide the services required by the District.

2. **Contractor Qualifications.** Contractor represents and warrants to District that Contractor, and all of Contractor’s employees, agents or volunteers (the “Contractor Parties”), have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. Contractor and any Contractor Parties performing Services shall be competent to perform those Services.

3. **Term.** The term for performance of the Services shall begin on May 25, 2023, and shall end on July 30, 2023 (“Term”), except as otherwise stated in Section 4 below, and Contractor shall complete the Services within the Term. There shall be no extension of the Term without an amendment signed by all Parties and approved by the District’s governing board. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contractor Parties. In the event of early termination, Contractor shall be paid for satisfactory Services performed to the date of termination. Upon payment by District, District shall be under no further obligation to Contractor, monetarily or otherwise, and District may proceed with the work in any manner District deems proper.

4. **Termination.** Either Party may terminate this Agreement at any time by giving thirty (30) days advance written notice to the other Party. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if (1) Contractor materially breaches any of the terms of this Agreement; (2) any act or omission of Contractor or the Contractor Parties exposes District to potential liability or may cause an increase in District’s insurance premiums; (3) Contractor

is adjudged a bankrupt; (4) Contractor makes a general assignment for the benefit of creditors; (5) a receiver is appointed because of Contractor's insolvency; or (6) Contractor or Contractor Parties fail to comply with or make material representations as to the fingerprinting, criminal background check, and/or tuberculosis certification sections of this Agreement. Such termination shall be effective immediately upon Contractor's receipt of the notice.

5. **Payment of Fees for Services.** District agrees to pay Contractor based on the hourly and unit rates listed in *Exhibit B* for Services satisfactorily performed. Contractor shall not increase these hourly or unit rates over the course of this Agreement. Total fees paid by District to Contractor for Services under the Agreement shall not exceed **EIGHT THOUSAND SIXTY-FOUR DOLLARS AND TEN CENTS (\$8,064.10)**, which consists of a not-to-exceed amount of **SEVEN THOUSAND THREE HUNDRED THIRTY-ONE DOLLARS NO/100(\$7,331.00)** for performance of the Basic Services, and a not-to-exceed contingency amount of **SEVEN HUNDRED THIRTY-THREE DOLLARS NO/100 (\$733.00)** for performance of any Additional Services. Contractor acknowledges that the not-to-exceed fee for Basic Services, above, includes contingency compensation in the foreseeable event that more time and costs may be necessary to complete the Basic Services. Contractor shall perform all Basic Services required by the Agreement even if the not-to-exceed amount for performance of the Services has already been paid and no more payments will be forthcoming. District agrees to make payment within sixty (60) days of receipt of a detailed invoice from Contractor based on hours worked and hourly rates, including any additional supporting documentation that District reasonably requests. Contractor shall not submit its invoices to District more frequently than monthly. Contractor will not be compensated for any Basic or Additional Services required as a result of wrongful acts or omissions.

5.1 **Reimbursement for Certain Expenses.** Contractor shall not be reimbursed directly for any of its expenses, as the fees to be paid under this Agreement include compensation for any and all of Contractor's expenses.

6. **Indemnity.** Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Trustees, members of the Board of Trustees (collectively, the "District Parties"), from and against any and all claims, demands, liabilities, damages, losses, suits and actions, and expenses (including, but not limited to attorney fees and costs including fees of consultants) of any kind, nature and description (collectively, the "Claims") directly or indirectly arising out of, connected with, or resulting from any act, error, omission, negligence, or willful misconduct of Contractor, the Contractor Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees in the performance of or failure to perform Contractor's obligations under this Agreement, including, but not limited to Contractor's or the Contractor Parties' use of the site, Contractor's or the Contractor Parties' performance of the Services, Contractor's or the Contractor Parties' breach of any of the representations or warranties contained in this Agreement, or for injury to or death of persons or damage to property or delay or damage to the District or the District Parties. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. The indemnification provided for in this Section 6 includes, without limitation to the foregoing, claims that may be made against District by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against District alleging civil rights violations by Contractor or Contractor Parties under the California Fair Employment and Housing Act ("FEHA").

