

Board Office Use: Legislative File Info.	
File ID Number	16-0879
Introduction Date	5-11-2016
Enactment Number	16-0646
Enactment Date	5-11-2016 <i>AS</i>



Memo

To Board of Education

From Antwan Wilson, Superintendent and Secretary, Board of Education
 By: Vernon Hal, Senior Business Officer *VEH*
 Roland Broach, Executive Director, Buildings, Custodial & Grounds
 Facilities Planning and Management *RS*

Board Meeting Date May 11, 2016

Subject Independent Consultant Agreement for Professional Services - Ninyo & Moore - Fremont High School New Construction Project

Action Requested Approval by the Board of Education of an Independent Consultant Agreement for Professional Services between the District and Ninyo & Moore for Geotechnical Services at the Fremont High School New Construction Project, in an amount not-to exceed \$50,000.00. The term of this Agreement shall commence on May 11, 2016 and shall conclude no later than December 31, 2020.

Background The scope of the project is to provide geotechnical engineering services for the Fremont High School New Construction and Modernization project. Scope of services include providing a geotechnical and geohazards report, a geophysical survey for underground storage tanks, potholing activities, seismic analysis and post geotechnical consulting services.

Discussion An evaluation of the subsurface conditions is important information in order to determine what type of foundation may be required for the new building and if there are nay potential remediation that may be required or type of compaction that may be needed.

LBP (Local Business Participation Percentage) 75.00%

Procurement Method Professional Services Agreement - Formal-Advertised RFP/Awarded to entity following OUSD competitive solicitation process

Recommendation Approval by the Board of Education of an Independent Consultant Agreement for Professional Services between the District and Ninyo & Moore for Geotechnical Services at the Fremont High School New Construction Project, in an amount not-to exceed \$50,000.00. The term of this Agreement shall commence on May 11, 2016 and shall conclude no later than December 31, 2020.

Fiscal Impact Measure J

Attachments

- Independent Consultant Agreement including scope of work

- Certificate of Insurance
- Consultant Proposal



CONTRACT JUSTIFICATION FORM
This Form Shall Be Submitted to the Board Office
With Every Consent Agenda Contract.

Legislative File ID No. 16-0879

Department: DEPARTMENT OF FACILITIES

Vendor Name: SAYANIM Kenyo and Moore EL

Project Name: FREMONT NEW CONSTRUCTION **Project No.:** 13158

Contract Term: Start Date: _____ End Date: _____

Annual (if annual contract) or Total (if multi-year agreement) Cost: \$ 50,000.00

Approved by: TADASHI NAKADEGAWA/ROLAND BROACH

Is Vendor a local Oakland Business or have they meet the requirements of the Local Business Policy? Yes ☒ No ☐

Why was this Vendor selected?

THIS VENDOR WAS SELECTED THROUGH AN RFP PROCESS AND WAS DETERMINED TO BE THE MOST RESPONSIVE BASED ON THE CRITERIA LISTED IN THE SCORECARD.

Summarize the services this Vendor will be providing.

THIS VENDOR WILL BE PROVIDING GEOTECHNICAL AND GEOHAZARD CONSULTING SERVICES FOR THE FREMONT HIGH SCHOOL NEW CONSTRUCTION PROJECT.

Was this contract competitively bid? Yes ☒ No ☐

If No, answer the following:

1) How did you determine the price is competitive?

THIS VENDOR SUBMITTED A COMPETITIVE PROPOSAL THAT WAS DETERMINED TO HAVE THE HIGHEST SCORE BASED ON THE CRITERIA NOTED IN THE RFP. THEY SCORED HIGH ON COST, EXPERIENCE, HISTORY AND LOCAL BUSINESS PARTICIPATION.

