

Board Office Use: <b>Legislative File Info.</b>	
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Introduction Date	09-25-2024
Enactment Number	24-1669
Enactment Date	9/25/2024 os



**OAKLAND UNIFIED SCHOOL DISTRICT**  
Community Schools, Thriving Students

# Memo

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent; Preston Thomas, Chief Systems & Services Officer; Kenya Chatman, Executive Director, Facilities

**Board Meeting Date** September 25, 2024

**Subject** Engineering Services Agreement – Langan CA, Inc. – Geotechnical Consulting Services for Cal Fire Planning Project - Oakland Living Schoolyards Planning - Division of Facilities Planning and Management

**Action Requested** Approval by the Board of Education of Engineering Services Agreement by and between the District and **Langan CA, Inc.**, Oakland, California, for the latter to provide **Geotechnical Consulting Services for Cal Fire Planning Project - Oakland Living Schoolyards Planning at 14 District School Sites**, in the total not-to-exceed amount of **\$108,020.00**, which includes a contingency fee of **\$9,820.00** for additional services, as the selected consultant, with the work scheduled to commence on **September 26, 2024**, and scheduled to last until **October 31, 2024**, pursuant to the Agreement.

**Discussion** Consultant was selected based on a (a) demonstrated competence and professional qualifications (Government Code §4526), and (b) a fair competitive RFP selection process (Government Code §§4529.10 et seq.).

**LBP (Local Business Participation Percentage)** 100.00%

**Recommendation** Approval by the Board of Education of Engineering Services Agreement by and between the District and Langan CA, Inc., Oakland, California, for the latter to provide Geotechnical Consulting Services for Cal Fire Planning Project - Oakland Living Schoolyards Planning at 14 District School Sites, in the total not-to-exceed amount of \$108,020.00, which includes a contingency fee of \$9,820.00 for additional services, as the selected consultant, with the work scheduled to commence on September 26, 2024, and scheduled to last until October 31, 2024, pursuant to the Agreement.

**Fiscal Impact** Fund 01- General

**Attachments**

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



**CONTRACT JUSTIFICATION FORM**

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

**Legislative File ID No.** 24-2142

**Department:** Facilities Planning and Management

**Vendor Name:** Langan CA, Inc.

**Project Name:** Cal Fire Planning Project –

**Project No.:** 24102

Oakland Living Schoolyards Planning

**Contract Term: Intended Start:** Sept. 26, 2024

**Intended End:** Oct. 31, 2024

**Total Cost Over Contract Term:** \$108,020.00

**Approved by:** Preston Thomas

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

**Local Business Policy?**  Yes (No if Unchecked)

**How was this contractor or vendor selected?**

Langan CA, Inc. was selected through an RFQ/P process, based on scores.

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

Provide Geotechnical Consulting Services for Cal Fire Planning Project - Oakland Living Schoolyards Planning at 14 District School Sites

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

If "No," please answer the following questions:

1) How did you determine the price is competitive?

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

2) Please check the competitive bidding exception relied upon:

Construction Contract:

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

Consultant Contract:

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

Purchasing Contract:

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

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

Maintenance Contract:

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

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

- Consultant is providing Geotechnical Consulting Services after selection pursuant to a RFP/Q.



**Oakland Unified School District**  
 L/SL/RBE Verification  
 Calculations & Analysis Worksheet (RFQ/P)

Site: Oakland Living School Yards  
 Project Name: Environmental Site Assessment Consulting  
 Project Number: 24102

Prime	Sub/Prime	Proposed S/LBE Status	LBP Credit Given	Proposed Contract%	SO%LBU Requirement Met	LBU Preference Points	Notes	
Professional Service Industries, Inc.	PSI	LBE	LBE	55%	YES	2 Pts	Port of Oakland - LIA Confirmed LBE Credit Given	
	Total Proposed LBU Participation: <b>55%</b>						SLRBE %   0.00%   SLBE %   0.00%   LBE %   55.00%	<b>This firm meets the minimum OUSO LBU requirements.</b>
Farallon Consulting, L.L.C.	Farallon Consulting	LBE	LBE	48.00%	NO	0 Pts	Port of Oakland - LIA Confirmed LBE Credit Given	
	VTS Drilling, LLC	SLBE	n/a	0.00%			Alameda County - SLBE Confirmed Non-Oakland Based Firm (No Credit)	
	Total Proposed LBU Participation: <b>48.00%</b>						SLRBE %   0.00%   SLBE %   0.00%   LBE %   48.00%	<b>This firm does not meet the minimum OUSO LBU requirements.</b>
ACC Environmental Consultants	ACC	LBE	LBE	5.00%	NO	0 Pts	City of Oakland - LBE Confirmed LBE Credit Given	
	Total Proposed LBU Participation: <b>5.00%</b>						SLRBE %   0.00%   SLBE %   0.00%   LBE %   5.00%	<b>This firm does not meet the minimum OUSO LBU requirements.</b>
Baseline Environmental Consulting	Baseline	LBE	SLBE	89.00%	YES	4 Pts	Port of Oakland VSBE Confirmed SLBE Credit Given	
	Enthalpy Analytical	n/a	n/a	0.00%			No LBU Certification Information Provided	
	Total Proposed LBU Participation: <b>89.00%</b>						SLRBE %   0.00%   SLBE %   89.00%   LBE %   0.00%	<b>This firm meets the minimum OUSO LBU requirements.</b>
Langan CA, Inc.	Langan	LBE	LBE	100.00%	YES	2 Pts	Port of Oakland - LIA Confirmed LBE Credit Given	
	Total Proposed LBU Participation: <b>100.00%</b>						SLRBE %   0.00%   SLBE %   0.00%   LBE %   100.00%	<b>This firm meets the minimum OUSO LBU requirements.</b>
Path Forward Partners, Inc.	Path Forward	LBE	SLBE	66.30%	YES	3 Pts	City of Oakland - SLBE Confirmed SLBE Credit Given	
	GPRS	n/a	n/a	0.00%			No LBU Certification Information Provided	
	Enthalpy Analytical	n/a	n/a	0.00%			No LBU Certification Information Provided	
Total Proposed LBU Participation: <b>66.30%</b>				SLRBE %   0.00%   SLBE %   66.30%   LBE %   0.00%	<b>This firm meets the minimum OUSO LBU requirements.</b>			



**Oakland Unified School District**  
 USL/RBE Verification  
 Calculations & Analysis Worksheet (RFQ/P)

Site: Oakland Living School Yards  
 Project Name: Environmental Site Assessment Consulting  
 Project Number: 24102

Prime	Sub/Prime	Proposed SLBE Status	LBP Credit Given	Proposed Contract%	50% LBU Requirement Met	LBU Preference Points	Notes
Terraphase Engineering Inc.	Terraphase	LBE	LBE	50.25%	YES		City of Oakland - LBE Confirmed LBE Credit Given
Total Proposed LBU Participation				50.25%		2 pts	This firm meets the minimum OUSO LBU requirements.

**LBU Justification**

- Full LBU Requirement: The minimum local business utilization requirement of 50% is applicable for this contract. Firms must meet the entire 25% SLBE/SLRBE or more requirement and can utilize up to 25% LBE participation.
- LBU Modification - Based on the availability analysis conducted for this specific RFP/Q, the District is waiving the entire 25% SLBE/SLRBE requirement. The minimum local business utilization requirement of 50% is applicable for this RFP/Q and can be met with 50% cumulative local business participation utilization (inclusive of SLBE and/or LBE participation).
- Complete LBU Waiver - The District is waiving the entire 50% LBU participation requirement. Firms are not required to meet the 25% SLBE/SLRBE or LBE requirement for this contract.

**Responsive:** Based on the LBU Participation Worksheet, the Compliance Team finds the following firms responsive and eligible for contract award.

**Non Responsive:** Based on the LBU Participation Worksheet, the Compliance Team finds the following firms nonresponsive and ineligible for contract award.

Professional Service Industries, Inc.  
 Baseline Environmental Consulting  
 Langan CA, Inc.  
 Path Forward Partners, Inc.  
 Terraphase Engineering Inc.

Farallon Consulting, LLC.  
 ACC Environmental Consultants

Approval - LBU Compliance Officer

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Prepared by 360 Total Concept  
 LBU Calculations - Oakland Living School Yards - Environmental Site Assessment Consulting - 08.2024  
 Professional Services

**AGREEMENT**  
**FOR**  
**ENGINEERING SERVICES**  
**BETWEEN**  
**OAKLAND UNIFIED SCHOOL DISTRICT**  
**AND**  
**LANGAN CA, INC.**

**September 26, 2024**

OAKLAND UNIFIED SCHOOL DISTRICT  
955 High Street  
Oakland, California 94601

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**AGREEMENT  
FOR  
ENGINEERING SERVICES**

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This agreement for engineering services (“Agreement”) is between the Oakland Unified School District, a California public school district (the “District”), and **Langan CA, Inc.** (the “Engineer”), with respect to the following recitals:

- A. District proposes to undertake a project which require the services of a duly qualified and licensed engineer.
- B. Engineer represents that Engineer is licensed to provide engineering services in the State of California and is specially qualified to provide the services required by the District.
- C. The Parties have negotiated the terms under which Engineer will provide such services and reduce such terms to writing by this Agreement.