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

8. **Insurance.** Without in any way limiting Contractor's liability, or indemnification obligations set forth in Section 6 above, Contractor shall secure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate; (iii) worker's compensation insurance as required by Labor Code section 3200, *et seq.* Neither Contractor nor any of the Contractor Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverages have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insureds. All of the policies shall be amended to provide that the insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to District. If such a notice is not given or even if District receives a notice, District may, at its sole option, terminate this Agreement. All insurance policies shall include an endorsement stating that it is primary to any insurance or self-insurance maintained by District and shall waive all rights of subrogation against District and/or the District Parties. A copy of the declarations page of Contractor's insurance policies shall be attached to this Agreement as proof of insurance.

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

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

11. **Fingerprinting/Criminal Background Investigation Certification.** Contractor and the Contractor Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code (“Education Code”) section 45125.1. Before performing any Services, Contractor shall execute and return the District’s Fingerprinting Notice and Acknowledgement form and the required certification (see *Exhibit C*).

Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information which differs in any way from the information learned or provided pursuant to Section 45125.1, or Contractor or Contractor Parties add personnel who will provide Services under this Agreement, Contractor shall immediately notify District and prohibit any new personnel from interacting with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any interaction is permissible.

12. **Tuberculosis Certification.** Contractor and the Contractor Parties shall at all times comply with the tuberculosis (“TB”) certification requirements of Education Code section 49406. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:

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

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

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

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

Contractor further agrees and acknowledges that all new personnel hired to provide Services under this Agreement after the Effective Date of this Agreement by Contractor and Contractor Parties are subject to the TB certification requirements of Education Code section 49406 and shall be prohibited from having any contact with District students until the TB certification requirements have been satisfied and District determines whether any contact is permissible.

13. **Confidential Information.** All District information disclosed to Contractor during the course of performance of services under this Agreement shall be treated as confidential and shall not be disclosed to any other persons or parties excepts as authorized by District or required by law. Contractor shall maintain the confidentiality of, and protect from unauthorized disclosure, any and all individual student information received from the District, including but not limited to student names and other identifying

information. Contractor shall not use such student information for any purpose other than carrying out the obligations under this Agreement. Upon termination of this Agreement, Contractor shall turn over to District all educational records related to the Services provided to any District student pursuant to this Agreement.

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

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

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

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

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

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

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

21. **Attorneys' Fees.** If a party to this Agreement commences a legal action against the other party to enforce a provision of this Agreement or seek damages related to the services provided under this Agreement, the prevailing party in the legal action will be entitled to recover from the other party all of its reasonable litigation expense, costs, and fees actually incurred, including reasonable attorneys' and experts' fees.

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

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

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

25. **Reports.** Contractor shall maintain complete and accurate records with respect to the Services rendered and the costs incurred under this Agreement, including records with respect to any payments to employees and subcontractors. All such records shall be prepared in accordance with generally accepted accounting procedures. Upon request, Contractor shall make such records available to District for the purpose of auditing and copying such records for a period of five years from the date of final payment under this Agreement.

26. **Ownership of Documents.** All plans, studies, drawings, calculations, reports, specifications, estimates, and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Contractor under this Agreement (“Documents”) shall be and shall remain the property of the District for all purposes, not only as they relate or may relate to the Services but as they relate or may relate to any other project. Contractor will provide the District with a complete set of Documents, and will retain, on the District's behalf, the originals or reproducible copies of all Documents, however stored, in the Contractor's files for a period of no less than fifteen (15) years. Contractor shall promptly make available to District any original documents it has retained under this Agreement upon request by the District.

27. **Licensing of Intellectual Property.** This Agreement creates a non-exclusive and perpetual license for the District to copy, use, modify, reuse or sublicense any and all copyrights, designs and other intellectual property embodied in the Documents (“Intellectual Property”) not only as they relate or may relate to the Services but as they relate or may relate to other projects. The Contractor shall require any and all subcontractors and subconsultants to agree in writing that the District is granted a similar non-exclusive and perpetual license for the Intellectual Property of such subcontractors or consultants that they provided to Contractor as part of the Services. The compensation for the Services includes compensation not only for any such use of the Intellectual Property in connection with the Services, but also for any re-use of the Intellectual Property by the District in relation to other projects. Contractor represents and warrants that Contractor has the legal right to license the Intellectual Property that Contractor, its subcontractors, or its subconsultants prepare or cause to be prepared under this Agreement.