2) Please check the competitive bid exception relied upon:

- ☐ **Educational Materials**
- ☐ **Special Services** contracts for financial, economic, accounting, legal or administrative services
- ☐ **CUPCCAA exception** (Uniform Public Construction Cost Accounting Act)
- ☐ **Professional Service Agreements** of less than \$86,000 (increases a small amount on January 1 of each year)
- ☐ **Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- ☐ **Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternate energy supply sources)
- ☐ **Emergency** contracts
- ☐ **Technology** contracts
 - ☐ electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
 - ☐ contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
 - ☐ Western States Contracting Alliance Contracts (WSCA)
 - ☐ California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- ☐ **"Piggyback" Contracts** with other governmental entities
- ☐ **Perishable Food**
- ☐ **Sole Source**
- ☐ **Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- ☐ **Other, please provide specific exception**

3) ☒ **Not Applicable - no exception - Project was competitively bid**

INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES

Fremont New Construction

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the **7th day of April, 2016** by and between the **Oakland Unified School District** ("District") and **Ninyo & Moore** ("Consultant"), (individually a "Party" or collectively the "Parties").

WHEREAS, The District is authorized by Section 4529.12 of the California Government Code to contract with and employ any persons for the furnishing of architecture, landscape architecture, engineering, environmental services, land surveying, and construction management through a fair, competitive selection process.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** The Consultant shall provide the services as described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"). The scope of services will generally consist of the following:

The scope of services is more specifically indicated on Exhibit "A."

- 1.1. The Services shall be performed on the following project(s) / site(s) ("Project")
Fremont New Construction

- Project planning and development
- Present and discuss findings, recommendations and designs
- Provide oversight for the preparation of test reports
- Review test results and submit to project manager
- Material testing
- Construction inspection services
- Aerial photographs, geologic and topographic maps & reports
- Soils, hazardous waste management , health and safety

- 1.2. The Consultant's Services at any one of the sites or combination thereof may be changed, including terminated, in the same manner as the Project, as indicated herein, without changing in any way the remaining Consultant's Services at other site(s). The provisions of this Agreement shall apply to the Consultant's Services at each site, without regard to the status of the remaining Project component(s). Consultant shall invoice for each inspection and test separately and for each site separately and District shall compensate Consultant for each site separately on a proportionate basis based on the level and scope of Services completed for each site.

2. **Term.** Unless terminated or otherwise cancelled as permitted herein, the term of this Agreement shall be for the following:

From May 11, 2016 to December 31, 2020

3. **Submittal of Documents.** The Consultant shall not commence the Work under this Agreement until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Debarment Certification

X Fingerprinting/Criminal Background Investigation Certification
 X Insurance Certificates and Endorsements

4. **Compensation.** Consultant's fee for the performance of Consultant's Services shall be on an hourly basis and/or a per unit basis, as indicated in **Exhibit "B"** (Prices for Services). District agrees to pay the Consultant for Services satisfactorily rendered pursuant to this Agreement a total fee not to exceed **Fifty thousand dollars and no cents (\$50,000.00)** District shall pay Consultant according to the following terms and conditions:
- 4.1. Payment for the Work shall be made for all undisputed amounts in monthly installment payments within thirty (30) days after the Consultant submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or the portion of the Work for which payment is to be made.
- 4.2. Consultant shall prepare a separate invoice for each site, if Consultant performs Services at more than one site. The itemized invoice shall reflect the hours spent by the Consultant in performing its Services pursuant to this Agreement.
5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Services for District, except as follows:
- 5.1. NA
6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant 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 Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of Consultant's Work, District being interested only in the results obtained.
7. **Local, Small Local And Small Local Resident Business Enterprise Program (L/SL/SLRBE).** Consultant shall comply with the requirements of the District's L/SL/SLRBE Program, as applicable, which may require a fifty percent (50%) mandatory minimum local participation requirement in the performance of this Agreement. A copy of the District's L/SL/SLRBE Program can be obtained on the District website, at www.ousd.k12.ca.us, under the Facilities Planning & Management Department drop down menu, Bids and Requests for Proposals.
- In light of the fifty percent (50%) L/SL/SLRBE participation requirement for formally bid professional service contracts, good faith effort documentation is not necessary.
8. **Designated Representatives / Labor Compliance Program.** Consultant shall coordinate with District personnel and/or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work related to the Project. This shall include, without limitation, coordination with the persons responsible for operation of the District's Labor Compliance Program. If Consultant employs subcontractor(s), Consultant shall ensure that its contract(s) with its subcontractor(s) include language notifying the subcontractor(s) of the District's Labor Compliance Program, if any.

9. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows:

10. NA

11. **Performance of Services.**

11.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts.

11.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.

11.3. **District Approval.** Work completed pursuant to this Agreement must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.

11.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.

12. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.

13. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

14. **Audit.**

14.1. Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's

normal business hours, unless Consultant otherwise consents. For a period of three (3) years after final payment under this Agreement, all expenditures of public funds in excess of ten thousand dollars (\$10,000) shall be subject to examination and audit by the State Auditor. The audit shall be confined to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering the Agreement.

15. Termination.

- 15.1. **Without Cause By District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for the Services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of Services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three (3) days after the day the notice was mailed, whichever is sooner.
- 15.2. **Without Cause By Consultant.** Consultant may, upon thirty (30) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for Services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of Services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.
- 15.3. **With Cause By District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - 15.3.1. material violation of this Agreement by the Consultant; or
 - 15.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
 - 15.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the Services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

- 16. **Indemnification.** To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim"), to property or persons, including personal injury and/or death, to the extent that any of the above arise out of, pertain to, or relate to the negligence, recklessness, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement, including without limitation the payment of all consequential damages.

17. Insurance.

17.1. The Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

17.1.1. **Commercial General Liability and Automobile Liability Insurance.**

Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

17.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

17.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Consultant's profession.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Professional Liability	\$ 1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

17.2. **Proof of Carriage of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

17.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

17.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation

and reduction notice will be sent, and length of notice period.

17.2.3. An endorsement stating that the District and the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District.

17.2.4. All policies except the Professional Liability Policy shall be written on an occurrence form.

17.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

18. **Assignment.** The obligations and liabilities of the Consultant pursuant to this Agreement shall not be assigned voluntarily by the Consultant nor assigned by operation of law.

19. **Binding Contract.** This Agreement shall be binding upon the Parties hereto and upon their successors and assigns, and shall inure to the benefit of the Parties and their successors and assigns.

20. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

21. **Certificates/Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement, including without limitation all licenses required to perform professional engineering services and geotechnical testing services.

22. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which Services are actually being performed pursuant to this Agreement.

23. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).

24. **Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services.
25. **Disabled Veteran Business Enterprises.** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building to have a participation goal of at least three percent (3%), per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises (DVBE). In accordance therewith, the Consultant must submit, upon request by District, appropriate documentation to the District identifying the steps the Consultant has taken to solicit DVBE participation in conjunction with this Agreement, if applicable.
26. **No Rights In Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
27. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
- 27.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
- 27.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
28. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
29. **Disputes.** In the event of a dispute between the Parties as to performance of Work, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Consultant shall neither rescind the Agreement nor stop Work.
30. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
31. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

If to District:

Oakland Unified School District
955 High Street

If to Contractor:

Ninyo and Moore
1956 Webster Street, Suite 400

Oakland, CA 94601
ATTN: Tadasha Nakadegawa
Telephone: (510) 5357038_

Oakland, CA 94612
Attn: ~~Kris Larson~~ **TERENCE WANG**
(510) ~~633-5640~~ **343-3000x15218**

With a copy to:

Orbach Huff Suarez & Henderson LLP
1901 Harrison Street, Suite 1630
Oakland, CA 984612
Attention: Catherine G. Boskoff
Telephone: (510) 999-7908

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

32.Integration/Entire Agreement of Parties. This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

33.California Law. This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.