The Parties therefore agree as follows:

**ARTICLE 1  
DEFINITIONS**

1.1 **Additional Services.** “Additional Services” shall mean those services in addition to the Basic Services that are related to the Project and provided by Engineer and authorized in writing by the District, and as further defined in Article 6 below.

1.2 **Agreement.** “Agreement” shall mean this Agreement for Engineering Services. In the event of a conflict between the body of the Agreement and Exhibit C, the body of the Agreement shall control.

1.3 **Basic Services.** Engineer’s Basic Services consist of the services as defined in Article 5 and *Exhibit C*.

1.4 **Contract Documents.** “Contract Documents” shall mean those documents which are required for the actual construction of the Project, including but not limited to the Agreement between District and Contractor, complete working drawings and specifications setting forth in detail sufficient for construction the work to be done and the materials, workmanship, finishes and equipment required for the architectural, structural, mechanical, electrical system and utility-service-connected equipment and site work.

1.5 **Contractor.** “Contractor” shall mean one or more contractors ultimately selected to perform work on the Project or any replacement.

1.6 **District.** “District” shall mean Oakland Unified School District, and its governing board members, employees, agents and authorized representatives.

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Agreement for Engineering Services – Langan CA, Inc. – Geotechnical Consulting Services for Cal Fire Planning Project - Oakland Living Schoolyards Planning at 14 District School Sites - \$108,020.00

1.7 **Engineer.** “Engineer” shall mean Langan CA, Inc., and its officers, shareholders, owners, partners, employees, agents and authorized representatives.

1.8 **Project.** “Project” shall mean the work of improvement described in Article 3 and the construction and post-construction closeout thereof, including the Engineer's services thereon, as described in this Agreement.

1.9 [Not Used.]

1.10 **Wrongful Acts or Omissions.** “Wrongful Acts or Omissions” shall mean Engineer’s acts or omissions in breach of this Agreement, the applicable standard of care, or law.

## **ARTICLE 2 RETENTION OF ENGINEER; STANDARD OF CARE**

2.1 District retains Engineer to perform, and Engineer agrees to provide to District, for the consideration and upon the terms and conditions set forth below, the engineering services specified in this Agreement and related incidental services. The Engineer agrees to perform such services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The term for the performance of Basic and Additional Services (“Services”) shall be the duration of the Project (“Term”), and Engineer shall complete the Services within the Term. All services performed by the Engineer under and required by this Agreement shall be performed (a) in compliance with this Agreement, and (b) in a manner consistent with the level of care and skill ordinarily exercised by engineers in the same discipline, on similar projects in California with similar complexity and with similar agreements, who are specially qualified to provide the services required by the District; and all such services shall be conducted in conformance to, and compliance with, all applicable Federal, State and local laws, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, and the Americans with Disabilities Act (“ADA”). Engineer shall be responsible for the completeness and accuracy of its plans and specifications.

## **ARTICLE 3 DESCRIPTION OF PROJECT**

3.1 The Project concerning which such engineering services shall be provided is described as **Geotechnical Consulting Services for Cal Fire Planning Project - Oakland Living Schoolyards Planning at 14 District School Sites.**

## **ARTICLE 4 COMPENSATION**

4.1 **Basic Services.** For the Basic Services satisfactorily performed under this Agreement, Engineer shall be compensated according to its hourly rate schedule (Section 4.8, below). Engineer’s total compensation for its Basic Services shall not exceed **NINETY-EIGHT THOUSAND TWO**

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Agreement for Engineering Services – Langan CA, Inc. – Geotechnical Consulting Services for Cal Fire Planning Project - Oakland Living Schoolyards Planning at 14 District School Sites - \$108,020.00

**HUNDRED DOLLARS AND NO/100 (\$98,200.00)**, which is Engineer's estimate of the maximum total cost of its Basic Services on the Project, based on its **August 8, 2024**, fee estimate. However, Engineer will not be compensated for any Basic Services required as a result of Wrongful Acts or Omissions. Engineer acknowledges that the not-to-exceed amount for Basic Services, above, includes contingency compensation in the foreseeable event that more time and costs may be necessary to complete the Basic Services.

4.2 **Additional Services.** Engineer may invoice separately for Additional Services if provided by Engineer under Article 6, and Engineer's total contingency compensation for Additional Services shall not exceed **NINE THOUSAND EIGHT HUNDRED TWENTY DOLLARS AND NO/100 (\$9,820.00)**. However, Engineer will not be compensated for any Additional Services required as a result of Wrongful Acts or Omissions.

#### 4.3 **Reimbursable Expenses**

4.3.1 Reimbursable Expenses are those actual out-of-pocket expenses directly incurred as a result of Engineer's performance of Basic or Additional Services under this Agreement. Engineer may not charge a mark-up on Reimbursable Expenses. Reimbursable Expenses are limited to these expenses related to the Project: Fax, reproduction expense (excluding such expense for reproductions for office use by Engineer and its consultants), postage, messenger, transportation, living expenses in connection with out-of-town travel, long distance communications, expense of renderings, models and mock-ups requested by District, expense of publishing under Section 5.6.5, expense of data processing and photographic production techniques when used in connection with Additional Services, and, if authorized in advance by the District, expense of overtime work requiring higher than regular rates. Reimbursable Expenses do not include indirect costs, such as general overhead (for example, home office overhead [including technology hardware and software] or insurance premiums), for which Engineer must pay out of its compensation for services under Section 4.1, above; nor do they include expenses incurred in connection with Basic or Additional Services that result from Wrongful Acts or Omissions.

4.3.2 Engineer shall be reimbursed by District for its Reimbursable Expenses on the Project. Engineer's total reimbursement for Reimbursable Expenses shall not exceed **ZERO DOLLARS AND NO/100 (\$00.00)**, which is Engineer's estimate of the maximum total cost of Reimbursable Expenses on the Project.

4.4 The total not-to-exceed price under this Agreement based on Sections 4.1, 4.2, and 4.3 above is **ONE HUNDRED EIGHT THOUSAND TWENTY DOLLARS AND NO/100 (\$108,020.00)**. For services satisfactorily performed, payment for Basic Services, Additional Services, and Reimbursable Expenses shall be made on a monthly basis after receipt and approval by the District of the Engineer's properly documented and submitted invoices. To be "properly documented and submitted," an invoice shall be timely, be accompanied by all necessary documentation, list all activities performed, and for each activity performed list the person performing it and the person's rate of compensation. Engineer's invoice shall be submitted within ten (10) days of the end of the monthly billing period. Invoices, receipts and other documentation to establish the validity of all Reimbursable Expenses shall be a prerequisite to District payment of such expenses.

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If District disputes a portion of a properly submitted invoice, it shall notify Engineer of the dispute and, upon Engineer's request, arrange for a meeting to confer about, and potentially resolve, the dispute. Prior to this meeting, Engineer shall provide all documentation requested to support disputed portions of a properly submitted invoice. Regardless of any such dispute about an invoice or payment, Engineer shall continue to provide all services required by this Agreement and law until the end of the Project, even if District and Engineer cannot resolve all such disputes. Payments of undisputed portions of a properly submitted invoice shall be made within 60 days of receipt of the invoice; Engineer otherwise waives all rights and remedies under law related to receipt of payment of undisputed amounts.

4.5 The Engineer's compensation shall be paid notwithstanding a Contractor-caused delay in completion of the project or reduction of final construction cost by reason of penalties, liquidated damages, or other amounts withheld from the Contractor. However, District may withhold from payments to Engineer to the extent that (i) Basic and Additional Services remain to be performed, including but not limited to those required for project closeout and payments to Contractor, and (ii) Wrongful Acts or Omissions caused District to incur damages, losses, liabilities or costs, including but not limited to withholding any amounts for which Engineer is responsible under Section 5.7.20. If the total amount invoiced by Engineer reaches the not-to-exceed Basic Services amount before Engineer's Basic Services under this Agreement are complete, Engineer must complete the Basic Services without submitting additional invoices, or receiving additional payment, for Basic Services.

4.6 Should District cancel the Project under section 12.1 of this Agreement at any time during the performance of this Agreement, Engineer shall, upon notice of such cancellation, immediately cease all work under this Agreement. In such event, Engineer's total fee for all services performed shall be computed as set forth in Section 12.1.

