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OAKLAND UNIFIED
SCHOOL DISTRICT
Community Schools. Thriving Students

Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Tadashi Nakadegawa, Deputy Chief, Division of Facilities Planning and Management

Board Meeting Date March 9, 2022

Subject General Services Agreement- Ninyo & Moore - Fremont High School New Construction Project - Division of Facilities Planning and Management

Action Requested Approval by the Board of Education of General Services Agreement by and between the District and Ninyo & Moore, Alameda, California, for the latter to provide sampling and reporting of soil vapor and VIMS sampling points, indoor air quality and ambient air at the request of the DTSC on a quarterly basis for the Fremont High School New Construction Project in the not-to-exceed amount of **\$175,645.80**, which includes a not-to-exceed contingency of **\$15,967.80** for additional services, with work scheduled to commence on **January 3, 2022**, and scheduled to last until **December 31, 2024**, pursuant to the Agreement.

Discussion Consultant will provide sampling and reporting of soil vapor and VIMS sampling services. Consultant was selected without competitive bidding based on the RFP for this construction project and demonstrated competence and professional qualifications. (Government Code §4526 and Government Code §§4529.10 et seq.)

LBP (Local Business Participation Percentage) 00.00%

Recommendation Approval by the Board of Education of General Services Agreement by and between the District and Ninyo & Moore, Alameda, California, for the latter to provide sampling and reporting of soil vapor and VIMS sampling points, indoor air quality and ambient air at the request of the DTSC on a quarterly basis for the Fremont High School New Construction Project in the not-to-exceed amount of **\$175,645.80**, which includes a not-to-exceed contingency of **\$15,967.80** for additional services, with work scheduled to commence on **January 3, 2022**, and scheduled to last until **December 31, 2024**, pursuant to the Agreement.

Fiscal Impact Fund 21, Measure J

Attachments

- Agreement
- Consultant Fee Schedule
- Insurance Certificate



CONTRACT JUSTIFICATION FORM

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

Legislative File ID No. 22-0307

Department: Facilities Planning and Management

Vendor Name: Ninyo & Moore

Project Name: Fremont HS New Construction

Project No.: 13158

Contract Term: Intended Start: 1-3-2022

Intended End: 12-31-2024

Total Cost Over Contract Term: \$175,645.80

Approved by: Tadashi Nakadegawa

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?

Consultant was chosen based on the RFP for this construction project. The consultant is experienced with similar projects they have provided in the past and is currently working for the District.

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

Consultant will provide sampling and reporting of soil vapor and VIMS sampling points, indoor air quality and ambient air at the request of the DTSC on a quarterly basis.

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?

Consultant has done and is currently working for the District. Based on expertise with this particular type of work, the District found that the Consultant performed work quickly, accurately, and efficiently, and at a reasonable cost to the District.

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 \$99,100 or less (as of 1/1/22)
- No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*

Purchasing Contract:

- Price is at or under bid threshold of \$99,100 (as of 1/1/22)
- 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 \$99,100 (as of 1/1/22)
- 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 sampling & reporting of soil vapor and VIMS testing services for the District through the scope of their services, which are environmental services.

**OAKLAND UNIFIED SCHOOL DISTRICT
GENERAL SERVICES AGREEMENT**

This GENERAL SERVICES AGREEMENT (“Agreement”) is made and entered into effective **January 3, 2022** (the “Effective Date”), by and between the Oakland Unified School District (“District”) and Ninyo & Moore (“Contractor”).