34.Waiver. The waiver by either Party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

35.Severability. If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

36.Authority to Bind Parties. Neither Party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.

37.Attorney Fees/Costs. Should litigation be necessary to enforce any terms or provisions of this Agreement, then each Party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.

38.Captions and Interpretations. Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a Party because that Party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.

39.Calculation of Time. For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.

40.Signature Authority. Each Party has the full power and authority to enter into and perform


this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.

41.Counterparts. This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

42.Incorporation of Recitals and Exhibits. The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:

The District certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>



Susie Butler-Berkley
Contract Analyst

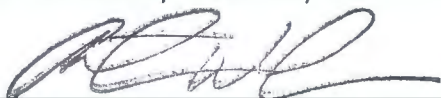
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

OAKLAND UNIFIED SCHOOL DISTRICT



James Harris, President, Board of Education

5/12/16
Date



Antwan Wilson, Superintendent & Secretary, Board of Education

5/12/16
Date

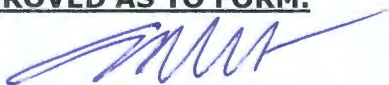


Roland Broach, Executive Director of Buildings, Custodial & Grounds
Facilities Planning and Management

4.19.16

Date

APPROVED AS TO FORM:



OUSD Facilities Legal Counsel

4.14.16

Date

CONSULTANT



Title

PRINCIPAL ENGINEER

GE 2050

4/7/16

Date

File ID Number: 16-0879
Introduction Date: 5-11-2016
Enactment Number: 16-0646
Enactment Date: 5-11-2016
By: OL

Information regarding Consultant:

Consultant: NINYO & MOORE
License No.: GE 2050
Address: 1956 WEBSTER ST, #400
OAKLAND, CA 94612
Telephone: 510-343-3000
Facsimile: 510-343-3001
E-Mail: TWANG@NINYOANDMOORE.COM

Type of Business Entity:

☐ Individual
☐ Sole Proprietorship
☐ Partnership
☐ Limited Partnership
☒ Corporation, State: CA
☐ Limited Liability Company
☐ Other: _____

33-0269828

Employer Identification and/or Social Security Number

NOTE: Title 26, Code of Federal Regulations, sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.

EXHIBIT "A"

DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

The Consultant shall perform the following professional engineering and geotechnical testing services:

To provide geotechnical engineering services for the Fremont High School New Construction and Modernization project as follows:

- Preparation of the proposal to address the Request for Proposal: The proposal will present an understanding of the project, a scope of services, expected deliverables, schedule, and an estimated cost for the services. In preparing the cost estimate and schedule, a detailed breakdown of personnel hours, reimbursables, and costs are typically prepared and can be included in the formal proposal.
- Acquisition and review of background materials: Pertinent existing background information, such as geotechnical reports, seismic hazard maps, topographic maps, and geologic reports and maps, would be obtained and reviewed. Principal sources for this information would include the City of Oakland, the California Geological Survey (formerly the California Division of Mines and Geology), the U.S. Geological Survey, and our in-house resources. The information collected during this phase is crucial to developing a preliminary understanding of the site conditions so that the most appropriate exploration program can be formulated.
- Acquisition of permits and utility clearance: If subsurface exploration is a part of the project, required permits will need to be obtained and existing underground utilities will need to be located so that there are no conflicts with the planned subsurface excavations. Clearance of underground utilities would be conducted through Underground Service Alert (USA) and, if necessary, our geophysicists, equipped with state-of-the-art utility location equipment, can conduct detailed surveys of the project site to locate utilities. If the exploratory excavations are going to be in the street a permit/approved traffic control plan will need to be obtained from the City. Excavations in environmentally sensitive areas would require additional permits.
- Performance of field services: For geotechnical design projects, subsurface exploration could likely be involved. Subsurface explorations can include the excavation, sampling, and logging of "small-diameter" borings such as hollow-stem auger borings, "large-diameter" (bucket-auger) borings, and test pits. Logs of the exploratory excavations with a site plan showing their locations are provided. Other means of subsurface exploration may include cone penetrometer soundings, and engineering scale geophysical surveys such as seismic refraction, magnetic, electromagnetic, ground penetrating radar (GPR) and electrical resistivity surveys. Field services for jobs in construction could include observation and compaction testing of mass graded fills or

wall or utility trench backfill to evaluate contractor compliance to project specifications. Construction services could also include various types of materials inspection and testing and the observation and documentation of foundation excavations.

