

**San Mateo-Foster City School District
Independent Contractor Services Agreement
(Non-construction Related)**

THIS AGREEMENT is made and entered into on April 25, 2022 ("Agreement"),

by and between and **San Mateo-Foster City School District** ("District") and **Roux Associates, Inc.**

("Contractor"). Contractor and District may be referred to herein individually as a "Party" or collectively as the "Parties."

1. **Services.** The Contractor warrants that it is specially trained, licensed and experienced and competent to perform the Services.

☒ As indicated in Exhibit "A" or ☐ as follows:

2. **Price & Payment.** The Contractor shall furnish the Services to the District for the following compensation:

☐ Contractor is providing services for a total flat fee of: \$ _____; or

☒ Contractor will provide a maximum number of hours of service at a rate of \$ see attached rates per hour for a total not to exceed \$44,300; or

☐ Other: _____

("Agreement Price"). Payment for the Services shall be made in accordance with the Terms and Conditions. District must approve Contractor's form of invoice, which must be sufficiently detailed (e.g., name of school or department service was provided to, period of service, number of hours of service, brief description of services provided)

3. **Agreement Time.** The Services shall commence on May 12, 2022 and shall be completed by September 6, 2022. ("Agreement Time")

4. **Submittal of Documents.** The Contractor shall not commence the Services under this Agreement until the Contractor has submitted the following documents as indicated below (Check all that are required):

<input checked="" type="checkbox"/> Signed Agreement	<input checked="" type="checkbox"/> Insurance Certificates & Endorsements	<input type="checkbox"/> W-9 Form
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5. **Notice.** Any notice under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered (effective upon receipt) or sent by overnight delivery service addressed as follows (effective the business day next following delivery thereof to the overnight delivery service).

San Mateo-Foster City School District
1170 Chess Drive,
Foster City, CA 94404
Attn: Director, Facilities & Construction

Contractor: Roux Inc.
555 12th Street, Suite 250
Oakland, CA 94607
Attn: Angela Cutting, Principal Engineer

6. **Fingerprinting / Criminal Background / Megan's Law (Sex Offenders).** I have verified and will continue to verify that the employees of Contractor that will be on any school site and the employees of any subconsultants and/or subcontractors that will be on any school site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>). In addition, one of these two boxes below **must** be checked:

☒ The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Contractor's services under this Agreement and Contractor certifies its compliance with these provisions as follows: "Contractor certifies that the Contractor has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Contractor'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 Contractor, 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."

☐ [TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.] Contractor'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 Contractor's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Contractor 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. (Ed. Code, § 45125.1 (c).)

District Representative's Name & Initials: _____ **INITIAL HERE:** _____

7. **Tuberculosis (TB) Screening.** Check one of the following boxes:

☐ The District has a statement of TB Clearance on file for each person.

X Waiver of TB Screening. Contractor is not required to provide evidence of TB Clearance because Contractor will not work directly with students on more than an occasional basis.

INITIAL HERE: ^{DS}
 (Contractor initials). **INITIAL HERE:** _____ (District Representative initials)

8. **Insurance:** Contractor shall have and maintain insurance in force during the term of this Agreement with minimum limits identified below. Contractor shall provide to the District certificate(s) of insurance and endorsements satisfactory to the District. The policy(ies) shall not be amended or modified and the coverage amounts shall not be reduced without thirty (30) days written notice to the District prior to modification. Except for worker's compensation insurance, the District shall be named as an additional insured on all policies. Contractor's policy(ies) shall be primary; any insurance carried by the District shall only be secondary and supplemental. Contractor shall not allow any subcontractor, employee, or agent to commence Work on this Agreement or any subcontract until the insurance required of Contractor, subcontractor, or agent has been obtained.