4.7 District has the right to audit Engineer's records and files regarding, or relating to, any of the work performed by Engineer for District on this Project during or after the Project. Engineer shall keep complete records showing all hours worked and all costs and charges applicable to its work under this Agreement. Engineer will be responsible for Engineer's consultants keeping similar records. District shall be given reasonable access to Engineer's Project related records and files for audit purposes within ten (10) days of receipt of District's request. Engineer shall keep and maintain those records and files for ten (10) years.

4.8 Engineer's hourly rate schedule for its services is attached as *Exhibit A*.

4.9 Engineer shall not accept compensation or other benefits from other persons related to the Project, including payments from manufacturers of construction materials that are specified in the design.

**ARTICLE 5**  
**BASIC SERVICES TO BE RENDERED BY ENGINEER**

**5.1 General**

5.1.1 Engineer's Basic Services consist services normally required to perform the tasks, work, and services described in *Exhibit C*. The District shall have the right to add or delete from the Engineer's scope of services as it may determine is necessary for the best interests of the Project and/or the District. Engineer shall expeditiously and diligently perform all of its work and obligations under this Agreement. Engineer may not cease, delay or reduce, or threaten to cease, delay or reduce, its performance based on a payment dispute with District under Section 4.4, above. The Engineer acknowledges that its priority is to complete the Project and the Engineer's services, and that any payment disputes with the District under Section 4.4, if not resolved during the Project, must wait for resolution after the Project.

5.1.2 Engineer is an agent of District and shall reasonably represent the District at all times in relation to the Project.

5.1.3 Engineer shall be fully licensed as required by law at all times when providing services under this Agreement.

**5.2 Consultants**

5.2.1 Engineer's Consultants. The Engineer shall employ or retain at Engineer's own expense, engineers and other consultants necessary to Engineer's performance of this Agreement and licensed to practice in their respective professions in the State of California. Engineers and consultants retained or employed by Engineer for this Project shall be approved by District prior to their commencement of work. The Engineer's consultants shall be employed or retained to provide assistance during all aspects of the Project and will include, in addition to design services: review of schedules, shop drawings, samples, submittals, and requests for information. The Engineer's Consultants shall also conduct periodic inspections of the site to determine conformance with the Project design and specifications and shall participate in the final inspections and development of any "punch list" items. Engineer must disclose to District all such consultants employed or retained, and the compensation paid to those retained.

5.2.2 District's Consultants. Engineer shall confer and cooperate with consultants retained by District as may be requested by District or as reasonably necessary. District may retain a construction manager to assist District in performance of District's duties for the Project.

5.2.3 The Engineer shall procure a certified survey of the site if required for the Basic Services, including grades and lines of streets, alleys, pavements, adjoining properties and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the building site, locations, dimensions and floor elevations of existing buildings, other improvements and trees; and full information as to available utility services and lines, both public and private above and below grade, including inverts and depths.

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All the information on the survey customarily referenced to a project benchmark shall be referenced to a Project benchmark. The cost of any such survey shall be borne by the District, and the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Engineer any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the survey.

5.2.4 Engineer shall procure chemical, mechanical or other tests required for proper design, tests for hazardous materials and borings or test pits necessary for determining subsoil conditions, if required for the Basic Services. The cost of any such tests shall be borne by the District, and the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Engineer any designs, plans, specifications, studies, drawings, estimates or other documents prepared as part of the testing.

### **5.3 Performance of Services.**

5.3.1 The Engineer shall, at all times, have access to the Project wherever it is in preparation and progress. To the extent reasonably possible given Contractor's work in progress, the District shall provide such access so that the Engineer may perform its functions under the Agreement and Contract Documents.

5.3.2 The Engineer must comply with any applicable requirements of the DSA Construction Oversight Process.

5.3.3 The Engineer shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions or programs in connection with the work. The Engineer shall not be responsible for acts or omissions of the Contractor, subcontractors, or their agents or employees or of any other persons performing portions of the Project not employed or retained by Engineer, unless due to Wrongful Acts or Omissions.

5.3.4 The Engineer shall make such regular reports as shall be required by agencies having jurisdiction over the Project. When construction is properly completed, Engineer shall provide such certification as to Hazardous Substances as may be required of engineers for such projects by the OPSC.

5.3.5 Notwithstanding anything else in this Agreement, as a part of its Basic Services the Engineer shall assist the District in evaluating and responding to claims, disputes and other matters in question between the Contractor and the District, including but not limited to claims made against the District as a result of alleged or claimed Wrongful Acts or Omissions, and shall in all instances provide such truthful testimonial assistance as may be required by the District at no cost to the District. Engineer agrees to toll all statutory periods of limitations for District's claims, lawsuits or other proceedings against Engineer which arise out of, or are related to, any claims by Contractors against District until Contractors' claims are fully and finally resolved. This tolling period commences upon a Contractor's initial submission of a notice of claim, change order request or claim. At any time, District may terminate the tolling period effective ten (10) days after written notice to Engineer, and after such termination, District may pursue claims, lawsuits or other

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Agreement for Engineering Services – Langan CA, Inc. – Geotechnical Consulting Services for Cal Fire Planning Project - Oakland Living Schoolyards Planning at 14 District School Sites - \$108,020.00

proceedings against Engineer.

5.3.6 Notwithstanding any other provision of this Agreement, in the event a change order is caused by, or necessitated as a result of, Wrongful Acts or Omissions, or the District otherwise incurs costs or damages as a result of Wrongful Acts or Omissions, the Engineer shall be responsible for the following:

5.3.6.1 In the event of such a change order, Engineer shall be responsible for the difference between (a) what the contractor would have added to its original bid or proposal for the Project if the Wrongful Act or Omission had not occurred (i.e., the “added value” portion of the change order), and (b) what the contractor charges the District in the change order. The amount of added value of any change order work shall be based on the circumstances of the Engineer’s Wrongful Act or Omission and the change order work necessitated by the Wrongful Act or Omission. It is the parties’ intent that the District should pay no more than what the District would have paid if the Wrongful Act or Omission had not occurred.

5.3.6.2 In addition, Engineer shall be responsible for any other costs or damages which the District incurs as a result of Wrongful Acts or Omissions, including but not limited to any delay damages the District pays to, or cannot collect from, Contractor or any third party.

The District may backcharge, and withhold payment from, the Engineer for these costs and damages, and may seek reimbursement for any amount which exceeds any retention of the contract amount at the time of collection. When District so backcharges and withholds, upon Engineer’s request District and Engineer shall meet and confer in good faith in an effort to reach agreement on (a) whether a Wrongful Act or Omission occurred, (b) whether it caused the change order expense, (c) what damages have been incurred by District, and (d) what portion of the damages are attributable to Engineer as described above. If District and Engineer do not reach agreement on all four of these items when meeting and conferring, then District and Engineer shall use mediation in good faith to resolve the dispute. If mediation fails, then either District or Engineer can initiate a court action to resolve the dispute.

## **ARTICLE 6 ADDITIONAL SERVICES TO BE RENDERED BY ENGINEER**

6.1 “Additional Services” shall be provided by Engineer if authorized and directed in writing by District. Compensation for Additional Services shall be paid based on the hourly rates in Section 4.8 and as otherwise set forth in this Agreement, unless otherwise agreed by the Parties in a Board-approved amendment. Any services performed by Engineer without such written authorization and direction shall be presumed to be Basic Services.

6.2 The following is a list of services that are not included in the Basic Services to be provided under this Agreement, and will be performed only in accordance with Article 6.1, above:

6.2.1 providing financial feasibility or other special studies;

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6.2.2 providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase;

6.2.3 providing coordination of Project performed by separate contractors or by the District's own forces;

6.2.4 providing analyses of owning and operating costs, or detailed quantity surveys or inventories of material, equipment and labor;

6.2.5 preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding, other than when resulting from Engineer's or its consultants' alleged Wrongful Acts or Omissions;

6.2.6 providing any other services not otherwise included in the Agreement and not customarily furnished in accordance with generally accepted engineering practice.