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

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

30. **Execution of Other Documents.** The Parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

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

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

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

34. **Forms.** Prior to performing any Services, Contractor shall prepare, execute, and submit all forms that may be required by law for this Agreement, including but not limited to disabled veteran business enterprises ("DVBE") certification (Education Code §17076.11) and an Iran Contract Act certification (Public Contract Code §2204). If a form is necessary, Contractor shall use the District's versions of these forms, which the District shall make available upon request.

35. **Sanctions in Response to Russian Aggression.** The District is using State of California funds for this Contract, and therefore Contractor must comply with the Governor's March 4, 2022, Executive Order N-6-22 ("Order") relating to any existing sanctions imposed by the United States government and the State of California in response to Russia's actions in Ukraine, including additional requirements for contracts of \$5 million or more. Failure to comply may result in the termination of the Contract.

36. **Designation of Key Personnel.** The individuals specified in the attached *Exhibit D* shall provide the services set forth herein, and shall be the persons primarily in charge of such work. No other individuals may provide services for Contractor on the this project without first obtaining the written approval of the City Manager.

37. **Conflict of Interest.** Contractor warrants that neither Contractor nor any of its employees, agents, or subcontractors has an actual or potential conflict of interest with the District in respect to the Services to be performed under this Agreement for the District. None of such individuals shall, during this term of this Agreement, acquire any interest which conflicts, or could potentially conflict, in any

manner with the interests of the District.

38. **Notice to Proceed; Progress; Completion.** Upon execution of this Agreement by the parties and approval of it by the District's governing board, District shall give Contractor written notice to proceed with the Services. Such notice may authorize Contractor to render all of the Services contemplated herein, or such portions or phases as may be directed by the District. In the latter event, District shall, in its sole discretion, issue subsequent notices from time to time regarding further portions or phases of the Services. Upon receipt of such notices, Contractor shall diligently proceed with the Services authorized and complete it within the agreed time period.

39. **California Residency.** Contractor is a resident of the State of California.

DISTRICT: OAKLAND UNIFIED SCHOOL DISTRICT

CONSULTANT:

ACC ENVIRONMENTAL CONSULTANTS



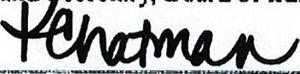
Mike Hutchinson, President Date
Board of Education

By: 



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

Name: Kimberly Bunting



Kenya Chatman, Executive Director Date
Facilities Planning and Management

Title: Project Manager
Date: 05.15.2023

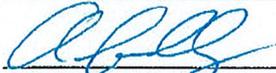
Address for District Notices:

Address for Contractor Notices:

955 High Street
Oakland, California, 94601

7977 Capwell Drive
Oakland, California, 94621

Approved As To Form:



OUSD Facilities Legal Counsel Date
4/18/23

EXHIBIT A

Scope of Services



Environmental Project Cost Estimate

Project Information

Soil Sampling
Allendale Elementary School
3670 Penniman Avenue
Oakland, CA

Client Information

Shivani More
Oakland Unified School District
955 High Street
Oakland, CA 94601

ACC Project No.: 81026 3029-319.00

Date Prepared: Monday, April 17, 2023

ACC is proposing to conduct in situ Soil Sampling at Allendale Elementary School in Oakland, California. Proposed scope of work includes assessing shallow soils for lead and arsenic, and soil waste characterization prior to the proposed asphalt replacement.

ACC proposes advancement of up to six (6) soil borings to approximately 1.0 ft bgs, or refusal, via a hand auger. ACC will subcontract a concrete corer to core 6"-8" diameter holes through the existing asphalt pavement at 6 locations. Samples will be collected from the barrel of the hand auger using stainless steel sleeves subsequently capped with plastic sheeting and tight-fitting plastic caps. Samples will be stored on ice and delivered to a state-certified laboratory following standard chain-of-custody protocol. Sampling equipment will be decontaminated between sampling locations. Soil borings will be back filled with soil cuttings and fast-setting cement. ACC assumes the soil sampling can be completed during normal business hours.