Commercial General Liability	\$1,000,000 per occurrence; \$2,000,000 aggregate
Automobile Liability, Any Auto, combined single limit	\$1,000,000 per occurrence; \$2,000,000 aggregate
Workers Compensation	Statutory limits pursuant to State law
Employers' Liability	\$1,000,000
Professional Liability (E&O), If Contractor is providing professional services or advice (on a claims-made form)	\$1,000,000

9. **Terms & Conditions.** The Contractor has read and agrees to comply with the Terms & Conditions attached hereto.

INITIAL HERE: _____ (Contractor initials).

ACCEPTED AND AGREED on the date indicated below. By signing this Agreement, each Party certifies, under penalty of perjury, that all the information provided in the Agreement is true, complete, and correct and that the person executing this Agreement has full power and authority to enter into the Agreement:

Information regarding Contractor:

Indicate type of entity or if individual:

- ☐ Individual
☐ Sole Proprietorship
☐ Partnership
☐ Limited Partnership
☒ Corporation
☐ Limited Liability Company
☐ Other: _____

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.

<p>San Mateo-Foster City School District</p> <p>Dated:</p> <p>Signature:</p> <p>Name: Patrick K. Gaffney</p> <p>Title: Chief Business Offical</p>	<p>Contractor Name: Roux, Inc.</p> <p>Dated: 5/2/2022</p> <p>Signature: </p> <p>Name: Richard Maxwell</p> <p>Title: Office Manager</p>
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TERMS & CONDITIONS TO INDEPENDENT CONTRACTOR AGREEMENT FOR PROFESSIONAL SERVICES

1. **Expenses.** District shall not be liable to Contractor for any costs or expenses paid or incurred by Contractor in performing the Work.
2. **Materials.** Contractor shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
3. **Independent Contractor.** Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
4. **Standard of Care.**
 - 4.1. Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Contractor'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. Contractor's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
 - 4.2. Contractor 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.
 - 4.3. Contractor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Contractor understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Contractor in performing the Services.
 - 4.4. Contractor 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.
5. **Originality of Services.** Contractor agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Contractor and shall not be copied in whole or in part from any other source, except that submitted to Contractor by District as a basis for such services.
6. **Copyright/Trademark/Patent.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Contractor consents to use of Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
7. **Termination.**
 - 7.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by the Contractor or no later than three days after the day of mailing, whichever is sooner.
 - 7.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - 7.2.1. material violation of this Agreement by the Contractor; or
 - 7.2.2. any act by Contractor exposing the District to liability to others for personal injury or property damage; or
 - 7.2.3. Contractor is adjudged a bankrupt or makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation 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 Contractor. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these 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.
 - 7.3. Upon termination, Contractor shall provide the District with all documents produced maintained or collected by Contractor pursuant to this Agreement, whether or not such documents are final or draft documents.
8. **Indemnification.** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold free

and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Contractor in conjunction with this Agreement, unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

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

10. **Compliance with Laws.** Contractor shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

11. **Permits/Licenses.** Contractor and all Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.

12. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

13. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

14. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Agreements 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 Contractor agrees to comply with applicable Federal and California laws including, but not limited to the

California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).

15. **Workers' Compensation.** Contractor shall comply with the provisions of Labor Code § 3700, et seq., that require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. Contractor shall either being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State or 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.

16. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

17. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate the Contractor in any manner which is permissible under the law. The District's evaluation may include, without limitation: requesting that District employee(s) evaluate the Contractor and the Contractor's employees and subcontractors and each of their performance and announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).

18. **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.

19. **Disputes: DISPUTES/CLAIMS:** Public Contract Code § 9204. Claims between the District and the Contractor shall be resolved in accordance with the procedures established in Public Contract Code § 9204.