1. **Contractor Services.** Contractor agrees to provide the following services to District (collectively, the “Basic Services”) for the Fremont High School New Construction project (“Project”):
To provide continued sampling and reporting of the soil vapor and VIMS sampling points, and indoor air quality and ambient air at the request of the DTSC on a quarterly basis. The Basic Services include all work described in the January 10, 2022, proposal, which is attached to this Agreement as **Exhibit A**. Contractor may only provide other services related to the Project (“Additional Services”) after authorized in writing by District. “Services” shall mean Basic and Additional Services.
2. **Contractor Qualifications.** Contractor represents and warrants to District that Contractor, and all of Contractor’s employees, agents or volunteers (the “Contractor Parties”), have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other qualifications required by law to perform the Services and to fully and faithfully satisfy all of the terms set forth in this Agreement. Contractor and any Contractor Parties performing services shall be competent to perform those services.
3. **Term.** The term for performance of the Services shall begin on January 3, 2022, and shall end on December 31, 2024 (“Term”), except as otherwise stated in Section 4 below, and Contractor shall complete the Services within the Term. There shall be no extension of the Term without an amendment signed by all Parties and approved by the District’s governing board. Written notice by the District Superintendent or designee shall be sufficient to stop further performance of the Services by Contractor or the Contractor Parties. In the event of early termination, Contractor shall be paid for satisfactory Services performed to the date of termination. Upon payment by District, District shall be under no further obligation to Contractor, monetarily or otherwise, and District may proceed with the work in any manner District deems proper.
4. **Termination.** Either party may terminate this Agreement at any time by giving thirty (30) days advance written notice to the other party. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially breaches any of the terms of this Agreement, any act or omission of Contractor or the Contractor Parties exposes District to potential liability or may cause an increase in District’s insurance premiums, Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed because of Contractor’s insolvency. Such termination shall be effective immediately upon Contractor’s receipt of the notice.
5. **Payment of Fees for Services.** District agrees to pay Contractor based on the hourly rates listed in **Exhibit B** for Services satisfactorily performed. Contractor shall not increase these hourly rates over the course of this Agreement. Total fees paid by District to Contractor for Services under the Agreement shall not exceed **ONE HUNDRED SEVENTY-FIVE THOUSAND SIX HUNDRED FORTY-FIVE**

Dollars AND 80/100(\$175,645.80), which consists of a not-to-exceed amount of **ONE HUNDRED FIFTY-NINE THOUSAND SIX HUNDRED SEVENTY-EIGHT Dollars NO/100 (\$159,678.00)** for performance of the Basic Services, and a not-to-exceed amount of **FIFTEEN THOUSAND NINE HUNDRED SIXTY-SEVEN Dollars AND 80/100 (\$15,967.80)** for performance of any Additional Services. Contractor shall perform all Services required by the Agreement even if the applicable not-to-exceed amount has already been paid and no more payments will be forthcoming. District agrees to make payment within sixty (60) days of receipt of a detailed invoice from Contractor based on hours worked and hourly rates, including any additional supporting documentation that District reasonably requests. Contractor shall not submit its invoices to District more frequently than monthly. Contractor shall not be reimbursed directly for any of its expenses, as the fees to be paid under this Agreement include compensation for any and all of Contractor's expenses.

6. **Indemnity.** Contractor shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Trustees, members of the Board of Trustees (collectively, the "District Parties"), from and against any and all claims, demands, liabilities, damages, losses, suits and actions, and expenses (including, but not limited to attorney fees and costs including fees of consultants) of any kind, nature and description (collectively, the "Claims") directly or indirectly arising out of, connected with, or resulting from any act, error, omission, negligence, or willful misconduct of Contractor, the Contractor Parties or their respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees in the performance of or failure to perform Contractor's obligations under this Agreement, including, but not limited to Contractor's or the Contractor Parties' use of the site, Contractor's or the Contractor Parties' performance of the Services, Contractor's or the Contractor Parties' breach of any of the representations or warranties contained in this Agreement, or for injury to or death of persons or damage to property or delay or damage to the District or the District Parties. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph.

7. **Equipment and Materials.** Contractor at its sole cost and expense shall provide and furnish all tools, labor, materials, equipment, transportation services and any other items (collectively, "Equipment") which are required or necessary to perform the Services in a manner which is consistent with generally accepted standards of the profession for similar services. Notwithstanding the foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contractor Parties by District. Furthermore, District may reject any Equipment or workmanship that does not conform to the requirements of this Agreement and Contractor must then promptly remedy or replace it at no additional cost to District and subject to District's reasonable satisfaction.

8. **Insurance.** Without in any way limiting Contractor's liability, or indemnification obligations set forth in Paragraph 6 above, Contractor shall secure and maintain throughout the Term of this Agreement the following insurance: (i) comprehensive general liability insurance with limits of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate, if applicable; and (iii) worker's compensation insurance as required by Labor Code section 3200, *et seq.*, if applicable. Neither Contractor nor any of the Contractor Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the

required coverages have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insureds. All of the policies shall be amended to provide that the insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to District. If such a notice is not given or even if District receives a notice, District may, at its sole option, terminate this Agreement. All insurance policies shall include an endorsement stating that it is primary to any insurance or self-insurance maintained by District and shall waive all rights of subrogation against District and/or the District Parties. A copy of the declarations page of Contractor's insurance policies shall be attached to this Agreement as proof of insurance.

