

PROPOSAL FOR

San Rafael City Schools

Proposal # **PR1187B28**1466 66th Street
Emeryville, CA 94608Main: (510) 547-7771
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Tax I.D. # 94-3051012

TO:	BILLING ADDRESS:	SERVICE AT:
Contact: Dan Zaich Company: San Rafael City Schools Address: 310 Nova Albion Way San Rafael, CA 94903 Phone: (415) 492-3200 e-Mail: dzaich@srcs.org	Dan Zaich San Rafael City Schools 310 Nova Albion Way San Rafael, CA 94903 (415) 492-3200 dzaich@srcs.org	Venetia Valley Elementary School 177 North San Pedro Road San Rafael, California Hazardous Materials Abatement Oversight
PROJECT INFORMATION		Proposal Date: 9/24/2018 Prepared By: <i>Will Fung</i> Reviewed By: <i>Karin Schreute</i>
Terracon has been asked to provide a proposal to conduct monitoring services associated with the impending abatement project scheduled to occur in various buildings throughout the Venetia Valley Elementary School campus. Terracon will provide a Cal-OSHA certified asbestos professional to conduct full-time oversight of the project for adherence to applicable regulations, as well as to conduct perimeter air sampling and final air clearances upon completion of the project. Terracon is providing for a total of twenty-three (23) shifts of oversight based on the schedule provided by Cumming and including an additional five (5) shifts for the library work. Client will only be charged for the number of shifts actually required to complete the work scheduled to begin October 2, 2018 and running through October 31, 2018. Terracon understands that abatement work is scheduled in the following buildings: Buildings, D, E, F, J and the Library and in Portable Buildings Q, P, and M and assumes that no more than five (5) TEM clearance samples will be required for clearance purposes per building (response actions only requires TEM sampling analytical. Any more than 40 required TEM samples will be charged at the unit cost rate of \$125.00.		
SCOPE OF SERVICES		AMOUNT
Terracon will provide a Certified Asbestos Consultant or Site Surveillance Technician to monitor asbestos abatement and/or lead related construction work for adherence to the project specifications and applicable laws and regulations. Monitoring will include the review of abatement contractor submittals, pre and post work area visual inspections, and the collection of perimeter and area and clearance air samples. The actual number of shifts and samples will depend upon contractor scheduling and performance. Perimeter air samples will be analyzed by phase contrast microscopy (PCM) for asbestos work and flame atomic absorption spectroscopy (FAA) for lead related work. Asbestos clearance samples will be analyzed by transmission electron microscopy (TEM) or PCM in accordance with EPA/NIOSH protocols. PCM samples that fail to reach appropriate clearance levels will be reanalyzed by TEM methodologies. An allowance for up to fifteen (15) such samples has been provided below. The price provided below is a fully loaded rate, assuming the collection of up to three (3) PCM samples, and two (2) lead air samples per day. If additional bulk samples are required due to the discovery of additional materials not identified during the previous survey efforts, these will be collected using the PLM allowance listed below. Clearance samples required upon conclusion of activities within a given containment will be collected using the TEM allowance also listed below. The rate provided assumes that work will be performed during regular business hours from Monday to Friday, and that work shall adhere to a typical work shift of eight (8) hours. Based on information provided by the contractor, this proposal is for a maximum of twenty-three (23) shifts. Any required additional shifts will be charged at a daily rate proportional to that stated herein. Upon project completion, a final written report will be submitted to Client including a project summary, notes and analytical results.		29,382.00
PLM Samples - Up to twenty (20) samples at \$14 each with standard turnaround time during the performance of the abatement project. Price assumes that Terracon is present to provide contractor oversight services.		280.00
TEM Samples - Up to forty (40) samples at \$125 each with 24-hour turnaround time for air clearance purposes Assumes no more than eight (8) containments requiring clearance with five (5) TEM samples per containment.		5,000.00
TOTAL ESTIMATED COMPENSATION		34,662.00
NOTES: ASSUMPTIONS OR EXCLUSIONS Client to Provide ▶ Access to all areas at agreed upon times. ▶ Equipment as necessary to access suspect materials. ▶ Existing documentation, reports, testing results or other information of importance to the scope of services outlined above. ▶ Although limited destructive sampling was performed throughout the site during the previous survey, it may be possible that additional materials may be discovered beneath or behind current finishes upon commencement of construction related activities. Such conditions should be anticipated and accounted for during planning and bidding process ▶ For monitoring, the number of Project Manager and Monitoring hours is an estimate. Additional hours will be billed on a time and material basis if more hours than estimated are required. A shift is defined as a regular eight hour day. The actual number of shifts required will depend on the abatement contractor's scheduling and performance.		

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Terracon Consultants, Inc.

RELIANCE

The report will be prepared for the exclusive use and reliance of the Client. Reliance by any other party is prohibited without the written authorization of Client and Terracon. If Client is aware of additional parties that will require reliance on the report, the names, addresses and relationship of these parties should be provided for Terracon approval prior to the time of authorization to proceed. Terracon will grant reliance on the report to those approved parties upon receipt of a fully executed Reliance Agreement (available upon request). If, in the future, the client and Terracon consent to reliance on the report by a third party, Terracon will grant reliance upon receipt of a fully executed Reliance Agreement and receipt of an additional fee of \$250.00 per relying party. Reliance on the report by the client and all authorized parties will be subject to the terms, conditions, and limitations stated in the agreement, reliance agreement, and the report.

AGREEMENT

Work may be initiated by returning a signed copy of this proposal. The terms, conditions, and limitations stated in the current consulting agreement between Terracon and the client, as well as sections of this proposal incorporated therein, shall constitute the exclusive terms and conditions and services to be performed for this project. This proposal is valid only if authorized within sixty (60) days from the proposal date.

{NationalAcct}AGREEMENT FOR SERVICES

This AGREEMENT is between {ClientName} ("Client") and ConsultantName ("Consultant") for Services to be provided by Consultant for Client on the ExternalName project ("Project"), as described in Consultant's Proposal dated ProposalDate ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

1. **Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. When Consultant subcontracts to other individuals or companies, then consultant will collect from Client on the Subcontractors' behalf. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
2. **Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
3. **Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
4. **Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
5. **Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
6. **LIMITATION OF LIABILITY. CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO {LoL} FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL {LoL Policy}**
7. **Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
8. **Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. **EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
9. **Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii)

commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single limit); excess liability (\$5,000,000 occ / agg); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage. {Insurance Clause}.

10. **CONSEQUENTIAL DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.**
11. **Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to {State} law.
12. **Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
13. **Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
14. **Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
15. **Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
16. **Utilities.** Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
17. **Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site.

SIGNATURES FOLLOW ON THE NEXT PAGE

{FloridaContractText}

Consultant: ConsultantName
By: _____ Date: 9/24/2018
Name/Title: {Signatory/title}
Address: ConsultantAddress1
ConsultantAddress2
Phone: ConsultantPhone Fax: ConsultantFax
Email: {ConsultantEmail}

Client: {ClientName}
By: _____ Date: _____
Name/Title: ClientContactNameTitle
Address: ClientAddress1
ClientAddress2
Phone: ClientPhone Fax: ClientFax
Email: ClientEmail