Claim. The term "Claim" means a written demand by the Contractor sent by registered mail or certified mail with return receipt requested for:

- 19.1. An extension of the Contract Time, including relief from damages or penalties assessed by the District for delay;
- 19.2. Payment of money or damages arising from work done by, or on behalf of, the Contractor pursuant to the

Contract and payment that is not otherwise expressly provided for in the Contract Documents or to which the Contractor is not otherwise entitled; or

19.3. Payment of an amount that is disputed by the District.

Submission of Claim. A Claim arises upon the District's rejection of a request by the Contractor for a Change Order. The Contractor shall submit the Claim by registered mail or certified mail with return receipt requested to the District's Director of construction and Modernization, with a copy to the Project Manager/Construction Manager. The Contractor shall submit its Claim in writing, together with all Supporting Documentation no later than the earlier of either: (1) thirty (30) days after the date the Claim arises; or (2) sixty (60) days after the date of Completion. It is the intent of the District to evaluate and resolve Claims with the Contractor as close to the events giving rise to such Claims as possible and to avoid stale or late Claims, including late notice and documenting of Claims, and to timely mitigate the issue, event, condition, circumstance and/or cause of the Claim and any adverse impacts or damages related thereto. Should the Contractor fail to submit a Claim by the deadline set forth in this Article, Contractor waives and releases such Claim, including all rights and remedies in connection therewith.

Contents of Claim. A Claim must include all Supporting Documentation and a statement identifying it as a Claim signed by an authorized agent or officer of the Contractor under penalty of perjury and including the following language immediately above or before the Contractor's signature: "I declare under penalty of perjury under the laws of the State of California that the information provided and statements made in this Claim are true and correct, substantiated and of merit." The Contractor recognizes and acknowledges that this requirement is not a mere formality but is intended to ensure that the Contractor only submits Claims that it believes are true and correct, substantiated and have merit. Should Contractor fail to submit the foregoing written statement signed under penalty of perjury, Contractor waives and releases its Claim, including all rights and remedies in connection thereto.

Subcontractor Claims. Pursuant to Public Contract Code § 9204(d)(5), a Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier Subcontractor, that the Contractor submit to the District a claim for work which was performed by the Subcontractor or by a lower tier Subcontractor on behalf of the Subcontractor. The Subcontractor requesting that the claim be submitted to the District shall furnish reasonable documentation to support the claim. Regardless of whether or not the Contractor decides to submit the Subcontractor's claim to the District, Contractor shall provide a copy of the Subcontractor's written request, including all supporting documentation, to the Project Manager/Construction Manager within ten (10) days of Contractor's receipt of the request. In the event the Contractor agrees to submit a Subcontractor's claim to the District, the Contractor shall submit such claim as a request for a Change Order, unless such claim was previously submitted to the District as a request for a Change Order. Within forty-five (45) days of receipt of the Subcontractor's

written request, the Contractor shall notify the Subcontractor in writing as to whether the Contractor submitted the claim to the District and, if the Contractor did not submit the claim, the Contractor shall provide the Subcontractor with a written statement of the reasons for not having done so and shall concurrently provide a copy of such written statement to the Project Manager/Construction Manager. In the event the Contractor includes supporting documentation with such written statement, the Contractor shall concurrently provide a copy of such supporting documentation to the Project Manager/Construction Manager. If the Contractor submits a Claim on behalf of a Subcontractor, the Claim shall include a statement in writing and signed by an authorized agent or officer of the Contractor under penalty of perjury that includes the following language immediately above or before the Contractor's signature: "I declare under penalty of perjury under the laws of the State of California that [insert name of Contractor] has thoroughly evaluated the claim of [insert name of Subcontractor] and determined that the information provided and statements made in the claim are true and correct, substantiated and of merit."

District Review of Claim. Upon receipt of a Claim, the District shall review the Claim and, within a period not to exceed forty-five (45) days, shall provide Contractor a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the District and the Contractor may, by mutual written agreement, extend the forty-five (45) day time period. The District shall process and make payment of any undisputed portion of a Claim within sixty (60) days after the District issues its written statement. Failure by the District to provide a written statement in response to a Claim from the Contractor within the forty-five (45) day time period, or within an agreed upon extended time period, shall result in the Claim being deemed rejected in its entirety. A Claim that is rejected by reason of the District's failure to respond, or failure to timely respond, to the Claim shall not constitute an adverse finding regarding the merits of the Claim or the claimant's responsibility or qualifications.