## **ARTICLE 7 RESPONSIBILITIES OF DISTRICT**

It shall be the duty of District to:

7.1 pay all fees required by any reviewing or licensing agency;

7.2 designate a representative authorized to act as a liaison between the Engineer and the District in the administration of this Agreement and the Contract Documents;

7.3 review all documents submitted by the Engineer and advise the Engineer of decisions thereon within a reasonable time after submission;

7.4 furnish existing soil investigation or geological hazard reports, which the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by Engineer;

7.5 furnish the services of consultants not routinely provided by the Engineer when such services are reasonably required by the scope of the Project and are requested by the Engineer;

7.6 provide asbestos review and abatement, identifying materials which may qualify for same;

7.7 furnish available as-built drawings for buildings and utilities systems related to the Project, which the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by the Engineer; and the District will also provide information regarding programmatic needs and specific equipment selection data;

7.8 furnish structural, mechanical, chemical and other laboratory tests, inspections and reports

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as required by law or the Contract Documents, which the District shall own and, upon termination of this Agreement or completion of the Project, shall have returned to it by the Engineer; and

## **ARTICLE 8 PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE**

8.1 Prior to the commencement of services under this Agreement, the Engineer shall furnish to the District a certificate of insurance, Additional Insured Endorsement and Declarations Page for the period covered by this Agreement, for public liability and property damage with an insurance carrier satisfactory to the District, under forms satisfactory to the District, to protect the Engineer and District against loss from liability imposed for damages (1) on account of bodily or personal injuries, including death, disease and sickness, accidentally suffered or alleged to have been suffered by any person or persons that may be caused directly or indirectly by the performance of this Agreement, and (2) on account of injury to or destruction of property, including the resultant loss of use of the Project or other District facilities or equipment, resulting from acts of commission or omission by the Engineer, or otherwise resulting directly or indirectly from the Engineer's operations in the performance of this Agreement. The District shall be named as an additional insured on all such policies.

8.2 The following insurance shall be maintained by the Engineer in full force and effect during the entire period of performance of this Agreement, including any extensions, and shall be written, to the extent reasonably available, on an "occurrence" basis: Commercial general liability insurance shall be in amounts not less than Two Million Dollars (\$2,000,000.00) general aggregate, One Million Dollars (\$1,000,000.00) personal and advertising injury aggregate, with a per occurrence limit of One Million Dollars (\$1,000,000.00). Automobile liability insurance covering motor vehicles shall be in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit. If liability insurance is not reasonably available on an occurrence basis, Engineer shall provide liability insurance on a claims-made basis.

8.3 Said insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the Declarations Page and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability. Said insurance shall also include a waiver of any subrogation rights as against the District.

8.4 Should any of the required insurance be provided under a claims-made form, Engineer shall maintain such coverage continuously throughout the term of this Agreement, and without lapse, for a period of at least ten (10) years beyond the Agreement expiration or the filing of a Notice of Completion (whichever is later), 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. Nothing herein shall in any way limit or diminish Engineer's obligations to the District under any provision, including any duty to indemnify and defend the District.

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8.5 The Engineer's insurance policies shall contain a provision for thirty (30) days written notice to the District of cancellation or reduction of coverage. The Engineer shall name, on any policy of insurance required, the District as an additional insured. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the insurer's liability shall not be reduced by the existence of such other insurance. Engineer shall not commence work under this Agreement until all required insurance certificates, declarations pages and additional insured endorsements have been obtained and delivered in duplicate to the District for approval subject to the following requirements. Thereafter Engineer shall produce a certified copy of any insurance policy required under this Article upon written request of the District.

8.6 At the time of making application for any extension of time, Engineer shall submit evidence that all required insurance will be in effect during the requested additional period of time.

8.7 If the Engineer fails to maintain such insurance, the District may, but shall not be required to, take out such insurance to cover any damages of the above-mentioned classes for which the District might be held liable on account of the Engineer's failure to pay such damages, and deduct and retain the amount of the premiums from any sums due the Engineer under this Agreement.

8.8 Nothing contained in this Agreement shall be construed as limiting, in any way, the extent to which the Engineer may be held responsible for the payment of damages resulting from the Engineer's operations.

8.9 Each of Engineer's consultants shall comply with this Article, and Engineer shall include such provisions in its contracts with them.

8.10 Insurance companies providing the above policies shall be legally authorized, licensed and admitted through the California Department of Insurance to engage in the business of furnishing insurance in the State of California. All such insurance companies shall have no lower than an "A-, VIII" in Best's Rating Guide and shall be satisfactory to the District.

8.11 Any failure to maintain any item of the required insurance may, at District's sole option, be sufficient cause for termination of this Agreement.

## **ARTICLE 9 WORKER'S COMPENSATION INSURANCE**

9.1 Prior to the commencement of services under this Agreement, the Engineer shall furnish to the District satisfactory proof that the Engineer and all engineers, experts, consultants and subcontractors the Engineer intends to employ have taken out, for the period covered by this Agreement, workers' compensation insurance with an insurance carrier satisfactory to the District for all persons whom they may employ in carrying out the work contemplated under this Agreement in accordance with the Workers' Compensation Laws of the State of California. All

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such insurance shall include a waiver of any subrogation rights as against the District. If the Engineer employs any engineer, expert, consultant or subcontractor which it did not intend to employ prior to commencement of services, it must furnish such proof of workers' compensation insurance to the District immediately upon employment. Such insurance shall be maintained in full force and effect during the period covered by this Agreement including any extensions of time. If the Engineer is self-insured, the Engineer shall furnish a Certificate of Permission to Self-Insure and a Certificate of Self-Insurance satisfactory to the District.

9.2 Prior to the commencement of services under this Agreement, the Engineer shall furnish to the District satisfactory proof that the Engineer and all engineers, experts, consultants and subcontractors the Engineer intends to employ have taken out employer's liability insurance with an insurance carrier satisfactory to the District. During the course of Engineer's services, if Engineer ever intends to employ additional or different engineers, experts, consultants or subcontractors, before so employing them Engineer shall furnish such satisfactory proof of insurance to the District. Such insurance shall be maintained in full force and effect during the period covered by this Agreement including any extensions of time. If the Engineer is self-insured, the Engineer shall furnish a Certificate of Permission to Self-Insure and a Certificate of Self-Insurance satisfactory to the District.

## **ARTICLE 10 ERRORS AND OMISSIONS INSURANCE**

10.1 Prior to the commencement of services under this Agreement, the Engineer shall furnish to the District satisfactory proof that the Engineer has, for the period covered by this Agreement, errors and omissions insurance on an occurrence basis, with limits of at least One Million Dollars (\$1,000,000.00) and with a deductible in an amount not to exceed the sum of Ten Thousand Dollars (\$10,000). If errors and omissions insurance is not reasonably available on an occurrence basis, Engineer shall provide errors and omissions insurance on a claims-made basis.

10.2 Each of Engineer's professional sub-consultants (including consultants of Engineer's) shall comply with this Article 10, and Engineer shall include such provisions in its contracts with them.

10.3 Said insurance shall provide that the coverage afforded thereby shall be primary coverage (and non-contributory to any other existing valid and collectable insurance) to the full limit of liability stated in the Declarations Page and such insurance shall apply separately to each insured against whom claim is made or suit is brought, but the inclusion of more than one (1) insured shall not operate to increase the insurer's limits of liability.

10.4 Should any of the required insurance be provided under a claims-made form, Engineer shall maintain coverage continuously throughout the term of this Agreement, and without lapse, for a period of at least ten (10) years beyond the Agreement expiration or the filing of a Notice of Completion (whichever is later), 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 policy. Nothing herein shall in any way limit or diminish Engineer's obligations to the District under any provision, including any duty to indemnify and defend the District.

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10.5 Engineer shall not commence work under this Agreement until all required insurance certificates, declarations pages and additional insured endorsements have been obtained and delivered in duplicate to the District for approval. Thereafter Engineer shall produce a certified copy of any insurance policy required under this Article upon written request of the District.

10.6 At the time of making application for any extension of time, Engineer shall submit evidence that all required insurance policies will be in effect during the requested additional period of time.

10.7 If the Engineer fails to maintain such insurance, the District may, but shall not be required to, take out such insurance, and may deduct and retain the amount of the premiums from any sums due the Engineer under this Agreement.

10.8 Nothing contained in this Agreement shall be construed as limiting, in any way, the extent to which the Engineer may be held responsible for the payment of damages resulting from the Engineer's operations.

10.9 Each of Engineer's consultants shall comply with this Article, and Engineer shall include such provisions in its contracts with them.

10.10 Insurance companies providing the above policies shall be legally authorized, licensed and admitted through the California Department of Insurance to engage in the business of furnishing insurance in the State of California. All such insurance companies shall have no lower than an "A-, VIII" in Best's Rating Guide and shall be satisfactory to the District.

10.11 Any failure to maintain any item of the required insurance may, at District's sole option, be sufficient cause for termination of this Agreement.

## **ARTICLE 11 COMPLIANCE WITH LAWS**

11.1 Engineer shall be familiar with, and Engineer and Engineer's design shall comply with, all State and Federal laws and regulations applicable to the Project or lawfully imposed upon the Project by agencies having jurisdiction over the Project, including but not limited to statutes, decisions, regulations, building or other codes, ordinances, charters, prevailing wage law, and the Americans with Disabilities Act ("ADA").

