

CONTRACT FOR SERVICES

THIS CONTRACT is made on **August 8, 2019**, by and between the SANTA CLARA UNIFIED SCHOOL DISTRICT ("District"), and HazMat Doc, Inc. ("Consultant").

RECITALS

The District desires Consultant to perform management of hazardous building materials abatement activities at the Angews Campus in concert with demolition and removal of all structures and site utilities and improvements.

The Consultant has presented a proposal for such services to the District, dated **April 27 2019**, attached hereto and incorporated herein as Exhibit A, and Consultant is duly licensed, qualified and experienced to perform those services.

The parties therefore agree as follows:

1. SCOPE OF SERVICES:

- A. Consultant shall do all work, produce all reports and carry out all activities necessary for the completion of the services described generally described as:

"Asbestos Abatement at the Buchser Middle School Tennis Courts"

more particularly described in Exhibit A to this Contract ("Scope of Work"). This Contract and its exhibits shall be known as the "Contract Documents." Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents, the more specific term shall control. If any portion of the Contract Documents shall be in conflict with any other portion, provisions contained in the Contract shall govern over conflicting provisions contained in the exhibits to the Contract.

- B. Consultant enters into this Contract as an independent contractor and not as an employee of the District. The Consultant shall have no power or authority by this Contract to bind the District in any respect. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Consultant are employees, agents, contractors or subcontractors of the Consultant and not of the District. The District shall not be obligated in any way to pay any wage claims or other claims made against Consultant by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this Contract.
- C. The Consultant agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

2. TOXIC AND HAZARDOUS MATERIALS

- A. District will provide to Consultant all of the information that District has pertaining to the presence or possible occurrence of toxic or hazardous substances at the site being investigated.
- B. District recognizes that when it is known, assumed, or suspected that hazardous materials exist at the site, certain waste materials, such as drill cuttings and drilling fluids must be handled as if contaminated. To protect human health and safety, as well as the environment, Consultant will contain and label such materials; will promptly inform District that such containerization and labeling has been performed, and will leave the containers on-site for proper, lawful removal, transport, and disposal by District. Notwithstanding the above, Consultant shall be responsible for the proper handling and disposal of samples collected as part of the Consultant's work. Any hazardous waste, substances, or materials that are the object of Consultant's work (including samples collected) shall at all times be and remain District's property.

3. TERM OF CONTRACT:

- A. The services of Consultant are to commence upon execution of this Contract by the District and shall continue until completion of work.
- B. The District Superintendent or designee may, by written instrument signed by the Parties, extend the duration of this Contract for a period of 12 months in the manner provided in Section 6, provided that the extension does not require the payment of compensation in excess of the maximum compensation set forth in Section 4, Compensation.

4. COMPENSATION:

- A. The Consultant shall be paid at the completion of services for the time, samples, reports and reimbursable items specified in Exhibit A, but in no event shall total compensation exceed
\$43,965.00
without District's prior written approval.
- B. Said amount shall be paid upon submittal of monthly billings. Consultant shall furnish District with invoices for all expenses as well as for all reimbursable items authorized by this Contract.
- C. If the work is halted at the request of the District, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract, subject to Section 5.

5. TERMINATION:

- A. This Contract may be terminated by either party, provided that the other party is given not less than 30 calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate.
- B. The District may temporarily suspend this Contract, at no additional cost to District, provided that the Consultant is given written notice (delivered by certified mail, return

receipt requested) of temporary suspension. If District gives such notice of temporary suspension, Consultant shall immediately suspend its activities under this Contract.

- C. Notwithstanding any provisions of this Contract, Consultant shall not be relieved of liability to the District for damages sustained by the District by virtue of any breach of this Contract by Consultant, and the District may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due the District from Consultant is determined.
- D. In the event of termination, the Consultant shall be compensated as provided for in this Contract, except as provided in Section 5.C. Upon termination, the District shall be entitled to all work, including, but not limited to, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date in accordance with Section 8 hereof.

