

Board Office Use: Legislative File Info.	
File ID Number	11-2893
Committee	Facilities
Introduction Date	11-8-2011
Enactment Number	11-2351
Enactment Date	11-16-11 JS



OAKLAND UNIFIED SCHOOL DISTRICT

Community Schools. Thinking is smart.

Memo

To Board of Education

From Tony Smith, Ed.D., Superintendent
Timothy White, Assistant Superintendent, Facilities Planning and Management

Board Meeting Date November 16, 2011

Subject Amendment No. 1, Professional Services Facilities Contract -
Ninyo & Moore - La Escuelita Educational Complex Project

Action Requested Approval by the Board of Education of Amendment No. 1, Professional Services Facilities Contract with Ninyo & Moore for Testing Services on behalf of the District at La Escuelita Educational Comple, in an amount not-to exceed \$15,000.00 increasing previous contract amount from \$32,000.00 to a not to exceed amount of \$47,000.00 and revising the end date from October 29, 2009 through December 31, 2009 to December 31, 2011. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Background The District is required to do further investigation of potential impacts to the site per Department of Toxic Substance Control due to its proximity to the project site.

Local Business Participation Percentage 100.00%

Strategic Alignment Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources,



number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

Recommendation

Approval by the Board of Education of Amendment No. 1, Professional Services Facilities Contract with Ninyo & Moore for Testing Services on behalf of the District at La Escuelita Educational Comple, in an amount not-to exceed \$15,000.00 increasing previous contract amount from \$32,000.00 to a not to exceed amount of \$47,000.00 and revising the end date from October 29, 2009 through December 31, 2009 to December 31, 2011. All remaining portions of the agreement shall remain in full force and effect as originally stated.

Fiscal Impact

The funding source for this project is Revenue: 9299, 9399 and 9499.

Attachments

- Professional Services Contract including scope of work

Key Code:

1219901821-6252

AMENDMENT NO. 1 TO PROFESSIONAL SERVICES CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and Ninyo & Moore. OUSD entered into an Agreement with CONTRACTOR for services on October 29, 2009, and the parties agree to amend that Agreement as follows:

1. **Services:** The scope of work is unchanged. **The scope of work has changed.**
If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. Attach revised scope of work.
 The CONTRACTOR agrees to provide the following amended services: The scope of the project is to provide investigation of potential impacts of hazardous material which may have been released by the underground storage tank recently discovered beneath East 10th Street sidewalk across from the Harper Building. Investigation includes project coordination, permitting, boring marking/utility clearance, sampling of soil and groundwater, lab analysis and report preparation.

2. **Terms (duration):** The term of the contract is unchanged. **The term of the contract has changed.**
If term is changed: The contract term is extended by an additional 2 years (days/weeks/months), and the amended expiration date is December 31, 2011.

3. **Compensation:** The contract price is unchanged. **The contract price has changed.**
If the compensation is changed: The contract price is amended by
 Increase of \$15,000.00 to original contract amount
 Decrease of \$ _____ to original contract amount
 and the new contract total is **Forty-seven thousand dollars and no cents (\$47,000.00)**

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**

There are no previous amendments to this Agreement. This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
			\$

6. **Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.

OAKLAND UNIFIED SCHOOL DISTRICT

Jody London
 Jody London, President, Board of Education

11/17/11
 Date

Edgar Rakestraw, Jr.
 Edgar Rakestraw, Jr., Secretary
 Board of Education

11/17/11
 Date
 Date

Timothy White
 Timothy White, Assistant Superintendent
 Facilities, Planning and Management

Date

CONTRACTOR

Kristopher M. Larson
 Contractor Signature

9/29/11
 Date

Kristopher M. Larson, Principal
 Print Name, Title
Geologist

File ID Number: 11-2893
 Introduction Date: 11-8-11
 Enactment Number: 11-2351
 Enactment Date: 11-16-11
 By: [Signature]

2011 SEP 30 8:33
 FACILITIES PLANNING AND MANAGEMENT

EXHIBIT "A" Scope of Work

DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR's entire Proposal is not made part of this Agreement.

SCOPE OF WORK

Contractor Name: Ninyo & Moore

Billing Rate: Fifteen thousand dollars and no cents (\$15,000.00)

Description of Services to be Provided

1. **Goals or Objectives**
Hazmat testing
 2. **Description of Services to be Provided**
The scope of the project is to provide investigation of potential impacts of hazardous material which may have been released by the underground storage tank recently discovered beneath East 10th Street sidewalk across from the Harper Building. Investigation includes project coordination, permitting, boring marking/utility clearance, sampling of soil and groundwater, lab analysis and report preparation.
 3. **Deliverables**
Testing report
-

September 7, 2011
Proposal No. P-81813

Ms. Saya Nhim
Facilities Planning & Management Department
Oakland Unified School District
955 High Street
Oakland, California 94601

Subject: Proposal for Underground Storage Tank Investigation
Downtown Education Complex – Phase I
314 East 10th Street
Oakland, California

Dear Ms. Nhim:

In accordance with the Oakland Unified School District's (OUSD's) request, Ninyo & Moore is pleased to submit this proposal to perform an underground storage tank (UST) investigation for the subject site.

The scope of services for the UST investigation has been prepared in accordance with guidance from the California Department of Toxic Substances Control (DTSC). The objective of the UST investigation is to evaluate potential impacts from hazardous substances which may have been released from the abandoned UST recently discovered beneath the East 10th Street sidewalk adjacent to the subject site.

SCOPE OF SERVICES

The proposed environmental services include: project coordination, permitting, boring marking/utility clearance, sampling of soil and groundwater, laboratory analysis, data compilation, preparation of a UST Investigation Report. A brief description of each of the tasks is as follows:

Project Coordination

Project coordination will include coordination with OUSD, the City of Oakland, Alameda County, and Ninyo & Moore's subcontractors.

Permitting

A boring permit will be obtained from Alameda County and an excavation permit will be obtained from the City of Oakland prior to performing drilling activities.