- **Laboratory testing:** For geotechnical design projects, typical laboratory tests include Atterberg limits, consolidation, direct shear, expansion index, in-situ moisture content and dry density, maximum density/optimum moisture, R-value, sieve analysis, and soil corrosivity which includes chloride and sulfate content and pH and minimum resistivity. For construction projects, typical laboratory tests include maximum density/optimum moisture, sand equivalent, and strength tests for masonry, concrete, and steel.
- **Data analysis:** Following the collection of preexisting applicable project information and the acquisition of new data, if necessary, our highly qualified technical staff will review, compile and analyze the data so that the appropriate design and/or construction parameters can be formulated. Ninyo & Moore uses the most up to date engineering, seismic, and geophysical software as well as industry testing standards to facilitate the analysis.
- **Reports:** The presentation of our findings is crucial to adequately conveying our geotechnical information to the client and other design professionals. Depending on the needs of the District, the presentation of our findings, conclusions, and recommendations can be done verbally, submitted in written reports, and/or provided electronically. Our information system department can prepare and help manage GIS databases for our clients.

In regards to complying with DSA requirements, Ninyo & Moore has first-hand knowledge of the code requirements for K-12 and community colleges designed and constructed in California. Ninyo & Moore has been actively involved in the design, construction and modernization of community college facilities in California and is currently working on design, design review and construction phases of public schools in California. Our materials testing laboratories are certified by the State of California, Division of the State Architect (DSA). During construction, the administrative regulations as described in Article 5, Certification of Construction, are followed, including quality certification for Special Inspectors, performance of tests and inspections as outlined in the Testing and Inspection (T&I) sheet for the project through our DSA-certified laboratories, and issuance of verification of test reports and final verified reports, signed by the appropriate inspector, civil or geotechnical engineer, as required. Our soils and materials testing and inspection services are performed in accordance with the requirements in Chapters 17A (Structural Tests and Inspections), 19A (Concrete), 21A (Masonry), and 22A (Steel).

As specialists currently working on over 200 DSA projects statewide we are extremely familiar with the project close out and certification process. We provide all necessary information during the construction process to facilitate proper close out and certification. In order to help accomplish this goal, we are in regular communication with the District and Design Professionals to keep them informed as the work progresses and bring resolution to potential issues. Further, we have developed in-house tracking systems utilized by our project management and field staff to ensure the timely and appropriate submittals of DSA through the DSA Box including submittal of DSA 291, 292, and 293 forms at the completion of work. It is our standard practice to submit the required forms for successful close out of projects, and have on several occasions, worked with DSA and Districts to develop a testing protocol to close out projects not properly completed by others.

Laboratory

Our San Jose Laboratory, one of nine fully certified in the company, is DSA-certified for soils and materials testing (LEA #219). Company-wide, Ninyo & Moore's laboratories offer full-service testing services for soil, steel, masonry, concrete, shotcrete, asphalt, fireproofing and roofing. Our testing facilities have been independently accredited by DSA, AMRL, CCRL, AASHTO, USACE, Caltrans and California department of General Services.