6. AMENDMENTS, CHANGES OR MODIFICATIONS:

Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the parties and shall be signed by the persons authorized to bind the parties.

7. EXTENSIONS OF TIME:

Consultant may, for good cause, request extensions of time to perform the services required by this Contract. Such request, if granted, must be authorized in advance by the District in writing and shall be incorporated in written amendments to this Contract or the attached Scope of Work in the manner provided in Section 6.

8. PROPERTY OF DISTRICT:

- A. It is mutually agreed that all materials prepared by the Consultant under this Contract shall become the property of the District, and the Consultant shall have no property right therein whatsoever. Immediately upon termination, the District shall be entitled to, and the Consultant shall deliver to the District, all data, drawings, specifications, reports, estimates, summaries and other such materials as may have been prepared or accumulated to date by the Consultant in performing this Contract which is not Consultant's privileged information, as defined by law, or Consultant's personnel information, along with all other property belonging exclusively to the District which is in the Consultant's possession.
- B. Additionally, it is agreed that the parties intend this to be a contract for services and each considers the products and results of the services to be rendered by Consultant hereunder (the "Work") to be a work made for hire. Consultant acknowledges and agrees that the Work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of the District.

9. FINGERPRINTING:

- A. Not applicable.

10. WARRANTIES AND RESPONSIBILITIES - CONSULTANT:

- A. Consultant agrees, represents and warrants to District that it has all licenses, permits, qualifications and approvals of whatever nature which are legally required for Consultant to practice its profession and to properly provide the services set forth in Exhibit A in a manner which is consistent with the generally accepted standards of Consultant's profession. Consultant represents and warrants to District that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Contract any licenses, permits and approvals which are legally required for Consultant to practice its profession at the time the services are performed.
- B. Consultant agrees and represents that the work performed under this Contract shall be in accordance with all applicable federal, state and local law (including, but not limited to, Department of Toxic Substances Control requirements) in accordance with Section 18.A.
- C. Consultant shall designate a project manager who at all times shall represent the Consultant before the District on all matters relating to this Contract. In the event that District, in its sole discretion, at any time during the term of this Contract, desires the removal of any person or persons assigned by Consultant, including but not limited to the project manager, to perform services pursuant to this Contract, Consultant shall remove any such person immediately upon receiving notice from District of the desire of District for the removal of such person or persons.
- D. Consultant shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.
- E. Consultant shall provide corrective services without charge to the District for services which fail to meet the above professional and legal standards and which are reported to Consultant in writing within sixty (60) days of discovery. Should Consultant fail or refuse to perform promptly its obligations, the District may render or undertake performance thereof and the Consultant shall be liable for any expenses thereby incurred.

11. SUBCONTRACTING:

None of the services covered by this Contract shall be subcontracted without the prior written consent of the District, which will not be unreasonably withheld. Consultant shall be as fully responsible to the District for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Consultant.

12. ASSIGNABILITY:

Consultant shall not assign or transfer any interest in this Contract whether by assignment or novation, without the prior written consent of the District which will not be unreasonably withheld. However, claims for money due or to become due to Consultant from the District under this Contract may be assigned to a financial institution, or to a

trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the District.

13. INTEREST IN CONTRACT:

Consultant covenants that neither it, nor any of its employees, agents, contractors, subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Contract, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder.

14. MATERIALS CONFIDENTIAL:

All of the materials prepared or assembled by Consultant pursuant to performance of this Contract are confidential and Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the District, except by court order.

15. LIABILITY OF CONSULTANT-NEGLIGENCE:

Consultant shall be responsible for performing the work under this Contract in a manner which is consistent with the generally-accepted standards of the Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The District shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors or subcontractors.

16. INDEMNITY AND LITIGATION COSTS:

Consultant shall indemnify, defend, and hold harmless the District, its officers, officials, agents, and employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees, arising in any manner by reason of negligent acts or negligent failure to act, errors, omissions or willful misconduct incident to the performance of this Contract on the part of Consultant except such loss or damage which was caused by the active negligence, sole negligence, or willful misconduct of the District. The provisions of this paragraph shall survive termination or suspension of this Contract.