9. **Independent Contractor Status.** Contractor is engaged in an independently established trade, occupation, or business to provide the Services required by this Agreement and is hereby retained to provide specialized services for District that are outside the usual course of District's business. Contractor is free from the control and direction of District in connection with the manner in which it provides the Services to District. Contractor understands and agrees that Contractor and the Contractor Parties shall not be considered officers, employees, agents, partners, or joint venturers of District, and are not entitled to benefits of any kind or nature normally provided to employees of District and/or to which District's employees are normally entitled.

10. **Taxes.** All payments made by District to Contractor pursuant to this Agreement shall be reported to the applicable federal and state taxing authorities as required. District will not withhold any money from fees payable to Contractor, including FICA (social security), state or federal unemployment insurance contributions, or state or federal income tax or disability insurance. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor and the Contractor Parties and otherwise in connection with this Agreement.

11. **Fingerprinting/Criminal Background Investigation Certification.** Contractor and the Contractor Parties shall at all times comply with the fingerprinting and criminal background investigation requirements of the California Education Code ("Education Code") section 45125.1. Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information which differs in any way from the information learned or provided pursuant to Section 45125.1, or Contractor or Contractor Parties add personnel who will provide Services under this Agreement, Contractor 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.

12. **Tuberculosis Certification.** Contractor and the Contractor Parties shall at all times comply with the tuberculosis ("TB") certification requirements of Education Code section 49406. Accordingly, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:

A. Contractor and Contractor Parties shall **only have limited or no contact** (as determined by District) with District students at all times during the Term of this Agreement.

B. The following Contractor and Contractor Parties shall have **more than limited contact** (as determined by District) with District students during the Term of this Agreement and, at no cost to District, have received a TB test in full compliance with the requirements of Education Code section 49406:

_____. [Attach and sign additional pages, as needed.]

Contractor shall maintain on file the certificates showing that the Contractor and Contractor Parties were examined and found free from active TB. These forms shall be regularly maintained and updated by Contractor and shall be available to District upon request or audit.

Contractor further agrees and acknowledges that all new personnel hired after the Effective Date of this Agreement by Contractor and Contractor Parties are subject to the TB certification requirements and shall be prohibited from having any contact with District students until the TB certification requirements have been satisfied and District determines whether any contact is permissible.

13. **Confidential Information.** Contractor shall maintain the confidentiality of, and protect from unauthorized disclosure, any and all individual student information received from the District, including but not limited to student names and other identifying information. Contractor shall not use such student information for any purpose other than carrying out the obligations under this Agreement. Upon termination of this Agreement, Contractor shall turn over to District all educational records related to the services provided to any District student pursuant to this Agreement.

14. **Assignment/Successors and Assigns.** Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations under this Agreement without the prior written consent of District. Subject to the foregoing, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.

15. **Severability.** 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 of this Agreement.

16. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by both parties and approved by the governing board.

17. **Governing Law.** 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 of Alameda, 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.

18. **Written Notice.** Written notice shall be deemed to have been duly served if delivered in person to Contractor at the address located next to the party signatures below, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who sends the notice.

19. **Compliance with Law.** Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein. Contractor shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances, including but not limited to fingerprinting under Education Code section 45125.1, confidentiality of records, Education Code section 49406 and others. Contractor agrees that it shall comply with all legal requirements for the performance of duties under this Agreement and that failure to do so shall constitute material breach.

20. **Non-Discrimination.** There shall be no unlawful discrimination in the contracting of persons under this Agreement because of race, color, national origin, age, ancestry, religion, sex, or sexual orientation of such persons.

21. **Attorneys' Fees.** If any legal action is taken to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other reasonable costs and expenses incurred in connection with that legal action.

22. **Liability of District.** Notwithstanding anything stated herein to the contrary, District shall not be liable for any special, consequential, indirect or incidental damages, including but not limited to lost profits in connection with this Agreement.

23. **Time.** Time is of the essence for performance of the Services under this Agreement.

24. **Waiver.** No delay or omission by District in exercising any right under this Agreement shall operate as a waiver of that or any other right and no single or partial exercise of any right shall preclude the District from any or further exercise of any right or remedy.

25. **Entire Agreement.** This Agreement is intended by the parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.

26. **Ambiguity.** The parties to this Agreement, and each of them, hereby represent that the language contained herein is to be construed as jointly proposed and jointly accepted, and in the event of any subsequent determination of ambiguity, all parties shall be treated as equally responsible for such ambiguity.