## **ARTICLE 12 TERMINATION OF AGREEMENT**

12.1 **Termination by District** – This Agreement may be terminated, or the Project may be canceled, by the District for the District's convenience and without cause at any time immediately upon written notice to the Engineer. In such event, the Engineer shall be compensated for (a) all Basic or Additional Services completed, and Reimbursable Expenses incurred, under this Agree-

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ment through the date of termination, (b) such Basic or Additional Services performed, and Reimbursable Expenses incurred, after termination which are authorized by the District in writing, and (c) any costs incurred by reason of such termination; but less any amounts the District is entitled to withhold under law or this Agreement. Upon the District's written request and authorization, Engineer shall perform any and all Basic and Additional Services necessary to complete the work in progress as of the date of termination.

For any material breach of contract by the Engineer, the District may also terminate the Agreement for cause by delivering written Notice of Intent to Terminate to the Engineer. Such Notice shall include the following: (1) A description of such material breach, and (2) a date not less than fourteen days (14) after delivery of the notice by which the Engineer must cure such breach. In response to such Notice, if the Engineer fails to cure, and fails to reasonably commence to cure, the breach(es) by the deadline set by the Notice, then the District may terminate the Agreement through written notice delivered to the Engineer, which shall be effective upon such delivery. In such event, the Engineer shall be compensated for all services completed under this Agreement through the date of termination, together with compensation for such services performed after termination which are authorized by the District in writing, but less any amounts the District is entitled to withhold under law or this Agreement. Upon the District's written request and authorization, Engineer shall perform any and all services necessary to complete the work in progress as of the date of the termination.

**12.2 Termination by Engineer** – For any material breach of contract by the District other than one related to a payment or invoice dispute as described in Section 4.4 of this Agreement, the Engineer may terminate the Agreement by delivering written Notice of Intent to Terminate to the District. Such Notice shall include the following: (1) A description of such material breach, (2) a date not less than fourteen (14) days after delivery of the notice by which the District must cure such breach or reasonably commence to cure such breach, (3) the status of work completed as of the date of the Notice of Intent to Terminate, and (4) a description and cost estimate of the effort necessary to complete the work in progress. In response to such Notice, if the District fails to cure, and fails to reasonably commence to cure, the breach by the deadline set by the Notice, then Engineer may terminate the Agreement by written notice delivered to the District within ten (10) days of the cure deadline, which shall be effective upon such delivery.

In the event of such termination by Engineer, Engineer shall be compensated for all Basic and Additional Services completed, and Reimbursable Expenses incurred, under this Agreement through the date of termination, together with compensation for such Basic and Additional Services performed, and Reimbursable Expenses incurred, after termination which are authorized by the District in writing. Upon the District's written request and authorization, Engineer shall perform any and all Basic and Additional Services necessary to complete the work in progress as of the date of termination.

### **12.3 Miscellaneous Termination Provisions**

12.3.1 Following the termination of this Agreement for any reason whatsoever, the District shall have the right to utilize any designs, plans, specifications, studies, drawings, estimates or

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other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared under this Agreement by the Engineer, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316. Engineer shall promptly make any such documents or materials available to the District upon request without additional compensation.

12.3.2 In the event of the termination of this Agreement for any reason whatsoever, all designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Engineer or any of its agents under this Agreement shall immediately upon request by the District be delivered to the District. Engineer may not refuse to provide such writings or materials for any reason whatsoever, including but not limited to a possessory interest lien for any claim the Engineer may have against the District or a claim by the Engineer to an ownership interest in the intellectual property embodied in the documents or materials.

**ARTICLE 13  
ENGINEER AN INDEPENDENT CONTRACTOR**

13.1 It is specifically agreed that in the making and performance of this Agreement, the Engineer is an independent contractor and is not and shall not be construed to be an officer or employee of the District.

**ARTICLE 14  
STANDARDIZED MANUFACTURED ITEMS**

[Not Used.]

**ARTICLE 15  
OWNERSHIP OF DOCUMENTS**

15.1 All designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Engineer under this Agreement shall be and shall remain the property of the District for all purposes, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to any other project, provided that any invalidity of such ownership in relation to any other project shall not affect the validity of such

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ownership in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316.

15.2 The Engineer will provide the District with a complete set of reproducible designs, plans, specifications, studies, drawings, estimates and other documents or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Engineer under this Agreement, and will retain, on the District's behalf, the original documents or reproducible copies of all such original documents, however stored, in the Engineer's files for a period of no less than fifteen (15) years. Engineer shall promptly make available to District any original documents it has retained under this Agreement upon request by the District.

## **ARTICLE 16 LICENSING OF INTELLECTUAL PROPERTY**

16.1 This Agreement creates a non-exclusive and perpetual license for the District to copy, use, modify, reuse or sublicense any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates and other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Engineer under this Agreement, not only as they relate or may relate to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) but as they relate or may relate to other projects, provided that any invalidity of such license in relation to such other projects shall not affect the validity of such license in relation to this Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to this Project) under Education Code Section 17316. The Engineer shall require any and all subcontractors and consultants to agree in writing that the District is granted a similar non-exclusive and perpetual license for the work of such subcontractors or consultants performed under this Agreement.

16.2 The compensation for this Project includes compensation not only for any use in connection with this Project and use or re-use for repair, maintenance, renovation, modernization or other alterations or revisions to this Project, but also for any re-use by the District in relation to other projects. The only other term or condition of such re-use shall be that if the District reuses the plans prepared by the Engineer and retains a certified engineer for the preparation of those plans for the re-use, the District shall indemnify and hold harmless the Engineer and its consultants, agents, and employees from and against any claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from, in whole or in part, the re-use to the extent required by Education Code section 17316, subdivision (c).

16.3 Engineer represents and warrants that Engineer has the legal right to license any and all copyrights, designs and other intellectual property embodied in plans, specifications, studies, drawings, estimates or other documents that Engineer or its consultants prepares or causes to be prepared under this Agreement. **Engineer shall indemnify, defend and hold the District harmless**

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**under Article 18.1 of this Agreement for any breach of Article 16 due to Engineer's negligence, recklessness or willful misconduct.** The Engineer makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates or other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings, that were prepared by design professionals other than Engineer and provided to Engineer by the District.

## **ARTICLE 17 ACCOUNTING RECORDS OF ENGINEER**

17.1 Engineer's records of accounts regarding the Project shall be kept in accordance with generally accepted accounting principles and shall be available to the District or its authorized representative at mutually convenient times.

## **ARTICLE 18 INDEMNITY**

**18.1 Engineer Indemnification. To the fullest extent permitted by law, including California Civil Code section 2782.8, the Engineer shall defend, indemnify, and hold harmless the District, the governing Board of the District, each member of the Board, and their officers, agents and employees ("District Indemnitees") against claims to the extent that they arise out of, pertain to, or relate to negligence, recklessness or willful misconduct of the Engineer, the Engineer's officers, employees, or consultants in performing or failing to perform any work, services, or functions provided for, referred to, or in any way connected with any work, services, or functions to be performed under this Agreement.**

**The Engineer's defense obligation shall consist of payment of 50% of the attorneys' fees, experts' fees, and all other litigation costs incurred in the District's defense ("Defense Costs"), with such payment occurring within thirty (30) days of Engineer's receipt of each invoice for such Defense Costs. After conclusion of the action against the District Indemnitees (including all appeals), the District shall reimburse the Engineer for any amount of Defense Costs paid by Engineer in excess of the proportional fault of the Engineer to the extent specified in a settlement agreement, arbitration award, or verdict; or Engineer shall reimburse the District for any amount of Defense Costs paid by District in excess of the proportional fault of the parties other than the Engineer to the extent specified in a settlement agreement, arbitration award, or verdict.**

**For purposes of this Article 18.1 only, "claims" means all claims, demands, actions and suits brought by third parties against the District Indemnitees for any and all losses, liabilities, costs, expenses, damages and obligations**

**If one or more defendants is/are unable to pay its/their share of Defense Costs due to bankruptcy or dissolution of the business, the Engineer shall meet and confer with other parties regarding unpaid Defense Costs.**

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**This indemnification shall apply to all liability, as provided for above, regardless of whether any insurance policies are applicable, and insurance policy limits do not act as a limitation upon the amount of the indemnification to be provided by the Engineer.**

18.2 District Indemnification for Use of Third Party Materials. The District shall defend, indemnify, and hold harmless the Engineer and its employees against any and all copyright infringement claims by any design professional formerly retained by the District arising out of Engineer's completion, use or re-use of that former design professional's designs or contract documents in performing this Agreement. Engineer shall be entitled to such indemnification only if each of the following conditions are met: (a) Engineer actually re-draws or completes such other designs or contract documents; (b) Engineer complies with the provisions of Article 5.8 regarding use of materials prepared by other design professionals; (c) District has supplied Engineer with the previously prepared documents or materials; and (d) District expressly requests that the Engineer utilize the designs or contract documents in question. By providing this or any other indemnification in this Agreement, District does not waive any immunities.