Samples will be analyzed discretely for lead and arsenic by EPA analytical method 6010. Four soil samples will additionally be composited by the laboratory into one 4:1 sample and analyzed as a single sample for analyses typical of landfill disposal requirements. Additional analytical methods include CAM 17 Metals by method 6010; total petroleum hydrocarbons as gasoline, diesel, and motor oil by method 8015; VOCs by 8260; SVOCs by 8270; PCBs by 8082; Organochlorine pesticides by 8081, asbestos by CARB 435; and additional waste criteria (STLC/TCLP), as needed. Samples will be analyzed on a standard turn around time (7 business days). Laboratory turnaround times cannot be guaranteed by ACC.

ACC will prepare a written report signed by a Professional Geologist that discusses soil sampling procedures, analytical results, and recommendations and includes a sample location map and analytical results tables.

ACC's understanding is soil may be off-hauled to a landfill pending characterization. Proposed costs do not include assessment of baserock. Proposed work does not include costs for reviewing/signing waste profiles; interaction with the landfills/haulers; or additional hours for consulting beyond the scope of this proposal.

The base fee to conduct the work described above is **\$7,331**. A 10% not-to-exceed contingency amount is included in this proposal as a line item and is included in the total cost.

Work will commence upon receipt of an executed copy of this agreement. If you have questions regarding this proposal please contact Kim Bunting at 707.481.0795. We appreciate the opportunity to provide this proposal.

www.accenv.com

Northern California: 7977 Capwell Drive, Suite 100 • Oakland, California 94621 • (510) 638-8400
Southern California: 1055 Wilshire Blvd., Suite 1450 • Los Angeles, California 90017 • (213) 353-1240
Washington: 24 Roy Street #432, Seattle, Washington 98109 • (800) 525-8838

EXHIBIT B

Hourly Rates and Unit Rates

Environmental Project Cost Estimate *(continued)*

Project Name: Soil Sampling
 Allendale Elementary School
 3670 Penniman Avenue
 Oakland, CA

More, Shivani
Oakland Unified School District
 955 High Street
 Oakland, CA 94601

ACC Project No.: 81026

Wednesday, February 22, 2023

Scope of Work Description

Task Number and Description	Unit Price	Units	Quantity	Amount
1: PROJECT SET UP				
Labor	\$825.00	Lump Sum	1	\$825.00
Task Sub-total:				\$825.00
2: SOIL SAMPLING				
Concrete Coring Subcontractor	\$750.00	Day	1	\$750.00
Labor	\$1,600.00	Lump Sum	1	\$1,600.00
Sampling Supplies	\$150.00	Each	1	\$150.00
Task Sub-total:				\$2,500.00
3: SOIL LABORATORY ANALYSES				
6010 - Arsenic	\$23.00	Each	6	\$138.00
6010 - Lead	\$23.00	Each	6	\$138.00
Task Sub-total:				\$276.00
4: WASTE CHARACTERIZATION SOIL LABORATORY ANALYSES				
6010 - STLC Metal	\$40.00	Each	2	\$80.00
6010 - TCLP Metal	\$40.00	Each	2	\$80.00
6020 - CAM 17 Metals (Soil)	\$175.00	Each	1	\$175.00
8015 - TPH-g, -d and -mo	\$100.00	Each	1	\$100.00
8081 - Organochlorine Pesticides	\$150.00	Each	1	\$150.00
8082 - PCBs and Aroclors	\$150.00	Each	1	\$150.00
8260 - Volatile Organic Compounds	\$130.00	Each	1	\$130.00
8270 - Semi-Volatile Organic Compounds	\$330.00	Each	1	\$330.00
Asbestos (CARB 435)	\$145.00	Each	1	\$145.00
STLC Extraction	\$70.00	Each	1	\$70.00
TCLP Extraction	\$70.00	Each	1	\$70.00
Task Sub-total:				\$1,480.00
5: REPORT WRITING & CONSULTING				
Report	\$2,250.00	Each	1	\$2,250.00
Task Sub-total:				\$2,250.00



www.accenv.com

Northern California: 7977 Capwell Drive, Suite 100 • Oakland, California 94621 • (510) 638-8400
 Southern California: 1055 Wilshire Blvd., Suite 1450 • Los Angeles, California 90017 • (213) 353-1240
 Washington: 24 Roy Street #432, Seattle, Washington 98109 • (800) 525-8838