27. **Execution of Other Documents.** The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

28. **Execution in Counterparts.** This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, facsimile, or an original, with all signatures appended together, shall be deemed a fully executed agreement.

29. **Warranty of Authority.** The persons who have signed this Agreement warrant that they are legally authorized to do so on behalf of the respective parties, and by their signatures to bind the

respective parties to this Agreement.

30. **Local Business.** Contractor shall comply with the requirements of the District’s Local, Small Local, and Small Local Resident Business Enterprise Program, which may require a 50% minimum local participation requirement in the performance of this Agreement. A copy of this program may be obtained at www.ousd.k12.ca.us, under the Facilities Planning & Management Department drop down menu, at “Bids and Requests for Proposals.”

31. **Forms.** The following forms, attached to the proposal, are incorporated into the contract:

- Roof project certification (if required; see Public Contract Code §3006).
- Fingerprinting Notice and Acknowledgement.
- ~~Iran Contracting Act Certification.~~
- Workers’ Compensation Certification.
- Drug-Free Workplace Certification.
- Buy American Certification.
- Local Business Participation Form.

Within ten (10) days after award and before commencement of the services, the signed agreement and insurance documentation shall be submitted to the District.

32. **Mediation.** A party to this Agreement shall, as a condition precedent to initiating any litigation against the other party, demand mediation of any dispute. 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.

DISTRICT:

OAKLAND UNIFIED SCHOOL DISTRICT

850.40 3/10/2022

Gary Yee, President, Board of Education Date

[Signature] 3/10/2022

Kyla Johnson-Trammell, Superintendent Date

Secretary, Board of Education

[Signature] 2/10/2022

Tadashi Nakadegawa, Deputy Chief, Date

Facilities Planning & Management

CONTRACTOR:

Ninyo & Moore

Signature: [Signature]

Title: Principal Geologist Date: 2/8/2022

Address for District Notices:

Oakland Unified School District
955 High Street
Oakland, CA 94601
510-535-2728

Address for Contractor Notices:

Ninyo & Moore
2020 Challenger Drive, Ste. 130
Alameda, CA 94501
510-343-3000

Approved As To Form:



OUSD Facilities Legal Counsel

2/9/22

Date

Exhibit A

Proposal

January 10, 2022
Proposal No. 403225002

Mr. Paul Orr and JaQuan Cornish
Oakland Unified School District
955 High Street
Oakland, California 94601

Subject: Proposal for Additional Soil Vapor and VIMS Sampling
Fremont High School Modernization Project Increments 2, 3 and 4, at
4610 Foothill Boulevard
Oakland, California

Dear Mr. Orr and Mr. Cornish:

In accordance with your request, Ninyo & Moore has prepared this proposal for on-going environmental services for the Oakland Unified School District (OUSD) Fremont High School Modernization Project Increments 2, 3 and 4. Our additional services to be completed will include soil vapor monitoring, vapor intrusion mitigation system monitoring (VIMS), ambient air and indoor air sampling, and reporting. Our proposed scope of services is as follows:

SCOPE OF SERVICES

Continued sampling and reporting of the soil vapor and VIMS sampling points, and indoor air quality and ambient air at the request of the DTSC on a quarterly basis.

Soil Gas, VIMS, Ambient Air, and Indoor Air Sampling

Ninyo & Moore will conduct four quarterly monitoring events as the DTSC has requested. Each monitoring event will include soil gas sampling at eight monitoring wells, VIMS vapor sampling at 11 VIMS monitoring points in the Phase 1 and Phase 2 buildings, and 13 ambient air and indoor air samples. The soil gas monitoring wells will be sampled at the same time that samples are collected from the soil gas mitigation system sample ports and indoor/ambient air sample locations. A total of 44 samples will be collected during each sampling event. The sample events will be performed four times, approximately three months apart. A total of 176 soil gas, VIMS and ambient air samples will be collected during the four sampling events. Soil gas and VIMS samples will be analyzed for petroleum hydrocarbons, and VOCs. Ambient air and indoor air samples will be analyzed for VOCs. All environmental and remedial systems will be inspected at each event. This includes all soil caps,

surface capping mechanisms, all visual parts of the VIMS system in the Building 3000, the FROG building, and the gymnasium.

All soil vapor and VIMS samples will be collected with isopropyl alcohol as a leak tracer. Sampling events will be conducted in accordance with the DTSC's soil vapor sampling guidance.