Meet and Confer Meeting. If the Contractor disputes the District's written response, or if the District fails to respond within the time frame prescribed above, the Contractor, within fifteen (15) days of the District's written response or, if the District fails to respond, within fifteen (15) days after the District's response was due, may demand, in a writing sent to the District's Superintendent by registered mail or certified mail, return receipt requested, with a copy to the District's Director of Construction and Modernization, and Project Manager/Construction Manager, an informal conference to meet and confer for settlement of the issues in dispute. The District shall schedule a meet and confer conference within thirty (30) days of its receipt of the Contractor's written demand.

Mediation. Within ten (10) business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, the District shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion

that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after the District issues its written statement. Any disputed portion of the Claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation. The expenses and fees of the mediator and the administrative fees shall be divided among the parties equally. Each party shall pay its own legal fees, witness fees, and other expenses. The District and the Contractor shall mutually agree to a mediator within ten (10) business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. The foregoing notwithstanding, pursuant to Public Contract Code § 9204(f), the parties may mutually agree in writing to waive mediation. Pending resolution of the dispute, Contractor agrees it will neither rescind the Contract nor stop the progress of the Work, 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.

Nothing in this Article shall prevent the Parties from resolving any disputes or claims pursuant to Public Contract Code section 20104, et seq., if applicable.

Nothing in this Contract, waives, modifies or tolls the Contractor's obligation to present a timely claim under Government Code § 910, et seq. Therefore, in addition to complying with the contractual Claims procedures, the Contractor is required to present claims to the District pursuant to Government Code § 910, et seq.

20. **Confidentiality.** The Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

21. **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.

22. **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 California county in which the District's administration offices are located.

23. **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.

24. **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.

25. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

26. **Drug-Free/Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, Contractors, or subcontractors are to smoke or use drugs or alcohol on these sites.

27. **Conflict of Interest.** Contractor shall abide by and be subject to all applicable District policies, regulations, statutes or other laws regarding conflict of interest. Contractor shall not hire any officer or employee of District to perform any service by this Agreement. Contractor affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between Contractor's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to District's attention in writing. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of Section 1090 *et seq.* and Section 87100 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event Contractor receives any information subsequent to execution of this Agreement, which might constitute a violation of said provisions, Contractor agrees it shall notify District of this information.

28. **Agreement Contingent on Governing Board Approval.** The District shall not be bound by the terms of this Agreement until it has been formally approved or ratified by the District's Governing Board, and no payment shall be owed or made to Contractor absent formal approval.

EXHIBIT "A"



April 25, 2022

Ms. Amy Ruffo
Director, Facilities and Construction
San Mateo-Foster City School District
1410 South Amphlett Blvd
San Mateo, California 94402
aruffo@smfc.k12.ca.us

Re: Proposal for Subsurface Geophysical Survey and Soil Management Plan
North Central School, 715 Indian Avenue, San Mateo, California
San Mateo-Foster City School District

Dear Mr. Price:

Per your request, Roux Associates, Inc. (Roux) has prepared this proposal (Proposal) to San Mateo-Foster City School District (School District) to perform a subsurface feature investigation and prepare a Soil Management Plan (SMP) in preparation for a proposed development of an elementary school (New North Central Elementary School), located adjacent to College Park Elementary School, between E Poplar Avenue and North Humboldt Street in San Mateo, California (Site). The Site location is shown in Figure 1.