## **ARTICLE 19 TIME SCHEDULE**

19.1 **Time for Completion.** Time is of the essence for performance of the Services under this Agreement. The Engineer shall timely complete its Services as expeditiously as possible and according to the schedule attached as *Exhibit B* to this Agreement.

19.2 **Delays.** The District recognizes that circumstances may occur beyond the control of either the District or the Engineer and extensions for such delays may be made to the schedule if approved by the District. Any time during which the Engineer is delayed in the Engineer's work by acts of District or its employees or those in a direct contractual relationship with District or by acts of nature or other occurrences which were not or could not have been reasonably foreseen and provided for, and which are not due to any Wrongful Acts or Omissions, shall be added to the time for completion of any obligations of the Engineer. District shall not be liable for damages to the Engineer on account of any such delay.

## **ARTICLE 20 MISCELLANEOUS PROVISIONS**

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

20.2 The Engineer shall not assign or transfer any or all of its rights, burdens, duties or obligations under this Agreement without the prior written consent of the District.

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20.3 All notices, certificates, or other communications hereunder shall be deemed given when personally delivered or mailed by certified mail, postage prepaid, to the parties at the addresses set forth below:

**District:** Oakland Unified School District  
955 High Street  
Oakland, California 94601  
Attention: Preston Thomas  
Chief Systems & Services Officer

**Engineer:** Langan CA, Inc.  
1814 Franklin Street, Suite 505  
Oakland, CA 94612  
Attention: Elena Ayers

20.4 This Agreement shall inure to the benefit of and shall be binding upon the Engineer and the District and their respective successors and assigns.

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

20.6 The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties.

20.7 Nothing contained in this Agreement shall create a contractual relationship with or cause of action in favor of a third party against either the District or the Engineer.

20.8 This Agreement constitutes the entire agreement between the parties, and supersedes any prior agreement or understanding. There are no understandings, agreements, representations or warranties, expressed or implied, not specified in this Agreement. The Engineer, by the execution of this Agreement, acknowledges that the Engineer has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

20.9 The Engineer shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Engineer's professional materials. The Engineer's materials shall not include the District's confidential or proprietary information if the District has previously advised the Engineer in writing of the specific information considered by the District to be confidential or proprietary.

20.10 Prior to executing this Agreement, the Engineer shall submit a certification if required by Public Contract Code section 3006(b) for roofing projects.

20.11 If a party to this Agreement commences a legal action against the other party to enforce a

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provision of this Agreement or seek damages related to the services provided under this Agreement, the prevailing party in the legal action will be entitled to recover all of its litigation expense, costs and fees from the other party, including reasonable attorneys' and experts' fees.

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

20.13 Engineer shall at all times comply with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 for its employees, including the Engineer as a sole proprietor (if applicable). Before performing any Services, Engineer shall execute and return the District's Fingerprinting Notice and Acknowledgement form and the required certification (see *Exhibit D*).

Engineer further agrees and acknowledges that if at any time during the Term of this Agreement Engineer learns or becomes aware of information which differs in any way from the information learned as a result of compliance with the above requirements, or Engineer adds personnel who will provide Services under this Agreement, Engineer shall immediately notify District and prohibit any new personnel from interacting with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any interaction is permissible.

20.14 Prior to performing any Services, Engineer shall prepare, execute, and submit all forms that may be required by law for this Agreement, including but not limited to a roof project certification (Public Contract Code §3006), disabled veteran business enterprises ("DVBE") certification (Education Code §17076.11), and an Iran Contract Act certification (Public Contract Code §2204). If a form is necessary, Engineer shall use the District's versions of these forms, which the District shall make available upon request.

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

\* \* \* \* \*

**OAKLAND UNIFIED SCHOOL DISTRICT**

*Ben Davis* \_\_\_\_\_ 9/26/2024

Benjamin Davis, President,  
Board of Education \_\_\_\_\_ Date

*Kyla Johnson-Trammell* \_\_\_\_\_ 9/26/2024

Kyla Johnson-Trammell, Superintendent  
& Secretary Board of Education \_\_\_\_\_ Date

*Preston Thomas* \_\_\_\_\_ Aug 30, 2024

Preston Thomas (Aug 30, 2024 12:01 PDT)

Preston Thomas, Chief Systems & Services  
Officer Management \_\_\_\_\_ Date

*James Traber* \_\_\_\_\_ 8/29/24

James Traber, Esq. \_\_\_\_\_ Date  
Legal Counsel, - Facilities Planning  
and Management

**LANGAN CA, INC.**

*Lori Simpson* \_\_\_\_\_  
Signature \_\_\_\_\_ Date  
Digitally signed by Lori Simpson  
DN: CN=Lori Simpson,  
OU=Oakland, OU=Users,  
OU=Offices, DC=langan,  
DC=com  
Date: 2024.08.27 14:04:44-07'00'

Print Name, Title  
Executive Vice President

{SR801546}

Agreement for Engineering Services – Langan CA, Inc. – Geotechnical Consulting Services for Cal Fire Planning Project - Oakland  
Living Schoolyards Planning at 14 District School Sites - \$108,020.00

*Exhibit A*

**RATE SCHEDULE**

# 05 – Professional Fees

## SCHEDULE OF FEES AND CONDITIONS

Effective 1 January 2024

BILLING CATEGORY	HOURLY BILLING RATE
Technician - Level I (Engineering Technicians)	130
Technician - Level II (Technicians/Word Processing/Technical Typists/Financial Analysts)	130
Technician - Level III (Engineering Technicians/Inspectors, CADD and GIS)	130
Staff Personnel - Level I	140
Staff Personnel - Level II	140
Staff Personnel - Level III	140
Senior Staff Personnel - Level I	150
Senior Staff Personnel - Level II	150
Senior Staff Personnel - Level III	150
Project Personnel - Level I	175
Project Personnel - Level II	175
Project Personnel - Level III	175
Senior Project Personnel - Level I	205
Senior Project Personnel - Level II	205
Associate	240
Senior Associate	240
Associate Principal	265
Principal	265
Senior & Managing Principal	265

- Senior Consultants are billed at \$265/Hour
- At any level, personnel may be engineers, geologists, hydrogeologists, landscape architects, regulatory specialists, scientists, planners, toxicologists, wetland specialists, etc.
- Litigation related services, including expert testimony, court appearances, depositions, etc. are billed at 1.5 times the above rates. The services will be billed at a minimum of 4 hours for up to one half day and a minimum of 8 hours for services over 4 hours.
- Langan reserves the right to make adjustments for individuals within these classifications as may be necessary by reason of promotion, and to increase our hourly billing rates due to annual salary increases.

### CONSULTANT EQUIPMENT RENTAL RATES

Automobiles, Vans, and Small Trucks (travel time plus time on site) \$26.25 per hour/\$210 per day Nuclear Moisture-Density Gauge \$16.20 per hour

### COMPUTER SERVICES

Our in-house computer usage is billed on a time used basis at the following rates:

	Rate per Hour
CADD, GIS and Terrain Modeling Programs	\$30
Engineering Programs/Digitizing	\$25

### SURVEYING SERVICES

See survey-specific Schedule of Fees and Conditions

### SUBCONTRACTOR/SUBCONSULTANT COSTS

All subcontracted services including lab tests and analyses, borings, test pits, report reproduction, outside computer services, surveying, etc., will be billed at cost plus 15%.

### REIMBURSABLE EXPENSES

#### PROFESSIONAL LIABILITY AND RELATED INSURANCE

A surcharge of 4% will be added to the invoice total to cover the cost of Professional Liability Insurance and related costs of insurance.

### IN-HOUSE LABORATORY TESTS

Laboratory testing will be billed at unit rates depending on the type of test. A schedule of unit prices for standard laboratory tests will be furnished upon request. Engineering soil and/or rock samples will be stored for 90 days without charge and will be discarded, or returned to the client, unless otherwise requested by the client. Sample storage past 90 days will be billed at \$10.00 per box per month.

### HEALTH AND SAFETY AND OTHER SPECIAL FIELD EQUIPMENT

Special equipment such as nuclear densitometers, seismographs, load test equipment, surveying equipment, disposable protective equipment, and respirator cartridges will be billed on a daily rate. PID's and similar safety and/or monitoring equipment will be billed on daily, weekly or monthly rates. A rate schedule will be provided upon request.

### OTHER EXPENSES

All expenses incurred for special supplies, plan reproduction, long distance communications, travel and subsistence and other project related expenses will be billed at cost plus 10%. Car mileage is billed at current IRS rates.