17. CONSULTANT TO PROVIDE INSURANCE:

- A. Consultant shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Contract, the policies of insurance specified in this Section. Such insurance must have the approval of the District as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A:VII (or, in the case of Worker's Compensation insurance, with the State Compensation Insurance Fund of California).
- B. Prior to execution of this Agreement and prior to commencement of any work, the Consultant shall furnish the District with original endorsements effecting coverage for all policies required by the Contract. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the District. As an alternative to the District's forms, the

Consultant's insurer may, subject to the approval of the District, provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by this Section. The Consultant agrees to furnish one copy of each required policy to the District, and additional copies as requested in writing, certified by an authorized representative of the insurer. Approval of the insurance by the District shall not relieve or decrease any liability of Consultant.

- C. In the case of the professional liability insurance required by this Section, the Consultant's insurer must provide a complete, certified copy of the policy.
- D. In addition to any other remedy the District may have, if Consultant fails to maintain the insurance coverage as required in this Section, the District may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and the District may deduct the cost of such insurance from any amounts due or which may become due Consultant under this Contract.
- E. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, terminated by either party, or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the District.
- F. Any deductibles, aggregate limits, pending claims or lawsuits which may diminish the aggregate limits, or self-insured retentions, must be declared to, and approved by, the District.
- G. AGGREGATE LIMITS/IMPAIRMENT.

If any of the above-required insurance coverages contain annual aggregate limits, you must give the District notice of any pending claim or lawsuit which may diminish the aggregate. You must take steps to restore the impaired aggregates or provide replacement insurance protection. The District has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect District's protection, are allowed without District's prior written consent.

The requirement as to types, limits, and the District's approval of insurance coverage to be maintained by Consultant are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant under the Contract.

The Consultant and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the performance of work under the Agreement not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the District. The maintenance by Consultant and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this Contract. The failure of Consultant or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the District as a material breach of this Contract.

H. WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE.

Consultant shall maintain worker's compensation insurance to protect the Consultant, its contractors and subcontractors from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act ("Acts"), if applicable. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable state and Federal statutes and regulations. The insurer shall agree to waive all rights of subrogation against the District for losses arising from work performed by the Consultant.

I. COMPREHENSIVE GENERAL AND AUTOMOTIVE LIABILITY INSURANCE

The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than \$1,000,000.00 per occurrence.

The comprehensive general liability insurance and the automobile liability insurance coverages shall also include, or be endorsed to include, the following:

- i. Provision or endorsement naming the District and each of its officers, employees, and agents, as additional insureds in regards to: liability arising out of the performance of any work under the Contract; liability arising out of activities performed by or on behalf of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the District, its officers, officials, employees or volunteers.
- ii. Provision or endorsement stating that for any claims related to this Project, the Consultant's insurance coverage shall be primary insurance as respects the District, its officers, officials, employees and volunteers to the extent the District is an additional insured. Any insurance or self-insurance maintained by the District, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss, or judgment.
- iii. Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of representations shall not affect coverage provided to the District, its officers, officials, employees, or volunteers.
- iv. Provision or endorsement stating that the Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- v. Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by the Consultant under the

Contract, including, without limitation, that set forth in Section 16, Indemnity and Litigation Costs.

J. PROFESSIONAL LIABILITY.

The Consultant and its contractors and subcontractors shall secure and maintain in full force, during the term of this Contract, professional liability insurance policies appropriate to the respective professions and the work to be performed as specified in this Contract. The limits of such professional liability insurance coverage shall not be less than \$1,000,000 per claim.

18. MISCELLANEOUS PROVISIONS:

- A. COMPLIANCE WITH LAWS. Consultant shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.
- B. NON-DISCRIMINATION. Consultant shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship, or sexual orientation.
- C. INSPECTION OF RECORDS. Consultant shall maintain and make available for inspection by the District and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Contract. Such inspections may be made during regular office hours at any time until six (6) months after the final payments under this Contract are made to the Consultant.
- D. ENTIRETY OF AGREEMENT. This Contract constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this Contract. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in the writing.