The Site occupies approximately 3.8 acres. California Water Services Co. (Cal Water) operated at the Site from 1943 to 1979 before the Site was acquired by the School District. Currently, the Site is divided into a northwestern unused area; a central storage area including two buildings and old school buses; and a southeastern parking area (Figure 2). The northwestern unused area comprises a dirt lot and one former water station valve. The central storage area contains plastic gasoline containers, paints, pesticide applicators, old buses, abandoned construction vehicles, abandoned boilers, old tires, and old electronics. In the central portion of the Site, is a storage area including two buildings and a parking lot storing old school buses. The southern portion of the Site is primarily an asphalt parking area with two storm drains and access to the sewer and water lines. There is a transformer located in the eastern corner of the Site. The Site is secured with fence (99%) and chain across the fence gate. The Site is in a mixed residential neighborhood which also contains several schools and light commercial use (with the National Guard located across Humboldt Street and a bus transportation yard across E Poplar Avenue).

According to the Phase I Environmental Site Assessment¹ conducted for the Site, the following Recognized Environmental Conditions (RECs) were identified in association with the Site:

- Former presence of the Cal Water station at the Site; and
- Residual petroleum impacts to groundwater above the San Francisco Bay Regional Water Quality Control Board (RWQCB) Tier 1 Environmental Screening Levels (ESLs) at the neighboring National Guard site (400 N Humboldt Street).

¹ Roux, 2017. *Phase I Environmental Site Assessment, 715 Indian Avenue, San Mateo, California*. October 18.

Ms. Amy Ruffo
April 25, 2022
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The School District submitted an Environmental Program Oversight Application to the Department of Toxic Substances Control (DTSC) on April 11, 2018. The School District and DTSC had a meeting on June 8, 2018 to discuss the DTSC School, Program, new school construction schedule, and the scope of work for a Preliminary Endangerment Assessment (PEA),

A PEA Work Plan was submitted to DTSC on August 30, 2018, and was approved by the DTSC on November 27, 2018. The PEA field work notification was sent to the communities in the vicinity of the Site on November 26, 2018. The objective of the PEA was to identify whether a release or threatened release of a hazardous waste/substance/material has occurred, estimating the potential risk to public health and the environment, evaluating whether immediate response is needed to reduce the risk, and determining if further action/investigation is needed. Based on the Phase I ESA findings, Roux conducted a soil and groundwater investigation to characterize the magnitude and extent of the identified RECs.

The PEA investigation identified arsenic in soil above site-specific background levels at 1-, 3-, and 5 feet below ground surface (bgs) at RB-1. The horizontal extent of arsenic impacts were delineated in step-out samples in all directions except where vegetation (i.e. tree) precluded advancement of step-out borings. Additionally, arsenic in soil was detected above site-specific background levels at 1-foot bgs at RB-3, and was fully delineated by step-out borings. Roux recommended the use of a Soil Management Plan (SMP) for handling of soil at RB-1 and RB-3. Lead was detected in paint coatings on Building 1 and 2 and the historic water valve box. Roux recommended that if any paint is disturbed on the buildings or historic water valve box, the Cal OSHA Lead in Construction Standards be followed. No lead was detected in soil at 0.5-foot bgs surrounding the lead-based paint areas.

During a virtual meeting on April 11, 2022, the School District indicated that the new North Central Elementary School construction will move forward. In preparation of the construction, the School District requested additional subsurface investigations regarding former Cal Water features that might still be present underground. Additionally, Roux will prepare an SMP for DTSC approval that will address the impacted soils during construction.

SCOPE OF WORK

Roux's scope of work is provided in the following tasks:

- Regulatory Communication and Consultation;
- Work Plan Preparation
- Geophysical Survey;
- Subsurface Feature Potholing; and
- Soil Management Plan (SMP) Preparation

Task 1: Regulatory Communication and Consultation

Roux will initiate communication with DTSC to prepare for the upcoming school construction. In addition, Roux will provide consultation to the School District during the regulatory review and approval process and serve as the regulatory liaison with the DTSC.

DTSC will review and approve work plans for any fieldwork and also review and approve the SMP.

Ms. Amy Ruffo
April 25, 2022
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Task 2 Subsurface Investigation of former Cal Water features

Task 2a: Subsurface Investigation Work Plan

Roux will prepare a work plan for geophysical survey and potholing of former Cal Water features. The work plan will be provided to the School District for review before submitting to the DTSC for approval.