### PREVAILING WAGE

If applicable, prevailing wage premium will be added to the rates stated above.

### TERMS

Invoices are payable within 30 days. Service charge of 1.5% /mo. will be imposed on all bills not paid w/in 30 days. If a bill remains unpaid after 60 days, we will discontinue our work until payments are received to bring your account current. We reserve the right to terminate an account without notice for non-payment.

# 05 – Professional Fees



Technical Excellence  
 Practical Experience  
 Client Responsiveness

## FEE ESTIMATE

We will perform our services in accordance with our 2024 Schedule of Fees on a time and expense basis. We have separated our fees into the sites where coring through pavement will be needed at the hand auger locations, and the sites where coring will not be required because there are unpaved areas where the borings can be performed. A breakdown of our fees follows:

<b>Fee per Site without Coring (12 Sites)*</b>	<b>Estimated Fee</b>
Field coordination (includes preparation of safety plan, site walk, marking borings, USA, and private utility locator) .....	\$ 1,900
Field exploration Two 30-inch-deep hand auger borings (assumes one half-day of Langan personnel, backfilling borings, and assumes weekend work and prevailing wage rates) .....	1,300
Laboratory testing, including one R-value test.....	1,100
Geotechnical engineering analysis and letter preparation .....	2,600
<b>Total Per Site without Coring .....</b>	<b>\$6,900</b>

<b>Fee per Site with Coring (2 Sites)*</b>	<b>Estimated Fee</b>
Field coordination (includes preparation of safety plan, site walk, marking borings, USA, and private utility locator) .....	\$ 2,700
Field exploration 2, 30-inch-deep hand auger borings, (assumes one half-day of Langan personnel, backfilling borings, and assumes weekend work and prevailing wage rates) .....	1,300
Laboratory testing, including one R-value test.....	1,100
Geotechnical engineering analysis and letter preparation .....	2,600
<b>Total Per Site with Coring .....</b>	<b>7,700</b>

**TOTAL FOR ALL 14 SITES..... \$98,200**

**10% Contingency ..... \$9,820**

**Total, Not to Exceed Fee ..... \$108,020**

**\*The two sites where coring will be needed are Bella Vista Academy and Frick Middle School. We anticipate coring will not be required at the remaining 12 sites based on observed conditions.**

*Exhibit B*

**PROJECT SCHEDULE**



## 03 – Scope of Work

laboratory for testing to determine resistance value (R-value). In addition, soil samples from some borings will be submitted to the laboratory to test for percent fines, gradation, plasticity (Atterberg limits), moisture content, and compaction characteristics, as appropriate. The primary purpose of the hand augers and laboratory testing will be to assess near-surface soil conditions for grading, design of new pavement sections, utility trench backfill, and subgrade preparation recommendations.

Upon completion of the hand augers will be backfilled with cement grout and any cored pavement surfaces will be patched with asphalt cold patch or concrete, as appropriate. We anticipate most soil cuttings will be collected in driven or bulk samples for laboratory testing. However, a small amount of excess soil cuttings may be generated, which will be placed back in the boreholes.

### Engineering Evaluation and Report Preparation

The results of the subsurface exploration will be used to interpret subgrade soil conditions at the sites and evaluate asphalt pavement sections. We will perform engineering analyses and develop geotechnical conclusions and recommendations for the following:

- subgrade soil conditions
- flexible asphalt and rigid pavement design
- site grading and soil subgrade preparation for new pavement and hardscape
- fill placement and utility trench backfill
- bioswales
- construction considerations.

We will present our conclusions and recommendations in letter reports, one for each site, which will include descriptions of the soil encountered in the hand augers and the results of the laboratory testing. The letters will be signed by a California registered geotechnical engineer. During our exploration and engineering analyses, we can provide information as it becomes available, upon request.

### **SCHEDULE**

Our services can begin immediately upon receiving your written authorization. We estimate the process of coordinating and preparing for the field investigations will take one week. We request access to the project sites to layout the borings approximately one week before our field investigation begins to comply with USA requirements for marking out borings. Our geotechnical field investigations at each site will take approximately half day to complete. Laboratory testing will take about 1 to 3 weeks to complete. We estimate that the engineering analyses and the geotechnical letter reports will be completed by 31 October 2024, in accordance with the project schedule outlined in the RFP/Q documents.

*Exhibit C*

**SCOPE OF SERVICES**

# 03 – Scope of Work

## LANGAN

Technical Excellence  
Practical Experience  
Client Responsiveness

### SCOPE OF SERVICES

In accordance with the RFP document, our scope of services includes performing two shallow hand auger borings to a depth of about 30 inches below the ground surface (bgs) at each of the 14 school sites. The purpose of the hand augers will be to evaluate the soil type and stiffness/density of the near surface soil and collect soil samples for laboratory testing to assist in the planning of schoolyard improvements at the sites.

Per the RFP document, the 14 sites are Horace Mann Elementary School, Madison Park Academy Primary School, Brookfield Elementary School, Fruitvale Elementary School, Piedmont Avenue Elementary School, East Oakland Pride Elementary School, Lockwood STEAM Academy, West Oakland Middle School, Frick Middle School, Coliseum College Prep Academy, Elmhurst Middle School, Dewey Academy, LIFE Academy/United for Success campus, and Bella Vista Elementary School. We understand the schoolyard improvements may include outdoor classrooms, picnic areas, planting trees and vegetated landscapes, pollinator gardens, natural play areas and nature-based play structures, raised beds for edible food gardens, and stormwater management improvements.

The objective of our services will be to evaluate the subsurface conditions in the upper 30 inches at the site, perform laboratory testing, including resistance value (R-value) testing on samples of the soil for design of pavement sections, and develop design-level conclusions and recommendations regarding the geotechnical aspects of the proposed improvements. The proposed services are further described in the remainder of this section.

#### Preliminary Field Activities

As required in the RFQ/P document, we will prepare a project-specific safety plan for our subsurface exploration. The plan will include measures to protect workers and the public, including school staff and children. The plan will include analysis of any special site conditions or hazards as well as methods to mitigate risks to an acceptable level.

At least 72 hours prior to performing the hand auger borings, we will notify Underground Service Alert (USA), as required by law. Therefore, our team will require access to the sites at least four working days prior to the start of drilling. As required in the RFQ/P document, we will also retain a private utility locator to assist in locating any potential underground utilities in conflict with the hand auger locations. A drilling permit from the Alameda County Public Works Agency (ACPWA) will not be required because the hand augers will be shallower than 5 feet and groundwater is not anticipated to be encountered in the borings.

#### Field Exploration and Laboratory Testing

Two hand augers will be performed at each of the 14 sites by our engineer, who will log the soil encountered and obtain samples at appropriate intervals for laboratory testing. The hand augers will be performed across the site in unpaved areas, if available. Where pavement or flatwork is present, the hand augers will be performed through concrete cores. Soil field classifications will be checked in the office, where samples will be selected for laboratory testing. As specified in the RFQ/P document, since design recommendations for flexible and rigid pavement sections are needed, we have budgeted to submit a soil sample from each of the 14 sites to a geotechnical

## 03 – Scope of Work

laboratory for testing to determine resistance value (R-value). In addition, soil samples from some borings will be submitted to the laboratory to test for percent fines, gradation, plasticity (Atterberg limits), moisture content, and compaction characteristics, as appropriate. The primary purpose of the hand augers and laboratory testing will be to assess near-surface soil conditions for grading, design of new pavement sections, utility trench backfill, and subgrade preparation recommendations.

Upon completion of the hand augers will be backfilled with cement grout and any cored pavement surfaces will be patched with asphalt cold patch or concrete, as appropriate. We anticipate most soil cuttings will be collected in driven or bulk samples for laboratory testing. However, a small amount of excess soil cuttings may be generated, which will be placed back in the boreholes.

### Engineering Evaluation and Report Preparation

The results of the subsurface exploration will be used to interpret subgrade soil conditions at the sites and evaluate asphalt pavement sections. We will perform engineering analyses and develop geotechnical conclusions and recommendations for the following:

- subgrade soil conditions
- flexible asphalt and rigid pavement design
- site grading and soil subgrade preparation for new pavement and hardscape
- fill placement and utility trench backfill
- bioswales
- construction considerations.

We will present our conclusions and recommendations in letter reports, one for each site, which will include descriptions of the soil encountered in the hand augers and the results of the laboratory testing. The letters will be signed by a California registered geotechnical engineer. During our exploration and engineering analyses, we can provide information as it becomes available, upon request.