Boring Marking/Utility Clearance

Underground Service Alert (USA) will be notified at least 48 hours prior to the start of any subsurface investigation activities to mark out the locations of known utilities in the vicinity of the planned borings. A private utility locator will also be retained to mark out any underground utilities or subsurface features in the area of the planned borings. The private utility locator will also mark out the approximate location of the UST and estimate the depth at which it is buried.

Soil and Groundwater Sampling

Depending on the estimated size of the UST which will be determined based on the utility surveyor's markings, either 2 or 4 borings will be advanced in the vicinity of the UST for soil and groundwater sampling. If the capacity of the UST is estimated to be approximately 500 gallons or less, one boring will be advanced on-site adjacent to the UST and one boring will be advanced in East 10th Street adjacent to the UST. If the capacity of the UST is estimated to be approximately 1,000 gallons or more, two borings will be advanced on-site adjacent to the UST and two borings will be advanced in East 10th Street adjacent to the UST.

Soil cuttings from all borings will be screened using a photo ionization detector (PID) and the borings will be logged to evaluate sedimentology. Two soil samples will be collected from each boring. If physical signs of impacts such as staining, odors, or PID readings are not observed, one soil sample will be collected from approximately 5 to 8 feet below ground surface (bgs) depending on the estimated depth of the bottom of the UST, and one soil sample will be collected from the soil/groundwater interface. If physical signs of impacts are observed, one soil sample will be collected from the depth where physical signs of impacts are first observed, and one sample will be collected from the soil/groundwater interface or from the depth where physical signs of impacts are most pronounced. Encore containers and laboratory supplied glass jars will be used for soil sample collection.

A groundwater sample will be collected from one boring advanced in East 10th Street. Additional groundwater samples may be collected from other borings if significant impacts are observed in other borings.

Samples will be analyzed by a state certified environmental laboratory on a normal turn-around time. Laboratory analysis of soil and groundwater samples will include leaking underground fuel tank (LUFT) 5 Metals using EPA Method 6010B, total petroleum hydrocarbons as gasoline (TPHg), as diesel (TPHd) and as motor oil (TPHmo) using EPA Method 8015B, and volatile organic compounds VOCs using EPA Method 8260B. Groundwater samples for analysis of metals will be filtered during collection.

Data Compilation

Laboratory analytical data will be compiled into data tables, and laboratory reports will be reviewed to ensure the QA/QC requirements were achieved.

UST Investigation Report Preparation

Following the sampling activities and receipt of final laboratory reports, a UST Investigation Report will be prepared and submitted to OUSD. The report will provide a description of sampling and analytical methods, and will include figures, boring logs, and copies of laboratory reports. The UST Investigation Report will also be submitted to regulatory agencies including DTSC, the Oakland Fire Department, and Alameda County Environmental Health.

ASSUMPTIONS

The estimated fee for the scope of services outlined above is based on the following assumptions:

- Field activities will be performed during normal weekday business hours.
- Soil cuttings generated from borings will be disposed of as non-hazardous waste.
- Two soil samples will be collected from each boring and a groundwater sample will be collected from one boring. Up to four borings will be advanced.
- A traffic control plan will not be required by the City of Oakland because the borings in East 10th Street will be advanced within the area designated for parking. Closure of a traffic lane will not be necessary.

- Borings advanced in East 10th Street will be patched with concrete to match the existing street surface. Replacement of entire pavement flags where borings were advanced will not be required by the City of Oakland.

SCHEDULE


Following receipt of your written authorization to proceed, Ninyo & Moore will commence services described herein. We anticipate requiring 4 to 5 weeks to complete field activities and submit a UST Investigation Report. If project delays outside of our control occur which may defer the completion of the report, OUSD will be notified.

COMPENSATION

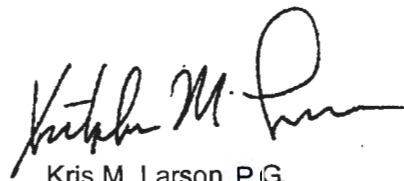
The estimated time-and-materials fee for the scope of services outlined above is **\$15,000 (Fifteen Thousand Dollars)**. A detailed description of the costs associated with the proposed scope of services is presented in the attached Breakdown of Estimated Fees. Should conditions be encountered that warrant additional research, evaluation, or analyses, OUSD will be contacted for authorization.

We trust that this proposal satisfies your current requirements and assure you that Ninyo & Moore will be responsive to your needs.

Sincerely,
NINYO & MOORE



Cem R. Atabek
Project Environmental Engineer



Kris M. Larson, P.G.
Principal Environmental Geologist

CRA/KML/csj

Attachment: Table 1 - Breakdown of Estimated Fees

Distribution: (1) Addressee (via e-mail)