Task 2b: Geophysical Survey

Roux will subcontract a subsurface utility locating contractor to perform a geophysical survey in the area of the 9 former Cal Water features shown in Figure 2. A ground-penetrating radar and other metal-detecting devices will be utilized to detect metallic anomalies in the subsurface. Utilities and/or anomalies will be marked with spray paint.

Prior to mobilizing to the Site, a site-specific Health and Safety Plan will be updated by Roux as required by the Occupational Health and Safety Administration Standard "Hazardous Waste Operations and Emergency Response" guidelines (29 CFR 1910.120). The Health and Safety Plan will be reviewed and signed by Roux personnel and subcontractors performing work at the site before field operations begin.

Task 2c: Subsurface Feature Potholing

Prior to performing pothole excavations, Roux will contact Underground Service Alert (800-227-2600), at least two business days prior to the commencement of any field activities that included intrusive subsurface work.

Roux and its subcontractor will perform pothole excavation. At least 2 potholes will be excavated using a mini-excavator to a depth of up to 6 feet bgs at former Cal Water features that likely would have had underground structures (Features 2, 4, 5, and 9 shown in Figure 2).

Roux assumes that all potholes may be advanced in vegetated areas, and asphalt removal and restoration are not required. Additional fees will be incurred if anomalies are identified and require potholing in paved areas.

Soil removed from potholes will be staged adjacent to the pothole, and used for backfill following excavation and inspection of potholes for subsurface features. Backfilled soil will be compacted by tracking over with the mini-excavator and a jumping-jack compactor. A water truck will be utilized for dust suppression during potholing activities. Roux will provide dust monitoring along the perimeter of the Site for total dust downwind of the prevailing wind direction, to minimize offsite dust impacts during excavation.

Roux assumes that Task 2c field work can be completed in 2 days.

Task 3: Soil Management Plan Preparation

Roux will prepare an SMP for soil handling and offsite disposal activities during construction at the Site. The SMP is required prior to construction activities involving soil movement, because elevated levels of arsenic are present at that the Site. The SMP will provide recommended measures to mitigate the long-term environmental or health and safety risks caused by the potential presence of and exposure to hazardous materials in soil. The SMP will also contain contingency plans to be implemented during soil excavation if unanticipated hazardous materials or unknown structures/contaminants are encountered. The SMP will also specify basic health and safety concerns to be addressed by the site contractor or subcontractor responsible for worker health and safety.

Ms. Amy Ruffo
 April 25, 2022
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The excavation plan included in the SMP will show areas and depths of proposed excavation of contaminated soils exceeding screening criteria, which will be based on data collected in areas proposed for soil disturbance during site redevelopment. The SMP will be provided to the School District for review before submitting to the DTSC for approval.

SCHEDULE AND COST ESTIMATE

Roux will begin work immediately upon receipt of authorization and notice-to-proceed from the School District. Fieldwork will be conducted within four (4) weeks of DTSC approval of the work plan (subject to availability of contractors). Roux will communicate findings to the School District of the geophysical survey and pothole investigation via email one week of the investigation. The Draft SMP will be prepared after the fieldwork is completed.

Roux will complete this assignment on a time and materials (T&M) basis per the billing rates provided in the attached Fee Schedule, with an initial not to exceed budget of **\$44,300**, in accordance with the General Terms and Conditions of the contract executed between Roux and the School District. The estimated costs will not be exceeded without prior written approval from the School District. We estimate that our fee for the described services will be as detailed below:

Task	Cost
Task 1. Regulatory Communication and Consultation	\$5,200
Task 2a: Work Plan Preparation	\$5,500
Task 2b. Geophysical Survey	\$5,600
Task 2c. Subsurface Feature Potholing	\$16,900
Task 3. Soil Management Plan Preparation	\$11,100
TOTAL	\$44,300