Environmental Project Cost Estimate *(continued)*

Project Name: **Soil Sampling**
Allendale Elementary School
3670 Penniman Avenue
Oakland, CA

More, Shivani
Oakland Unified School District
955 High Street
Oakland, CA 94601

ACC Project No.: 81026

Wednesday, February 22, 2023

Scope of Work Description

6: CONTINGENCY AMOUNT (10%)

Lump Sum	\$733.10	Lump Sum	1	\$733.10
			Task Sub-total:	\$733.10

Approved: **Total Environmental Consulting Services Cost: \$8,064.10**

Name: Shivani More
Signature: *[Signature]*
Title: Assistant Project Manager
Date: 2/22/23
PO Number: TBD
Tasks Approved: _____ or ALL



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2023 Annual Fee Schedule

(Valid through January 31, 2024)

Cost of labor services shall be as follows:

<i>Labor Classification</i>	Hourly
Subject Matter Expert / Expert Witness	\$ 375.00
Principal	\$ 300.00
Board Certified Industrial Hygienist	\$ 280.00
Professional Engineer	\$ 285.00
Computer Programmer	\$ 270.00
Professional Geologist	\$ 215.00
Senior Project Manager/Designer	\$ 197.00
Senior Project Manager/Technical Oversight	\$ 197.00
Project Manager / Project Geologist	\$ 175.00
Project Coordinator	\$ 113.00
Staff Geologist / Engineer	\$ 150.00
Project Scientist, Project Hygienist, or Technician, Level II	\$ 125.00
<i>(Overtime and/or Nights as defined below)</i>	\$ 156.00
<i>(Double-time and/or Weekends as defined below)</i>	\$ 188.00
Project Hygienist, or Technician, Level I	\$ 115.00
<i>(Overtime and/or Nights as defined below)</i>	\$ 144.00
<i>(Double-time and/or Weekends as defined below)</i>	\$ 173.00
Trainer	\$ 195.00
CAD Draftsperson	\$ 120.00
Administrative Support Personnel	\$ 91.00
Database Manager	\$ 185.00
Data Entry Clerk	\$ 91.00

These rates will apply between the hours of 6:00 AM and 8:00 PM Monday through Friday. Overtime (hours in excess of 8 and up to 12 in one working shift) and/or night hours (weekdays, Monday through Thursday 8:00 PM to 6:00 AM) shall be charged at 125% of the base rates above or as indicated under Technician I/II classifications. Double-time (hours in excess of 12 in one working shift) and/or Weekend hours (between 8:00 PM Friday and 6:00 AM Monday) shall be charged at 150% of the base rates quoted above or as indicated under Technician I/II classifications. In the event that the client requests ACC to respond to an emergency situation (i.e. asbestos spill, etc.) and ACC staff are pre-assigned to an existing project, the emergency response may be billed at 125% to compensate for overtime rates or 150% to compensate for double-time rates. Minimum charge for Technicians shall be four (4) hours per day. All rates stated herein will remain in effect through January 31, 2024. Comparable rates, reflecting prevailing industry standards, will be annually re-negotiated if the contract period is extended past January 31, 2024.

EXHIBIT C

Fingerprinting Notice and Acknowledgement Form



CERTIFICATE OF LIABILITY INSURANCE

DATE(MMDD/YYYY)
2/22/2023

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: DINA ATHEY	FAX (A/C, No): (916)939-1085	
	PHONE (A/C, No, Ext): (916)939-1080	E-MAIL ADDRESS:	
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:	QBE INSURANCE CORPORATION A	39217
	INSURER D:		
	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 (MMDD/YYYY)	POLICY EXP (MMDD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			FEI-ECC-10782-09 CPL RETRO: 03/20/89	04/28/22	04/28/23	EACH OCCURRENCE \$ 5,000,000
	<input checked="" type="checkbox"/> POLLUTION LIAB. <input checked="" type="checkbox"/> CLAIMS MADE						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						MED EXP (Any one person) \$ 10,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS			02447227-7	01/13/23	01/13/24	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						BODILY INJURY (Per person) \$ 1,000,000
							BODILY INJURY (Per accident) \$ 1,000,000
							PROPERTY DAMAGE (Per accident) \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB			FEI-EXS-45085-00 INCL. GL.AUTO,WC	04/28/22	04/28/23	EACH OCCURRENCE \$ 5,000,000
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 5,000,000
	DED \$ RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y/N	N/A				PER STATUTE OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	PROF. LIAB. CLAIMS MADE			FEI-ECC-10782-09 RETRO: 03/20/89	04/28/22	04/28/23	\$5,000,000 OCCURRENCE
C	PROP/EQUIPMENT			2861463	05/01/22	05/01/23	\$5,000,000 AGGREGATE