TABLE 1 - BREAKDOWN OF ESTIMATED FEE

PROJECT COORDINATION				
Project Engineer/Geologist/Environmental Scientist	8 hours	@ \$	133 /hour	\$ 1,064
Senior Staff Engineer/Geologist/Environmental Scientist	2 hours	@ \$	120 /hour	\$ 240
	Subtotal			\$ 1,304
FIELD ACTIVITIES - BORING MARKING/UTILITY CLEARANCE AND SAMPLING				
Senior Staff Engineer/Geologist/Environmental Scientist	15 hours	@ \$	120 /hour	\$ 1,800
Drilling Subcontractor	1 day	@ \$	3,000 /day	\$ 3,000
Utility Surveyor Subcontractor	2 hours	@ \$	200 /hour	\$ 400
County Drilling Permit	1 each	@ \$	305 /each	\$ 305
City Excavation Permit	1 each	@ \$	550 /each	\$ 550
	Subtotal			\$ 6,055
FIELD CONSUMABLES				
Level D Personal Protective Equipment (person/date [p/d])	1 day	@ \$	25 /day	\$ 25
PID Meter Usage	1 day	@ \$	125 /day	\$ 125
Field Vehicle Usage	2 days	@ \$	30 /day	\$ 60
Peristaltic Pump Usage	1 day	@ \$	40 /day	\$ 40
Water Level Meter Usage	1 day	@ \$	25 /day	\$ 25
Drum Disposal	1 each	@ \$	110 /each	\$ 110
Encore Samplers	48 each	@ \$	10 /each	\$ 480
Groundwater Filter	1 each	@ \$	20 /each	\$ 20
	Subtotal			\$ 885
ENVIRONMENTAL LABORATORY ANALYSIS				
LUFT 5 Metals USEPA Test Method 6010B	9 tests	@ \$	60 /test	\$ 540
VOCs USEPA Test Method 8260B	9 tests	@ \$	92 /test	\$ 828
TPHg USEPA Test Method 8015B	9 tests	@ \$	30 /test	\$ 270
TPHd & TPHmo USEPA Test Method 8015M	9 tests	@ \$	45 /test	\$ 405
	Subtotal			\$ 2,043
DATA COMPILATION AND ANALYSIS				
Senior Staff Engineer/Geologist/Environmental Scientist	4 hours	@ \$	120 /hour	\$ 480
	Subtotal			\$ 480
UST INVESTIGATION REPORT PREPARATION				
Principal Engineer/Geologist/Environmental Scientist	2 hours	@ \$	155 /hour	\$ 310
Project Engineer/Geologist/Environmental Scientist	24 hours	@ \$	133 /hour	\$ 3,192
Technical Illustrator/CAD Operator	5 hours	@ \$	80 /hour	\$ 400
Data Processing, Technical Editing, or Reproduction	5 hours	@ \$	65 /hour	\$ 325
	Subtotal			\$ 4,227
TOTAL ESTIMATED FEE				\$ 14,994

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
04/29/11

PRODUCER
Dealey, Renton & Associates
P. O. Box 12675
Oakland, CA 94604-2675
510 465-3090 Christine Silan

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED
Ninyo & Moore Geotechnical & Environmental Sciences Consultants
1956 Webster Street, Suite 400
Oakland, CA 94612

INSURER A: **Travelers Property Casualty Co of Am**
INSURER B: **American Automobile Ins. Co.**
INSURER C: **Lexington Ins. Co.**
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual <input checked="" type="checkbox"/> OCP GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC	6308986R247	10/03/10	10/03/11	EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS -COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	8108986R247	10/03/10	10/03/11	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG
A	EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	CUP8986R247	10/03/10	10/03/11	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 \$ \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WZP80993464	05/01/11	05/01/12	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	OTHER Professional & Contractor's Pollution Liab.	013001588	10/03/10	10/03/11	\$5,000,000 per Claim \$5,000,000 Annl Aggr.

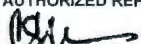
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
GENERAL LIABILITY POLICY EXCLUDES CLAIMS ARISING OUT OF THE PERFORMANCE OF PROFESSIONAL SERVICES.

REF: N&M#401501003. OUSD/DOWNTOWN EDUCATIONAL COMPLEX/PEA.

(See Attached Descriptions)

CERTIFICATE HOLDER | ADDITIONAL INSURED; INSURER LETTER: | CANCELLATION

Oakland Unified School District
955 High Street
Oakland, CA 94601

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL SEND BY MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.
 AUTHORIZED REPRESENTATIVE


DESCRIPTIONS (Continued from Page 1)

GENERAL LIABILITY/AUTOMOBILE LIABILITY ADDITIONAL INSURED: Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives.

Insurance is primary per policy form.

Waiver of Subrogation applies to Commercial General Liability, Automobile Liability and Workers Compensation.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" needs to be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement forms a part of Policy No. WZP80993464

Issued to: Ninyo & Moore Geotechnical &

By: American Automobile Ins. Co.

Premium (if any) TBD

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

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2-5% of the California workers compensation premium otherwise due on such remuneration.

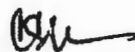
Schedule

Person or Organization

Job Description

Oakland Unified School District
955 High Street
Oakland, CA 94601

REF: N&M#401501003. OUSD/DOWNTOWN
EDUCATIONAL COMPLEX/PEA. Oakland
Unified School District, its Directors,
Officers, Employees, Agents, and
Representatives.



Board Office Use: Legislative File Info.	
File ID Number	09-2891
Committee	Facilities
Introduction Date	10-20-09
Enactment Number	09-2180
Enactment Date	10-28-09 <i>BJ</i>



OAKLAND UNIFIED
SCHOOL DISTRICT

expect Success

every student. every classroom. every day.

Memo

To Board of Education

From Tony Smith, Ed.D., Superintendent
Timothy White, Assistant Superintendent, Facilities Planning and Management

Board Meeting Date October 28, 2009 *19*

Subject Professional Services Contract - Ninyo and Moore - Downtown Education Complex Project

Action Requested Approval by the Board of Education of a Professional Services Agreement with Ninyo and Moore for Pipeline Risk Analysis on behalf of the District at Downtown Education Complex Project, in an amount not-to exceed \$32,000.00. The term of this Agreement shall commence on October 29, 2009 and shall conclude no later than December 31, 2009.

Background Per California Department of Education initial site evaluation, a pipeline risk analysis will be required as well as railroad safety study.

Local Business Participation Percentage 10%

Strategic Alignment Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources, number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The



OAKLAND UNIFIED
SCHOOL DISTRICT

expect Success

every student. every classroom. every day.

implementation of the Facilities Master Plan is our first step in that direction.

Recommendation

Approval by the Board of Education of a Professional Services Agreement with Ninyo and Moore for Pipeline Risk Analysis on behalf of the District at Downtown Education Complex Project, in an amount not-to exceed \$32,000.00. The term of this Agreement shall commence on October 29, 2009 and shall conclude no later than December 31, 2009.

Fiscal Impact

The funding source for this project is General Obligation Bond-Measure B.

Attachments

- Professional Services Contract including scope of work



PROFESSIONAL SERVICES FACILITIES CONTRACT

This Agreement is entered into between the Oakland Unified School District (OUSD) and Ninyo and Moore (CONTRACTOR). OUSD is authorized by Government Code Section 53060 to contract for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, and administrative matters with persons specially trained, experienced, and competent to perform such services. CONTRACTOR is specially trained, experienced, and competent to provide such services. The parties agree as follows:

- 1. Services: The CONTRACTOR shall provide the services as described in Exhibit "A," attached hereto and incorporated herein by this reference ("Services" or "Work").
2. Terms: CONTRACTOR shall commence work on October 29, 2009. The work shall be completed no later than December 31, 2009.
3. Compensation: OUSD agrees to pay CONTRACTOR for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed Thirty-two thousand dollars and no cents (\$32,000.00). This sum shall be for full performance of this Agreement and includes all fees, costs, and expenses incurred by Contractor including, but not limited to, labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs, and other costs.