ASSUMPTIONS

Roux has proposed what we believe is a Scope of Work consistent with the School District's goals. No investigation is thorough enough to describe all conditions of interest at a given site. If conditions were not identified during the implementation of the proposed Scope of Work, such a finding should not be construed as a guarantee of the absence of such conditions at the Site, but rather as the result of the services performed within the scope, limitations, and cost of the work performed. Roux will not be able to report on, or accurately predict events that may change Site conditions after the investigation has been completed. Roux additionally assumes the following:

- The investigation and SMP preparation will be billed on a time and materials basis. All labor and expenses will be billed in accordance with the attached Schedule of Fees.
- Roux and our subcontractors will have open access to the Property.
- Field investigation activities will take place on weekdays during standard business hours (i.e., 7:00 - 17:00).
- All work can be performed in Level D personal protective equipment (PPE).
- Sanitary facilities are accessible onsite for Roux and its subcontractors' use.
- No vegetation restoration will be performed (i.e., resodding of grass).

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- Water will not be provided onsite.
- Compaction testing or permits are not necessary for excavation.

CLOSING

Should you have any questions or require further information regarding this Proposal, do not hesitate to contact the undersigned by telephone at 415-967-6000 or by emails below.

Sincerely,

ROUX ASSOCIATES, INC.



Emily Siegel, P.G.-CA
Project Geologist (esiegel@rouxinc.com)



Angela Laing Cutting, Ph.D., P.E.-CA
Principal Engineer (acutting@rouxinc.com)

Attachments

1. Figure 1. Site Plan
2. Figure 2. Site Features and Boring Locations
3. 2022 Schedule of Fees

Subsurface Geophysical Survey & Soil Management Plan Proposal ***North Central School, 715 Indian Avenue, San Mateo, California***

FIGURES

1. Site Plan
2. Site Features & Boring Locations

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SITE BOUNDARY

APPROXIMATE LOCATION OF HISTORICAL STRUCTURES

APPROXIMATE LOCATION OF GEOTECHNICAL BORING (TRC, 2015)

APPROXIMATE LOCATION OF PROPOSED SOIL BORING

APPROXIMATE LOCATION OF EXCAVATION AT NATIONAL GUARD (NAL, 2017)

1

WELL PUMP HOUSE

2

CONCRETE RESERVOIR (100,000 GALLONS)

3

PUMP HOUSE

4

WASH WATER SUMP (60,000 GALLONS)

5

CLARIFYING BASINS (180,000 GALLONS)

6

MIXING TANKS

7

WATER SOFTENING PLANT

8

ELEVATED WATER TOWER

9

SLUDGE BEDS

50

0

50

100

Feet

Title:

SITE PLAN

FUTURE DEVELOPMENT AREA

715 INDIAN AVE, SAN MATEO, CA

Prepared For:

SAN MATEO-FOSTER CITY SCHOOL DISTRICT

ROUX

ROUX ASSOCIATES, INC.

Environmental Consulting & Management

Compiled by: GM

Prepared by: GM

Project Mgr: ALC

Date: 14NOV17











Scale: As Shown

Project: x8616.185.1

FIGURE

1



- | | |
|--|---|
|  | SITE BOUNDARY |
|  | CURRENT BUILDING OUTLINE |
|  | APPROXIMATE LOCATION OF HISTORIC BUILDING OUTLINE |
|  | APPROXIMATE LOCATION OF HISTORICAL CAL WATER SERVICE STRUCTURES |
|  | APPROXIMATE LOCATION OF GEOTECHNICAL BORING (TRC. 2015) |
|  | APPROXIMATE LOCATION OF SOIL BORING (EVENT 1) |
|  | APPROXIMATE LOCATION OF SOIL BORING (EVENT 2) |
|  | APPROXIMATE LOCATION OF INACCESSIBLE BORING |
|  | APPROXIMATE LOCATION OF LEAD BASED PAINT SAMPLE |
|  | APPROXIMATE LOCATION OF CAULKING SAMPLE |