Soil vapor and VIMS sampling costs on a per sample cost basis are presented in Table 2. Costs are presented by analysis. Necessary equipment including Summa canister rental, purge can rental and flow controller costs are shown. The cost basis per sample for TO-15 is \$427.42 per sample collected, not including duplicates.

Indoor air and ambient air sampling costs are presented in Table 3. These costs reflect the analytical costs and equipment costs. The cost per indoor and ambient air sample is \$414.00.

Total analytical costs are presented in Table 4. These costs are based on the DTSC's requirement of 44 samples per quarterly event for each given analysis. The cost on a per quarterly event basis is \$18,632.00.

Task Cost: \$120,388.00

Four Quarterly Monitoring Reports

A monitoring report will be submitted to the DTSC 60 days subsequent Ninyo & Moore's receipt of laboratory data. Each report will contain an updated Human Health Risk Assessment, updated data tables, updated figures, updated recommendations and conclusions. Each of the four soil vapor, VIMS, and ambient and indoor air quality reports will be submitted to DTSC for approval. Ninyo & Moore will respond to one round of comments for each report.

Cost breakdown on an hours and cost per hour basis are presented in Table 5. The cost per quarter for reporting is \$9,822.50.

Task Cost: \$39,290

ASSUMPTIONS

Based on our experience with similar projects, the following assumptions have been made in the preparation of our scope of services:

Once mobilized to the site, no delays or work stoppages beyond the control of Ninyo & Moore or its subcontractors will occur.

Soil vapor samples will be analyzed on a normal 7 to 10-business day turnaround time.

FEE ESTIMATE

Our estimated fee to provide environmental services is **\$159,678.00 (One Hundred Fifty-Eight Thousand, Six Hundred-Seventy-Eight Dollars)**. Charges for services rendered will be on a time-and-materials basis based on the scope of work performed. Work beyond the scope of services will be provided in accordance with the attached Schedule of Fees.

OUSD has proposed a contingency budget of \$15,967.80. This will be used for additional tasks in this field on an as needed basis. This budget is presented in Table 6.

SCHEDULE

Ninyo & Moore will commence our services immediately upon notice to proceed from the District. Our services for all tasks will follow the schedule provided by the District.

Ninyo & Moore appreciates the opportunity to provide services on this project and we look forward to continued working with you.

Respectfully submitted,

NINYO & MOORE



Jacob Wilcox, PG
Senior Geologist



Brandon Wilken, PG
Principal Geologist

JMW/BSW/KML/gvr

Attachments:

- Table 1 – Breakdown of Estimated Fees
- Table 2 – Soil Vapor and VIMS Cost per Sample
- Table 3 – Indoor and Ambient Air Cost per Sample
- Table 4 – Analytical Cost per Event
- Table 5 – Reporting Costs per Event
- Table 6 – Budget and Contingency Budget

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

Exhibit B

Hourly Rates

TABLE 1 – BREAKDOWN OF ESTIMATED FEE

Task 1: Four Vapor Sampling Events

Principal Engineer/Geologist/Environmental Scientist	2 hours	@	\$ 155.00 /hour	\$ 310.00
Senior Engineer/Geologist/Environmental Scientist	54 hour	@	\$ 150.00 /hour	\$ 8,100.00
Senior Project Engineer/Geologist/Environmental Scientist	20 hours	@	\$ 140.00 /hour	\$ 2,800.00
Project Engineer/Geologist/Environmental Scientist	50 hours	@	\$ 133.00 /hour	\$ 6,650.00
Staff Engineer/Geologist/Environmental Scientist	80 hours	@	\$ 110.00 /hour	\$ 8,800.00
Field Vehicle Usage	8 days	@	\$ 100.00 /day	\$ 800.00
Soil Vapor Laboratory Costs per event	4 ea	@	\$ 7,693.56 /ea	\$ 30,774.24
VIMS Laboartory Costs per event	4 ea	@	\$ 5,556.46 /ea	\$ 22,225.84
Indoor and Ambient Air Analytical Costs per event	4 ea	@	\$ 5,382.00 /ea	\$ 21,528.00
Sub Contractor Cost per event	4 ea	@	\$ 4,000.00 /ea	\$ 18,400.00
Subtotal				\$ 120,388.08