If CONTRACTOR will be compensated hourly for services provided under this Contract, CONTRACTOR shall describe in Exhibit "A," attached hereto, the specific scope of services to be delivered on an hourly basis to OUSD.

OUSD shall not be liable to CONTRACTOR for any costs or expenses paid or incurred by CONTRACTOR in performing services for OUSD, except as follows: NA

Payment for the Work shall be made for all undisputed amounts in monthly installment payments within forty-five (45) days after the CONTRACTOR submits an invoice to OUSD for Work actually completed and after OUSD's written approval of the Work, or the portion of the Work for which payment is to be made. Invoices furnished by CONTRACTOR under this Agreement must be in a form acceptable to OUSD. All amounts paid by OUSD shall be subject to audit by OUSD.

The granting of any payment by OUSD, or the receipt thereof by CONTRACTOR, shall in no way lessen the liability of CONTRACTOR to correct unsatisfactory work, although the unsatisfactory character of that work may not have been apparent or detected at the time a payment was made. Work, which does not conform to the requirements of this Agreement, may be rejected by District and in that case must be replaced by CONTRACTOR without delay.

- 4. Submittal of Documents: CONTRACTOR shall not commence the Work under this Contract until CONTRACTOR has submitted and OUSD has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:
- Signed Agreement
- Workers' Compensation Certification
- Insurance Certificates and Endorsements

- 5. Equipment and Materials: CONTRACTOR shall provide all equipment, materials, and supplies necessary for the performance of the Agreement except: NA

- 6. CONTRACTOR Qualifications / Performance of Services.
a. CONTRACTOR Qualifications. CONTRACTOR is specially trained, experienced, competent and fully licensed to provide the Services required by this Agreement in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and regulations, as they may apply.
b. Standard of Care. CONTRACTOR represents that CONTRACTOR has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of OUSD. 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.

- 7. Notices/Invoicing: All notices and invoices provided for under this Agreement shall be in writing and either personally delivered during normal business hours or sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other party at the address set forth below:

OUSD Representative:
Name: Timothy White
Site /Dept.: Facilities Planning and Management
Address: 955 High Street
Oakland, CA 947601
Phone: (510)879-3664

CONTRACTOR:
Name: Kristopher M. Larson
Title: Project Manager
Address: 1956 Webster Street, Suite 400
Oakland, CA 94612
Phone: 510-633-5640

Notice shall be effective when received if personally served or, if mailed, three days after mailing. Either party must give written notice of a change in address. CONTRACTOR shall submit invoices in a form that includes the name of the person providing the service, the service performed, the date service was rendered, and the hours spent on the work.

Professional Services Contract

8. **Status of Contractor:** This is not an employment contract. CONTRACTOR, in the performance of this Agreement, shall be and act as an independent contractor. CONTRACTOR understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD'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. In the performance of the work herein contemplated, CONTRACTOR is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, OUSD being interested only in the results obtained.
9. **Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE):** There is a twenty percent (20%) minimum participation requirement for all professional service contracts over the informal bidding threshold (Public Contract Code Section 20111). Contractors shall comply with the twenty percent (20%) local business participation requirement at a rate of ten percent (10%) local and 10% small local and/or small local resident business participation. The requirement may be wholly satisfied by a City of Oakland certified business. Business entities must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent participation requirement. A copy of the District's S/SL/SLRBE Policy can be obtained for the OUSD website: www.ousd.k12.ca.us
- a. For purposes of establishing a threshold for determining the application of the L/SL/SLRBE Program only, informal professional service contracts are valued at or under the current year's threshold pursuant to Public Contract Code Section 20111. (For 2009 the threshold is \$76,700, subject to change in 2010). All professional services contracts below the current threshold must include outreach to certified local firms such that a minimum of three local firms are included in the solicitation.
 - b. In light of the twenty percent L/SL/SLRBE participation requirement for formally bid professional service contracts, good faith effort documentation is not necessary.
 - c. Upon satisfying the twenty percent requirement, a Contractor will earn two (2) preference points. Three additional preference points may be earned at a rate of one point for every additional ten percent participation up to fifty percent participation of the total contract dollars attributable to local certified firms.
 - d. **Joint Venture and Mentor Protégé Agreements.** If a professional services contractor is able to develop a Joint Venture or "Mentor-Protégé" relationship with a certified SLBE or SLRBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval by proposal due date for professional services contracts. Joint Venture Applications and elements of a District approved Mentor Protégé relation are available upon request.

10. **Insurance:**

9.1 Without in any way limiting CONTRACTOR's liability under any other section of this Agreement, CONTRACTOR will maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

9.1.1 Workers' Compensation Employers' Liability limits not less than each \$1,000,000 each accident, per disease, and aggregate. CONTRACTOR's Workers' Compensation insurance policy shall contain a Waiver of Subrogation. In the event CONTRACTOR is self-insured, it shall furnish Certificate of Permission to Self-Insure signed by Department of Industrial Relations Administration of Self-Insurance, State of California.

9.1.2 CONTRACTOR's right to self-insure is subject to approval by the District. As a condition to such approval, CONTRACTOR shall submit to the District evidence that CONTRACTOR maintains sufficient financial resources for said self-insurance.

9.1.3 Commercial General Liability Insurance or Business Owners Policy with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations. This liability insurance shall include but shall not be limited to protection against claims arising from bodily and personal injury (including death resulting therefrom) and damage to property resulting from CONTRACTOR's or subcontractor's or sub-CONTRACTOR's operations.

9.1.4 Comprehensive or Business Owners Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned and Non-owned and hired auto coverage, as applicable.