- F. NOTICES. All notices that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

DISTRICT: Santa Clara Unified School District
Attn: Eric Dill
Chief Business Official
Santa Clara, CA 95051

CONSULTANT: HazMat Doc, Inc.
Attn: Maheen Doctor
3080 Olcott Street, Suite 135D
Santa Clara, CA 95054

- G. GOVERNING LAW This Contract shall be interpreted and governed by the laws of the State of California. Any action arising out of this Contract shall be brought in Santa Clara County, California, regardless of where else venue may lie.
- H. ATTORNEYS' FEES. In any action brought by either party to enforce the terms of this Contract, each party shall be bear responsibility for its attorney's fees and all costs regardless of whether one party is determined to be the prevailing party.
- I. COUNTERPARTS. The parties may execute this Contract in two or more counterparts, which shall, in the aggregate, be signed by all the parties, each counterpart shall be deemed an original instrument as against any party who has signed it.
- J. SEVERABILITY. Severability. If any term, provision, covenant, or condition of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the Contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

DISTRICT

Santa Clara Unified School District

CONSULTANT

HazMat Doc, Inc.

By: _____
Eric Dill
Chief Business Official

By: _____
Name:
Title:

April 27, 2019

Mr. Larry Adams,
Director of Bond Projects
Santa Clara Unified School District
1889 Lawrence Road
Santa Clara, CA 95051

Exhibit A to
Contract with Santa Clara Unified School District
for Monitoring and Management Services
Buchser Middle School Tennis Courts
August 8, 2019

**Re: Project Monitoring and Management for
Asbestos Abatement at the Buchser Middle School Tennis Courts**

Mr. Adams:

As requested by Mr. Gilbert Roman, of Strawn Construction, Hazmat Doc is pleased to provide the following estimate for abatement monitoring and management work at the referenced location. As always, our technicians will be onsite throughout the duration of the abatement phases of the project. The following estimate includes field technician time, monitoring sample collection, laboratory analysis, final clearance samples and analysis, project management time and a written report. We understand that the work will be performed starting on August 1 going through September 12, 2019.

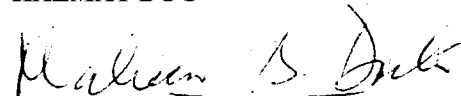
Please note that due to the proximity of the tennis courts, to a functioning and continuously occupied day-care facility, our sampling strategy will be tailored to provide the District with data to prove that onsite activities are not adversely impacting neighbors. This is why we are proposing Daily TEM Sampling (see item 4, below). Merely collecting PCM samples will not provide definitive data that no asbestos was present.

The management and abatement oversight report will be delivered your office to be maintained with the District's management plan.

1. Pre-Abatement Services			\$900.00
2. Technician	30 Shifts (8 Hr. Shifts)	\$680.00/Shift	\$20,400.00
3. Daily Air Monitoring Samples (PCM)	180 Samples	\$35.00/Sample	\$ 6,300.00
4. Asbestos Air Samples (TEM) Near the Day Care Facility RUSH TAT	45 Samples*	\$210.00/Sample	\$ 9,450.00
5. Asbestos Clearance Air Samples (TEM)	5 Sets* (5 Samples/Set)	\$625.00/Set	\$3,125.00
6. Project Management	30 Hours	\$90.00/Hour	\$2,700.00
7. Report			\$1,090.00
ESTIMATED TOTAL FOR BUCHSER TENNIS COURTS			\$43,965.00

Field changes made during the accomplishment of the work could alter these estimates. As always, please feel free to contact us with any questions or comments.

Sincerely,
HAZMAT DOC



**Maheen B. Doctor,
Sr. Consultant**

3080 Olcott Street • Suite 135 D • Santa Clara, CA 95054 • Tel 408.748.0055