Task 2: Vapor Sampling Reporting

Principal Engineer/Geologist/Environmental Scientist	80 hours	@	\$ 155.00 /hour	\$ 12,400.00
Senior Engineer/Geologist/Environmental Scientist	96 hours	@	\$ 150.00 /hour	\$ 14,400.00
Senior Project Engineer/Geologist/Environmental Scientist	40 hours	@	\$ 140.00 /hour	\$ 5,600.00
Project Engineer/Geologist/Environmental Scientist	30 hours	@	\$ 133.00 /hour	\$ 3,990.00
Staff Engineer/Geologist/Environmental Scientist	10 hours	@	\$ 110.00 /hour	\$ 1,100.00
Technical Illustrator/CAD Operator	16 hours	@	\$ 80.00 /hour	\$ 1,280.00
Data Processing, Technical Editing, or Reproduction	8 hours	@	\$ 65.00 /hour	\$ 520.00
Subtotal				\$ 39,290.00

TOTAL ESTIMATED FEE

\$ 159,678



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/17/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER AssuredPartners Design Professionals Insurance Services, LLC 3697 Mt. Diablo Blvd Suite 230 Lafayette CA 94549 License#: 6003745 NINY&MO-01	CONTACT NAME: Jennifer Aguirre PHONE (A/C. No. Ext): 510-465-3090 FAX (A/C. No): E-MAIL ADDRESS: DesignProCerts@AssuredPartners.com														
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COVERAGES

CERTIFICATE NUMBER: 15994164

REVISION NUMBER:

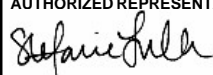
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab <input checked="" type="checkbox"/> OCP GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	6308986R247	10/3/2021	10/3/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	8107N033091	10/3/2021	10/3/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	Y	Y	CUP9J428527	10/3/2021	10/3/2022	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y	UB6P428399	5/1/2021	5/1/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liab. & Contractor's Pollution Liab. Computer Network Security		Y	MKLV7PL0004694	5/1/2021	10/3/2022	Per Claim 5,000,000 Annual Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Umbrella Liability policy is a follow-form to underlying General Liability/Auto Liability/Employers Liability.
 REF: OUSD/BRET HARTE M.S. TURF FIELD/CONST./403205001. Construction/ Materials Testing at 3700 Coolidge Avenue, Oakland, CA. GENERAL LIABILITY/AUTOMOBILE LIABILITY ADDITIONAL INSURED: Oakland Unified School District and the State and their representatives, employees, trustees, officers and volunteers. Commercial General Liability is primary and non-contributory and includes severability of interests per policy form. Waiver of Subrogation applies to Commercial General Liability, Automobile Liability and Workers Compensation. Cancellation provisions are solely as shown on this certificate. Cancellation: 30 Day/10 Day for Non-Payment of Premium.

CERTIFICATE HOLDER**CANCELLATION 30 Day Notice of Cancellation**

Oakland Unified School District 955 High Street Oakland CA 94601	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

Project Information			
Project Name	Fremont New Construction Project	Site	302
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.			
Attachment Checklist	<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		

Contractor Information							
Contractor Name	Ninyo & Moore	Agency's Contact	Ruchil Shah				
OUSD Vendor ID #	003087	Title	Sr. Project Manager				
Street Address	1956 Webster Street, Suite 400	City	Oakland	State	CA	Zip	94612
Telephone	510-343-3000	Policy Expires					
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
OUSD Project #	13158						

Term of Original/Amended Contract			
Date Work Will Begin (i.e., effective date of contract)	1-3-2022	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	12-31-2024
		New Date of Contract End (If Any)	

Compensation/Revised Compensation			
If New Contract, Total Contract Price (Lump Sum)	\$	If New Contract, Total Contract Price (Not To Exceed)	\$175,645.80
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$
Other Expenses		Requisition Number	

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
9650 9594	Fund 21, Measure J	210-9650-0-9594-8500-6289-302-9180-9905-9999-13158	6265	\$175,645.80

Approval and Routing (in order of approval steps)					
Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.					
1.	Division Head	Phone	510-535-7038	Fax	510-535-7082
	Executive Director, Facilities Planning and Management				
	Signature			Date Approved	2/10/2022
2.	General Counsel, Department of Facilities Planning and Management				
	Signature	Lozano Smith, as to form only		Date Approved	2/9/22
3.	Deputy Chief, Facilities Planning and Management				
	Signature			Date Approved	2/10/2022
4.	Chief Financial Officer				
	Signature			Date Approved	
5.	President, Board of Education				
	Signature			Date Approved	