9.2 General Liability and Automobile Liability Insurance policies shall be endorsed to provide the following:

9.2.1 Name as Additional Insured District, its Directors, Officers, Employees, Agents, and Representatives.

9.2.2 That such policies are primary insurance to any other insurance available to the Additional Insured, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

9.3 All policies shall be endorsed to provide thirty (30) days' advance written notice to District of cancellation, non-renewal or reduction in coverage, and certificates of all policies and endorsements shall be mailed to the following address:

Timothy E. White, Assistant Superintendent
Oakland Unified School District
Department of Facilities Planning and Management
955 High Street
Oakland, California 94601

9.4 Insurance shall be provided by an admitted California insurance company with a current Best's Key Rating of A minus (A-) or better. Should any of the required insurance be provided under a claims-made form, CONTRACTOR shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of four years beyond the Agreement expiration, to the effect that, should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

9.5 Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

9.6 Certificates of insurance evidencing all coverage's above shall be furnished to District before commencing any operations under this Agreement, with complete copies of policies promptly upon District request. Approval of the insurance by District shall not relieve or decrease the liability of CONTRACTOR hereunder.

9.7 District may, at its sole option, terminate this Agreement immediately, without notice to CONTRACTOR and without opportunity to cure the default, in the event of any lapse of required insurance coverage. District may, at its sole option, secure sufficient insurance coverage to replace any required insurance coverage, which has lapsed, and CONTRACTOR hereby acknowledges its liability to reimburse District for all costs associated with such replacement insurance coverage. CONTRACTOR shall be responsible for any and all uninsured losses.

9.8 If CONTRACTOR is an association, joint venture or partnership, the association, joint venture or partnership shall be insured by any one of the following methods:

9.8.1 Separate insurance policies issued with the association, joint venture or partnership as named insured; All insurance policies required by this Agreement of one of the participants to include the association, joint venture or partnership as named insured; The association, joint venture or partnership must be a named insured on all of the policies required by this Agreement.

11. **Licenses and Permits:** CONTRACTOR shall obtain and keep in force all licenses, permits, and certificates necessary for the performance of this Agreement.
12. **Assignment:** The obligations of CONTRACTOR under this Agreement shall not be assigned by CONTRACTOR without the express prior written consent of OUSD.
13. **Anti-Discrimination.** It is the policy of OUSD that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age 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 and OUSD policy. In addition, the CONTRACTOR agrees to require like compliance by all its subcontractor(s).
14. **Drug-Free / Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, CONTRACTORS, or subcontractors are to use drugs on these sites.
15. **Indemnification:** CONTRACTOR agrees to hold harmless, indemnify, and defend OUSD and its officers, agents, and employees from:
 - a. any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation in connection with the performance of this Agreement. CONTRACTOR also agrees to hold harmless, indemnify, and defend OUSD and its elective board, officers, agents, and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to CONTRACTOR in connection with the performance of this Agreement. This provision survives termination of this Agreement ;
 - b. CONTRACTOR shall indemnify, defend, and hold District, its directors, officers, agents, employees and representatives harmless from and against all claims, demands and judgments of any description arising out of or alleged to have arisen out of performance or nonperformance of the services under this Agreement to the extent that such claims, demands and judgments are the result of any error, omission or negligent act of CONTRACTOR or any person employed or agent engaged by CONTRACTOR.
 - c. CONTRACTOR shall place in its sub contracting / sub-consulting agreements and cause its sub-contractors / sub-CONTRACTORS to agree to indemnities, defense and insurance obligations in the exact form and substance of those contained herein, each naming the District as an additional beneficiary or insured.
16. **Copyright/Trademark/Patent/Ownership.** CONTRACTOR understands and agrees that all matters produced under this Agreement shall become the property of OUSD and cannot be used without OUSD's express written permission. OUSD 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

Professional Services Contract

name of OUSD. 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. These matters include, without limitation, drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, or other documents prepared by CONTRACTOR or its Sub-CONTRACTORS in connection with the Services performed under this Agreement. All works shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in those works are the property of OUSD.

17. **Suspension of Work:** District may, without cause, order CONTRACTOR, in writing, to suspend, delay or interrupt the Work, for such periods of time as District may determine, in its sole discretion. Suspension shall be effected by delivery to CONTRACTOR of notice of suspension specifying the extent to which performance of the Work under the Agreement is suspended, and the date upon which suspension becomes effective, which shall be no less than seven (7) calendar days from the date the notice of suspension is delivered.
18. **Waiver:** No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.
19. **Termination:** OUSD may at any time terminate this Agreement upon written notice to CONTRACTOR. OUSD shall compensate CONTRACTOR for services satisfactorily provided through the date of termination. In addition, OUSD may terminate this Agreement for cause should CONTRACTOR fail to perform any part of this Agreement. In the event of termination for cause, OUSD may secure the required services from another contractor. If the cost to OUSD exceeds the cost of providing the services pursuant to this Agreement, CONTRACTOR shall pay the additional cost.
20. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
21. **OUSD's Evaluation of CONTRACTOR and CONTRACTOR's Employees and/or Subcontractors.** OUSD may evaluate the CONTRACTOR's work in any way that OUSD is entitled to do so pursuant to applicable law. The OUSD's evaluation may include, without limitation:
 - a. Requesting that OUSD employee(s) evaluate the CONTRACTOR and the CONTRACTOR's employees and subcontractors and each of their performance.
 - b. Announced and unannounced observance of CONTRACTOR, CONTRACTOR's employee(s), and/or subcontractor(s).
22. **Limitation of OUSD Liability.** Other than as provided in this Agreement, OUSD'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 OUSD 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.
23. **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. CONTRACTOR understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
24. **Conflict of Interest.** CONTRACTOR shall abide by and be subject to all applicable OUSD policies, regulations, statutes or other laws regarding conflict of interest. CONTRACTOR shall not hire any officer or employee of OUSD to perform any service by this Agreement. CONTRACTOR affirms to the best of his/hers 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 OUSD'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 OUSD of this information.
25. **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.
26. **Litigation:** If any litigation is initiated to enforce or interpret this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs. This Agreement shall be performed in Oakland, CA and is governed by the laws of the State of California.
27. **Approval:** This Agreement is not effective and no payment shall be made to CONTRACTOR until it is approved. Approval requires signature by the State Administrator, the Board of Education, and/or the Interim Superintendent as their designee.
28. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Agreement.
29. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
30. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

Professional Services Contract

OAKLAND UNIFIED SCHOOL DISTRICT

[Signature]
 President, Board of Education
 Superintendent

10/29/09
Date

[Signature]
Secretary,
Board of Education

10/29/09
Date

[Signature]
Assistant Superintendent,
Department of Facilities Planning and Management

/
Date

CONTRACTOR

[Signature]
Contractor Signature

09/29/09
Date

Kristopher M. Larson Environmental
Print Name, Title
Manager

EXHIBIT "A" Scope of Work

DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR's entire Proposal is made part of this Agreement.