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: ALL PROJECTS
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. 30 DAY NOTICE APPLIES. (BLANKET ENDORSEMENTS ATTACHED)

CERTIFICATE HOLDER OAKLAND UNIFIED SCHOOL DISTRICT 955 HIGH STREET OAKLAND CA 94607 (ALL OPS)	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
--	---



Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization

This endorsement, effective 04/28/2022 attaches to and forms a part of Policy Number FEI-ECC-10782-09.

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

SCHEDULE

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

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

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf; in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

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

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

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.



ACC Environmental Consultants, Inc.; dba:
Ecologic Systems

Endorsement Number: 23

Additional Insured – Owners, Lessees or Contractors – Completed Operations

This endorsement, effective 04/28/2022 attaches to and forms a part of
Policy Number FEI-ECC-10782-09.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY

SCHEDULE

Name and Address 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.
Location And Description of Completed Operations:
Those project locations where this endorsement is required by contract.
Additional Premium: <u>\$Applied</u>

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

Section II – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of “your work” at the location designated and described in the schedule of this endorsement performed for that insured and included in the “products-completed operations hazard”.



ACC Environmental Consultants, Inc.; dba:
Ecologic Systems

Endorsement Number: 29

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

This endorsement, effective 04/28/2022 attaches to and forms a part of
Policy Number FEI-ECC-10782-09.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

**COMMERCIAL GENERAL LIABILITY
CONTRACTORS POLLUTION LIABILITY
PROFESSIONAL LIABILITY**

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.



ACC Environmental Consultants, Inc.; dba:
Ecologic Systems

Endorsement Number: 5

Automatic Additional Insured – Owners, Lessees or Contractors

This endorsement, effective 04/28/2022 attaches to and forms a part of
Policy Number FEI-ECC-10782-09.

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
CONTRACTORS POLLUTION LIABILITY**

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.



DIVISION OF FACILITIES PLANNING AND MANAGEMENT ROUTING FORM

Project Information			
Project Name	Allendale Elementary School Site Improvement Project	Site	101
Basic Directions			
Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.			
Attachment Checklist	<input checked="" type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input checked="" type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider		

Contractor Information					
Contractor Name	ACC Environmental Consultants	Agency's Contact	Kimberley Bunting		
OUSD Vendor ID #	000230	Title	Project Manager		
Street Address	7977 Capwell Drive Suite 100	City	Oakland	State	CA
Telephone	510-512-8320	Zip	94621	Policy Expires	
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 #	22145				

Term of Original/Amended Contract			
Date Work Will Begin (i.e., effective date of contract)	5-25-2023	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	7-30-2023
		New Date of Contract End (If Any)	

Compensation/Revised Compensation			
If New Contract, Total Contract Price (Lump Sum)	\$	If New Contract, Total Contract Price (Not To Exceed)	\$8,064.10
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$
Other Expenses		Requisition Number	

Budget Information				
If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.				
Resource #	Funding Source	Org Key	Object Code	Amount
3213/9910	Fund 01 ESSER III	010-3213-0-9910-8500-6265-101-9130-0092-9999-22145	6265	\$8,064.10

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.				
1.	Division Head	Phone	510-535-7038	Fax
	Director, Facilities Planning and Management			
	Signature		Date Approved	
	4.20.23			
2.	General Counsel, Department of Facilities Planning and Management			
	Signature	Lozano Smith, approved as to form	Date Approved	4/18/23
3.	Executive Director, Facilities Planning and Management			
	Signature		Date Approved	
4.	Chief Financial Officer			
	Signature	Lisa Grant-Dawson	Date Approved	April 17, 2023
5.	President, Board of Education			
	Signature		Date Approved	