### **SCHEDULE**

Our services can begin immediately upon receiving your written authorization. We estimate the process of coordinating and preparing for the field investigations will take one week. We request access to the project sites to layout the borings approximately one week before our field investigation begins to comply with USA requirements for marking out borings. Our geotechnical field investigations at each site will take approximately half day to complete. Laboratory testing will take about 1 to 3 weeks to complete. We estimate that the engineering analyses and the geotechnical letter reports will be completed by 31 October 2024, in accordance with the project schedule outlined in the RFP/Q documents.

*Exhibit D*

**FINGERPRINTING NOTICE AND ACKNOWLEDGEMENT FORM**

**FINGERPRINTING NOTICE AND ACKNOWLEDGEMENT**  
**FOR ALL CONTRACTS EXCEPT WHEN CONSTRUCTION EXCEPTION IS MET**  
(Education Code Section 45125.1)

Other than business entities performing construction, reconstruction, rehabilitation, or repair who have complied with Education Code section 45125.2, business entities entering into contracts with the District must comply with Education Code sections 45125.1. Such entities are responsible for ensuring full compliance with the law and should therefore review all applicable statutes and regulations. The following information is provided simply to assist such entities with compliance with the law:

1. You (as a business entity) shall ensure that each of your employees who interacts with pupils outside of the immediate supervision and control of the pupil's parent or guardian or a school employee has a valid criminal records summary as described in Education Code section 44237. (Education Code §45125.1(a).) You shall do the same for any other employees as directed by the District. (Education Code §45125.1(c).) When you perform the criminal background check, you shall immediately provide any subsequent arrest and conviction information it receives to the District pursuant to the subsequent arrest service. (Education Code §45125.1(a).)
2. You shall not permit an employee to interact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Education Code section 45122.1. (Education Code §45125.1(e).) See the lists of violent and serious felonies in *Attachment A* to this Notice.
3. Prior to performing any work or services under your contract with the District, and prior to being present on District property or being within the vicinity of District pupils, you shall certify in writing to the District under the penalty of perjury that neither the employer nor any of its employees who are required to submit fingerprints, and who may interact with pupils, have been convicted of a felony as defined in Education Code section 45122.1, and that you are in full compliance with Education Code section 45125.1. (Education Code §45125.1(f).) For this certification, you shall use the form in *Attachment B* to this Notice.
4. If you are providing the above services in an emergency or exceptional situation, you are not required to comply with Education Code section 45125.1, above. An "emergency or exceptional" situation is one in which pupil health or safety is endangered or when repairs are needed to make a facility safe and habitable. The District shall determine whether an emergency or exceptional situation exists. (Education Code §45125.1(b).)
5. If you are an individual operating as a sole proprietor of a business entity, you are considered an employee of that entity for purposes of Education Code section 45125.1, and the District shall prepare and submit your fingerprints to the Department of Justice as described in Education Code section 45125.1(a).

(Education Code §45125.1(h).)

I, as Executive VP *[insert "owner" or officer title]* of Langan CA, Inc.  
*[insert name of business entity]*, have read the foregoing and agree that Langan CA, Inc.  
*[insert name of business entity]* will comply with the requirements of Education  
Code §45125.1 as applicable, including submission of the certificate mentioned above.

Dated: 9/26/24

Name: Lori Simpson

Digitally signed by Lori  
Simpson  
DN: CN=Lori Simpson,  
OU=Oakland, OU=Users,  
OU=Offices, DC=langan,  
DC=com  
Date: 2024.08.27  
14:04:18-07'00'

Signature: \_\_\_\_\_

Title: Executive VP

## ATTACHMENT A

### Violent and Serious Felonies

Under Education Code sections 45122.1 and 45125.1, no employee of a contractor or subcontractor who has been convicted of or has criminal proceedings pending for a violent or serious felony may come into contact with any student. A violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of



Section 220.

- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.
- (23) A violation of subdivision (b) or (c) of Section 11418.

A serious felony is any felony listed in subdivision (c) Section 1192.7 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter; (2) Mayhem; (3) Rape; (4) Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) Lewd or lascivious act on a child under the age of 14 years; (7) Any felony punishable by death or imprisonment in the state prison for life; (8) Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) Attempted murder; (10) Assault with intent to commit rape, or robbery; (11) Assault with a deadly weapon or instrument on a peace officer; (12) Assault by a life prisoner on a non-inmate; (13) Assault with a deadly weapon by an inmate; (14) Arson; (15) Exploding a destructive device or any explosive with intent to injure; (16) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) Exploding a destructive device or any explosive with intent to murder; (18) Any burglary of the first degree; (19) Robbery or bank robbery; (20) Kidnapping; (21) Holding of a hostage by a person confined in a state prison; (22) Attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) Any felony in which the defendant personally used a dangerous or deadly weapon; (24) Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug,

as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) Any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) Grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machine gun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Sections 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision.

**ATTACHMENT B**

**Form for Certification of Lack of Felony Convictions**

*Note: This form must be submitted by the owner, or an officer, of the contracting entity before it may commence any work or services, and before it may be present on District property or be within the vicinity of District pupils.*

Entity Name: Langan CA, Inc.  
Date of Entity's Contract with District: 9/26/24  
Scope of Entity's Contract with District: geotechnical services

I, Lori Simpson [insert name], am the Executive VP [insert "owner" or officer title] for Langan CA, Inc. [insert name of business entity] ("Entity"), which entered a contract on 9/26/24, 20  , with the District for geotechnical services.

I certify that (1) pursuant to Education Code section 45125.1(f), neither the Entity, nor any of its employees who are required to submit fingerprints and who may interact with pupils, have been convicted of a felony as defined in Education Code section 45122.1; and (2) the Entity is in full compliance with Education Code section 45125.1, including but not limited to each employee who will interact with a pupil outside of the immediate supervision and control of the pupil's parent or guardian having a valid criminal background check as described in Education Code section 44237.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Date: 9/26/24, 20  

Signature: Lori Simpson  
Typed Name: \_\_\_\_\_  
Title: Executive VP  
Entity: Langan CA, Inc.

Digitally signed by Lori Simpson  
DN: CN=Lori Simpson,  
OU=Oakland, OU=Users,  
OU=Offices, DC=langan,  
DC=com  
Date: 2024.08.27  
14:03:53-07'00'





## DIVISION OF FACILITIES PLANNING AND MANAGEMENT ROUTING FORM

### Project Information

<b>Project Name</b>	Cal Fire Planning Project - Oakland Living Schoolyards Planning at 14 District School Sites -Geotechnical Services	<b>Site</b>	918
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### Basic Directions

**Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.**

<b>Attachment Checklist</b>	<input checked="" type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input checked="" type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider
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### Contractor Information

<b>Contractor Name</b>	Langan CA, Inc.	<b>Agency's Contact</b>	Mukta Patil		
<b>OUSD Vendor ID #</b>		<b>Title</b>	Project Manager		
<b>Street Address</b>	1814 Franklin Street, Suite 505	<b>City</b>	Oakland	<b>State</b>	CA
<b>Telephone</b>	408-283-3635	<b>Policy Expires</b>			
<b>Contractor History</b>	Previously been an OUSD contractor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<b>OUSD Project #</b>	24102				

### Term of Original/Amended Contract

<b>Date Work Will Begin (i.e., effective date of contract)</b>	09-26-2024	<b>Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)</b>	10-31-2024
		<b>New Date of Contract End (If Any)</b>	

### Compensation/Revised Compensation

<b>If New Contract, Total Contract Price (Lump Sum)</b>	\$	<b>If New Contract, Total Contract Price (Not To Exceed)</b>	\$108,020.00
<b>Pay Rate Per Hour (If Hourly)</b>	\$	<b>If Amendment, Change in Price</b>	\$
<b>Other Expenses</b>		<b>Requisition Number</b>	

### Budget Information

*If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.*

Resource #	Funding Source	Org Key	Object Code	Amount
7821/9000	Fund 011	010-7821-0-9000-8500-5825-918-9180-7821-9999-24102	5825	\$108,020.00

### 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.

	<b>Division Head</b>	<b>Phone</b>	510-535-7038	<b>Fax</b>	510-535-7082
1.	<b>Executive Director, Facilities</b>				
	<b>Signature</b>	<b>Date Approved</b>	Aug 30, 2024		
	<small>Kenya Johnson (Aug 30, 2024 08:19 PDT)</small>				
2.	<b>Legal Counsel, Department of Facilities Planning and Management</b>				
	<b>Signature</b>	<b>Date Approved</b>	8/29/24		
3.	<b>Chief Systems &amp; Services Officer</b>				
	<b>Signature</b>	<b>Date Approved</b>	Aug 30, 2024		
	<small>Preston Thomas (Aug 30, 2024 13:01 PDT)</small>				
4.	<b>Chief Financial Officer</b>				
	<b>Signature</b>	<b>Date Approved</b>			
5.	<b>President, Board of Education</b>				
	<b>Signature</b>	<b>Date Approved</b>			