SCOPE OF WORK

Contractor Name: Ninyo and Moore

Billing Rate: Thirty-two thousand dollars and no cents (\$32,000.00)

Description of Services to be Provided

The scope of the project is to provide a pipeline risk analysis, which includes a natural gas line and water line that is located within 1,500 feet of the downtown property as well as provide a railroad safety study. The attached proposal is incorporated into the contract to the extent that it is subordinate to and not inconsistent with the contract terms.

August 3, 2009
Proposal No. P-81318

Mr. Al Anderson
Facilities Planning & Management Department
Oakland Unified School District
955 High Street
Oakland, California 94601

Subject: Proposal for Pipeline Risk Analyses and Railroad Safety Study
Downtown Education Complex
314 East 10th Street, 1100 3rd Avenue & 1029 4th Avenue
Oakland, California

Dear Mr. Anderson:

In accordance with the Oakland Unified School District's (OUSD's) request for proposal, Ninyo & Moore is pleased to submit this proposal to conduct Pipeline Risk Analyses (PRAs) and a Railroad Safety Study (RSS) for the subject site. Based on information obtained during Ninyo & Moore's (2008) Phase I Environmental Site Assessment (ESA), the subject site is within 1,500 feet of several pipelines and a railroad easement, for which the California Department of Education (CDE) requires hazard evaluations as discussed in the following sections.

SCOPE OF SERVICES

Pipeline Risk Analysis – Natural Gas and Fuel Pipelines

Based on information obtained during Ninyo & Moore's 2008 Phase I ESA, there is a 30-inch diameter natural gas transmission main pipeline (operating pressure of 150 pound per square inch [psi]) in East 10th Street trending parallel to and 35 feet from the southwest side of the site. In addition, there are 10-inch and 12-inch diameter refined fuel lines (both with operating pressures of 1,300 psi) trending west-east approximately 1,200 feet from the southeast corner of school site. Because these pipelines are within 1,500 feet of the planned school site, PRAs are required by California Education Code (CEC) §17213, *et seq.* and California Code of Regulations (CCR) Title 5, §14010(h) to evaluate the hazards to occupants at the school site from potential leaks or ruptures of pipelines such as these. CDE (2007) has prepared Guidance Protocol for School Site Pipeline Risk Analysis (CDE Protocol) for evaluating hazards to school site

occupants from pipelines such as these. The scope of services for the PRAs is consistent with the CDE Protocol and consists of the following:

- Obtain and compile pertinent information concerning age, construction, maintenance and monitoring of the pipelines from their owner/operator, Pacific Gas & Electric (PG&E) and Kinder Morgan (KM).
- Conduct a site reconnaissance to determine various field conditions including locations and distances to pipelines, protection and warning devices, and intermediate ground surface and buildings/property uses between the pipelines and the site.
- Model various input data into spreadsheets prepared in accordance with the CDE Protocol. Calculate the individual and societal risks for the various leak and rupture scenarios from the hypothetical fires and explosions from the pipelines.
- Prepare a brief report of the PRA for the natural gas and fuel pipelines, which will contain a figure locating the pipelines relative to the site, a summary of the pipelines and surrounding site conditions, and results of the risk calculations. The report will also provide conceptual recommendations for mitigation measures, which may be required if risks to potential hazards exceed the acceptable limits to the CDE.

Evaluation of High Volume Water Pipelines

Based on information obtained during Ninyo & Moore's 2008 Phase I ESA, there is a 30-inch diameter high volume water pipeline in East 11th Street and a 36-inch diameter high volume water pipeline in 4th Avenue along the southeast side of the site. Because these pipelines are within 1,500 feet of the planned school site, an evaluation of the potential for inundation of the site is also required by CEC §17213, *et seq.* and CCR Title 5, §14010(h) for hazards to the site occupants from potential leaks or ruptures of pipelines such as these.

- Obtain and compile pertinent information concerning age, construction, maintenance and monitoring of the pipelines from their owner/operator, Eastern Bay Municipal Utility District (EBMUD).
- Conduct a site reconnaissance to determine various field conditions including locations and distances to pipelines, protection and warning devices, and intermediate topographic ground surface and buildings/property uses between the pipelines and the site.
- Model flow patterns and inundation depths on the site from ruptures to the pipelines. Based on the surrounding site conditions, the modeling may be restricted to qualitative analysis, rather than detailed surface flow modeling.
- Prepare a brief report of the hazard evaluation for the water pipelines, which will contain a figure locating the pipelines relative to the site, a summary of the pipelines and surrounding site conditions, and results of the inundation evaluation. The report will also provide

conceptual recommendations for mitigation measures (e.g., evacuation plan), which may be required if the results indicate elevated hazards to site occupants.

Railroad Safety Study (RSS)

Based on information obtained during Ninyo & Moore's 2008 Phase I ESA, there is a railroad easement with railroad tracks trending west-east approximately 1,400 feet south of the site. Because the railroad tracks are within 1,500 feet of the planned school site, a RSS is also required by CEC §17213, *et seq.* and CCR Title 5, §14010(d) to evaluate the hazards to occupants at the school site from potential leaks or ruptures of pipelines such as these.