STRUCTURE KEY

- 1 - WELL PUMP HOUSE
- 2 - CONCRETE RESERVOIR (100,000 GALLONS)
- 3 - PUMP HOUSE
- 4 - WASH WATER SUMP (60,000 GALLONS)
- 5 - CLARIFYING BASINS (180,000 GALLONS)
- 6 - MIXING TANKS
- 7 - WATER SOFTENING PLANT
- 8 - ELEVATED WATER TOWER
- 9 - SLUDGE BEDS

NOTES:

- NOTES:
1. IMAGE SOURCE:
 - GOOGLE EARTH, 2018
 2. HISTORICAL CAL WATER SERVICE STRUCTURES & GEOTECHNICAL BORINGS SOURCE:
 - TRC, 2015. SUMMARY OF RESEARCH NORTH CENTRAL SCHOOL SITE. SEPTEMBER 9.
 3. HISTORICAL BUILDINGS SOURCES:
 - ENVIRONMENTAL DATABASE RESOURCES (EDR), 2017. AERIAL PHOTOS PACKAGE.
 - EDR, 2017. SANBORN MAP PACKAGE.

R = REPEAT SAMPLE



25 0 25 50 Feet

Title:

SITE FEATURES AND BORING LOCATIONS

FUTURE DEVELOPMENT AREA
715D INDIAN AVE, SAN MATEO, CA

Prepared For:

SAN MATEO-FOSTER CITY SCHOOL DISTRICT



Compiled by: GM	Date: 01MAR19
Prepared by: GM	Scale: As Shown
Project Mgr: ALC	Project: x8616.185.1
File: PEA_Figure_2_Update_4	

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2

Subsurface Geophysical Survey & Soil Management Plan Proposal
North Central School, 715 Indian Avenue, San Mateo, California

ATTACHMENT

Fee Schedule 2022



2022 SCHEDULE OF FEES

LABOR RATES

HOURLY FEE

Word Processing/ Document Production.....	\$ 70 – \$ 100
Project Support (Technical Editing/ Database Management/ GIS)	\$ 95 – \$ 155
Drafting	\$ 95 – \$ 130
Technician	\$ 90 – \$ 135
Staff.....	\$ 125 – \$ 155
Project.....	\$ 150 – \$ 190
Senior.....	\$ 185 – \$ 255
Director	\$ 225 – \$ 300
Principal	\$ 255 – \$ 330
Officer	\$ 295 – \$ 400

Technical disciplines include hydrogeologists, geologists, engineers, geochemists, geophysicists, scientists, toxicologists, and industrial hygienists.

Labor rates will increase annually by four percent (4%), rounded up to the nearest dollar, effective January 1st of each calendar year. Labor rates **do not include** all reasonable travel and living expenses, vehicle mileage, express freight, and those items purchased solely for the project. Other billable items are summarized below.

OTHER COSTS

Company Trucks.....	\$200.00 per Day
Personal Vehicles	IRS (prevailing mileage rate)
Company Field Equipment.....	Rate Schedule (available upon request)
Subcontractor Costs	Cost plus fifteen percent (15%)
Associated Project Costs	Six percent (6%) of Roux's labor charge ¹
All Other Supplies and Expenses.....	Cost plus fifteen percent (15%)

All invoices are payable upon receipt. Invoices not paid within thirty (30) calendar days are subject to interest at 1.5 percent (1.5%) per month.

¹ In order to simplify invoicing, invoices will include an "Associated Project Costs" charge which will be 6% of the labor billed for any given invoice, in lieu of billing these as project costs separately. The "Associated Project Costs" covers additional business costs that are in excess of general overhead expenses: advanced cybersecurity, communication equipment (e.g. cell phones and remote data networks), travel arrangement and bookings, postage and overnight delivery (e.g., Federal Express, letter-size only), internal document reproduction (e.g., copies), file retention and storage as needed, corporate health and safety program management and administration (does not include necessary project specific H&S plans, supplies, and equipment).