- Obtain and compile pertinent information concerning age, construction, maintenance and monitoring of the railroad tracks from their owner/operator, Union Pacific Rail Road Corporation (UPRR).
- Conduct a site reconnaissance to determine various field conditions including locations and distances to the railroad tracks and crossings, document the type and condition of the tracks, and observe the uses and conditions of intervening property uses between the railroad tracks and the site. A visual assessment will be made of the presence of adequate safeguards at crossings for pedestrians and vehicles which must cross the tracks, and the need for safety and sound barriers.
- Review reasonably available information from federal, state and local regulatory agencies and the UPRR, including the type of track and nearby accidents. Information on the types of cargo that are carried on the tracks will be obtained and reviewed if readily available through cargo manifests.
- Review available information from UPRR to evaluate the speeds and frequencies of the types of rail traffic, including documentation of rail traffic schedules in relation to the time of anticipated school activities and functions.
- Review available railroad track information obtained from UPRR for the proximity of grades, curves, bridges, signals or other track features.
- Review available information to evaluate if high pressure natural gas pipelines or hazardous liquid pipelines are present within or near the existing railroad easement which if present might suffer rupture by train derailment in the vicinity of the school site.
- Prepare a brief report of the RSS, which will contain a figure locating the railroad tracks relative to the site, a summary of the findings and conclusions, regarding the potential hazards at the site from potential train derailment. The report will also provide conceptual recommendations for mitigation measures for identified issues.

PROJECT TEAM

Mr. Kris Larson, P.G., will be Ninyo & Moore's Project Manager, the District's designated contact person and will provide Project Oversight.

Mr. John Jay Roberts, P.G., C.E.G., will be Ninyo & Moore's Technical Advisor. He has successfully completed several PRAs, high volume water pipeline analyses and RSS for school sites. In addition, he has very positive professional relationships with CDE representatives who will be reviewing the reports. He will be available throughout the duration of all project phases.

UNDERSTANDINGS

The scope of services outlined above is based upon assumptions and our experience on proposed school sites similar to the subject site. The full scope of services shall be based on requirements of CDE, which largely depend on the results of our analyses. Additional services may become necessary as required by CDE, for which a request for additional authorization may be submitted, if necessary for additional activities beyond the scope of services described above.

SCHEDULE

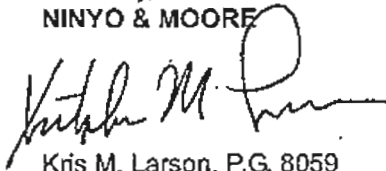
Following receipt of your written authorization to proceed, Ninyo & Moore will commence services described herein. We anticipate requiring 3 to 4 weeks to complete the proposed services subject to timely receipt of information requested by pipeline/railroad owners/operators. If project delays outside of our control occur which may defer the completion of this report, OUSD will be notified.

COMPENSATION

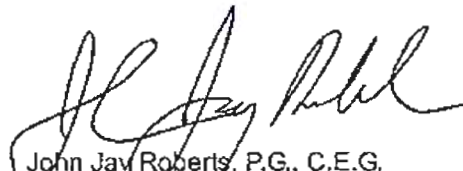
The estimated time and materials fee for the scope of services outlined above is \$32,000 (Thirty-Two Thousand Dollars). A detailed description of the costs associated with the proposed scope of services is presented on attached Table 1. Should conditions be encountered that warrant additional research, evaluation, or analyses, OUSD will be contacted for authorization.

We trust that this proposal satisfies your current requirements and assure you that Ninyo & Moore will be responsive to your needs.

Sincerely,
NINYO & MOORE



Kris M. Larson, P.G. 8059
Senior Environmental Geologist



John Jay Roberts, P.G., C.E.G.
Senior Geologist

KML/JJR/csj

Attachment: Table 1 - Breakdown of Estimated Fees

Distribution: (3) Addressee

TABLE 1 - BREAKDOWN OF ESTIMATED FEE

PIPELINE RISK ANALYSIS NATURAL GAS & FUEL PIPELINES			
Senior Engineer/Geologist/Environmental Scientist	20 hours @	\$ 150.00 /hour	\$ 3,000.00
Senior Staff Engineer/Geologist/Environmental Scientist	80 hours @	\$ 120.00 /hour	\$ 9,600.00
Technical Illustrator/CAD Operator	8 hours @	\$ 80.00 /hour	\$ 640.00
Data Processing, Technical Editing, or Reproduction	6 hours @	\$ 65.00 /hour	\$ 390.00
Field Vehicle Usage	4 hours @	\$ 10.00 /hour	\$ 40.00
Subtotal			\$ 13,670.00

EVALUATION OF HIGH-VOLUME WATER PIPELINES			
Principal Engineer/Geologist/Environmental Scientist	4 hours @	\$ 155.00 /hour	\$ 620.00
Senior Engineer/Geologist/Environmental Scientist	15 hours @	\$ 150.00 /hour	\$ 2,250.00
Senior Staff Engineer/Geologist/Environmental Scientist	50 hours @	\$ 120.00 /hour	\$ 6,000.00
Data Processing, Technical Editing, or Reproduction	4 hours @	\$ 65.00 /hour	\$ 260.00
Field Vehicle Usage	4 hours @	\$ 10.00 /hour	\$ 40.00
Subtotal			\$ 9,170.00

RAILROAD SAFETY STUDY			
Principal Engineer/Geologist/Environmental Scientist	2 hours @	\$ 155.00 /hour	\$ 310.00
Senior Engineer/Geologist/Environmental Scientist	15 hours @	\$ 150.00 /hour	\$ 2,250.00
Senior Staff Engineer/Geologist/Environmental Scientist	50 hours @	\$ 120.00 /hour	\$ 6,000.00
Data Processing, Technical Editing, or Reproduction	4 hours @	\$ 65.00 /hour	\$ 260.00
Technical Illustrator/CAD Operator	4 hours @	\$ 80.00 /hour	\$ 320.00
Field Vehicle Usage	4 hours @	\$ 10.00 /hour	\$ 40.00
Subtotal			\$ 9,180.00

TOTAL ESTIMATED FEE			\$ 32,020.00
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Notice: This page includes two separate forms.

Directions:

CONTRACTOR Type	Directions
Contractors with employees	<ul style="list-style-type: none"> ✓ Complete Workers' Compensation Certification below ✓ Attach proof of general liability and workers' compensation insurance
Contractors with no employees	<ul style="list-style-type: none"> ✓ Complete Workers' Compensation Certification below ✓ Either attach proof of general liability insurance or, if eligible, complete request for waiver below.

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

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

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

Check only one of the boxes below.

<input checked="" type="checkbox"/> I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.	<input type="checkbox"/> I do not employ anyone in the manner subject to the workers' compensation laws of California.
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CONTRACTOR Name: NINYO & MOORE

Contractor Signature: [Signature] Date: 10/2/09

Print Name and Title: Kris Larson, Environmental Manager

(In accordance with Article 5 – commencing at Section 1880, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with OUSD prior to performing any Work under this Contract.)

GENERAL LIABILITY INSURANCE WAIVER REQUEST FORM

The following conditions must be satisfied in order to qualify for a waiver of Oakland Unified School District's requirement of general liability insurance requirement:

1. Contract is for less than \$15,000
2. Good history with the District. If the contractor has worked with OUSD in the past they received a good evaluation and there were no prior complaints, problems or injuries from prior contracts.

I request a waiver of the general liability insurance requirement. I certify that I meet the above criteria.

CONTRACTOR Name: _____

Contractor Signature: _____ Date: _____

ACORD CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YY) 10/02/09
PRODUCER Dealey, Renton & Associates P. O. Box 12675 Oakland, CA 94604-2675 510 465-3090 Christine Silan	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURERS AFFORDING COVERAGE		
INSURED Ninyo & Moore Geotechnical & Environmental Sciences Consultants 1956 Webster Street, Suite 400 Oakland, CA 94612	INSURER A: American Automobile Ins. Co. INSURER B: Fireman's Fund Insurance Co. INSURER C: Lexington Ins. Co. INSURER D: INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual <input checked="" type="checkbox"/> RR Cont CG2417 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJ <input checked="" type="checkbox"/> LOC	MZG80911156	10/03/09	10/03/10	EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS GARAGE LIABILITY <input type="checkbox"/> ANY AUTO	MZG80911156	10/03/09	10/03/10	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B	EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	CGX71476790	10/03/09	10/03/10	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WZP80973506	05/01/09	05/01/10	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	OTHER Professional & Contractor's Pollution Liab.	007360276	10/03/09	10/03/10	\$5,000,000 per Claim \$5,000,000 Annl Aggr.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

GENERAL LIABILITY POLICY EXCLUDES CLAIMS ARISING OUT OF THE PERFORMANCE OF PROFESSIONAL SERVICES.

REF: N&M#401501004. OUSD/DOWNTOWN EDUCATIONAL COMPLEX/PRA's & RSS

(See Attached Descriptions)

CERTIFICATE HOLDER Oakland Unified School District 955 High Street Oakland, CA 94601	ADDITIONAL INSURED; INSURER LETTER:	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL NOTIFY BY MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.
AUTHORIZED REPRESENTATIVE 		NOTED BY:

DESCRIPTIONS (Continued from Page 1)

GENERAL LIABILITY/AUTOMOBILE LIABILITY ADDITIONAL INSURED: Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives.

Insurance is primary per policy form.

Waiver of Subrogation applies to Commercial General Liability, Automobile Liability and Workers Compensation.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES OR
CONTRACTORS - SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Oakland Unified School District 955 High Street Oakland, CA 94601	REF: N&M#401501004. OUSD/DOWNTOWN EDUCATIONAL COMPLEX/PRAs & RSS. Oakland Unified School District, its Directors, Officers, Employees, Agents, and Representatives.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

- A. Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
1. Your acts or omissions; or
 2. The acts or omissions of those acting on your behalf;
- in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.
- B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

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

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

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" needs to be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement forms a part of Policy No. WZP80973506

Issued to: Ninyo & Moore Geotechnical &

By: American Automobile Ins. Co.

Premium (if any) TBD

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

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2-5% of the California workers compensation premium otherwise due on such remuneration.

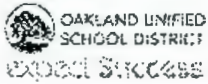
Schedule

Person or Organization

Oakland Unified School District
955 High Street
Oakland, CA 94601

Job Description

REF: N&M#401501004. OUSD/DOWNTOWN
EDUCATIONAL COMPLEX/PRAs & RSS Oakland
Unified School District, its Directors,
Officers, Employees, Agents, and
Representatives.



PROFESSIONAL SERVICES CONTRACT ROUTING FORM

Project Information			
Project Name	Downtown Education Complex	Site	Downtown Education Complex

Basic Directions	
Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.	
Attachment Checklist	<input type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider

Contractor Information							
Contractor Name	Ninyo and Moore	Agency's Contact	Kristopher M. Larson				
OUSD Vendor ID #		Title	Project Manager				
Street Address	1956 Webster Street, Suite 400	City	Oakland	State	CA	Zip	94612
Telephone	510-633-5640	Policy Expires	5-1-2010				
Contractor History	Previously been an OUSD contractor? <input type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input type="checkbox"/> No				
OUSD Project #	07047						

Compensation and Terms – Must be within the OUSD Billing Guidelines					
Date work will begin	10-29-2009	Date work will end	12-31-2009	Total Contract Amount	\$32,000.00

Budget Information				
<i>If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.</i>				
Requisition Number		Total Contract Amount	\$	
Resource #	Resource Name	Org Key	Object Code	Amount
2122	General Obligation Bond-Measure B	1219901820	6262	\$32,000.00
				\$
				\$
				\$
				\$

Approval and Routing (in order of approval steps)					
Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.					
1.	Division Head	Charles Love	Phone	510-879-8389	Fax 510-879-3673
	Capital Program Contract & Accounting Manager				
	Signature		Date Approved	10-6-09	
2.	General Counsel, Department of Facilities Planning and Management				
	Signature		Date Approved	10-7-09	
3.	Assistant Superintendent, Facilities Planning and Management				
	Signature		Date Approved		
4.	President, Board of Education				
	Signature		Date Approved		