EXHIBIT "B"

SCHEDULE OF FEES

HOURLY CHARGES FOR PERSONNEL

Principal Engineer/Geologist/Environmental Scientist	\$ 185
Senior Engineer/Geologist/Environmental Scientist.....	\$ 165
Senior Project Engineer/Geologist/Environmental Scientist	\$ 150
Project Engineer/Geologist/Environmental Scientist.....	\$ 140
Senior Staff Engineer/Geologist/Environmental Scientist.....	\$ 125
Staff Engineer/Geologist/Environmental Scientist.....	\$ 115
GIS Analyst	\$ 110
Field Operations Manager	\$ 125
Supervisory Technician	\$ 110
Nondestructive Examination Technician, UT, MT, LP	\$ 110
Field/Laboratory Technician	\$ 95
Special Inspector (Asphalt, Concrete, Masonry, Steel, Welding, and Fireproofing).....	\$ 95
Technical Illustrator/CAD Operator.....	\$ 85
Information Specialist.....	\$ 85
Geotechnical/Environmental Assistant.....	\$ 80
Data Processing, Technical Editing, or Reproduction.....	\$ 70

OTHER CHARGES

Expert Witness Testimony	\$ 400 /hr
Concrete Coring Equipment (includes one technician)	\$ 160 /hr
PID/FID Usage.....	\$ 130 /day
Anchor load test equipment (includes technician)	\$ 105 /hr
Hand Auger Equipment	\$ 65 /day
Inclinometer Usage	\$ 40 /hr
Vapor Emission Kits.....	\$ 40 /kit
Level D Personal Protective Equipment (per person per day)	\$ 30 /p/d
Rebar Locator (Pachometer).....	\$ 30 /hr
Nuclear Density Gauge Usage.....	\$ 13 /hr
Field Vehicle Usage.....	\$ 12 /hr
Direct Project Expenses.....	Cost plus 15 %
Laboratory testing, geophysical equipment, and other special equipment provided upon request.	

NOTES (Field Services)

For field and laboratory technicians and special inspectors, regular hourly rates are charged during normal weekday construction hours. Overtime rates at 1.5 times the regular rates will be charged for work performed outside normal construction hours and all day on Saturdays. Rates at twice the regular rates will be charged for all work in excess of 12 hours in one day or on Sundays and holidays. Lead time for any requested service is 24 hours. Field Technician rates are based on a 2-hour minimum. Special inspection rates are based on a 4-hour minimum for the first 4 hours and an 8-hour minimum for hours exceeding 4 hours. Field personnel are charged portal to portal.

INVOICES

Invoices will be submitted monthly and are due upon receipt. A service charge of 1.0 percent per month may be charged on accounts not paid within 30 days.

TERMS AND CONDITIONS

The terms and conditions of providing our consulting services include our limitation of liability and indemnities as presented in Ninyo & Moore's Work Authorization and Agreement.

SCHEDULE OF FEES FOR LABORATORY TESTING

Soils

Atterberg Limits, D 4318, CT 204	\$ 180
California Bearing Ratio (CBR), D 1883	\$ 440
Chloride and Sulfate Content, CT 417 & CT 422	\$ 135
Consolidation, D 2435, CT 219	\$ 275
Consolidation - Time Rate, D 2435, CT 219	\$ 70
Direct Shear - Remolded, D 3080	\$ 290
Direct Shear - Undisturbed, D 3080	\$ 250
Durability Index, CT 229	\$ 150
Expansion Index, D 4829, UBC 18-2	\$ 240
Expansion Potential (Method A), D 4546	\$ 180
Expansive Pressure (Method C), D 4546	\$ 180
Geofabric Tensile and Elongation Test, D 4632	\$ 165
Hydraulic Conductivity, D 5084	\$ 300
Hydrometer Analysis, D 422, CT 203	\$ 190
Moisture, Ash, & Organic Matter of Peat/Organic Soils	\$ 110
Moisture Only, D 2216, CT 226	\$ 30
Moisture and Density, D 2937	\$ 50
Permeability, CH, D 2434, CT 220	\$ 290
pH and Resistivity, CT 643	\$ 160
Proctor Density D 1557, D 698, CT 216, & AASHTO T-180 (Rock corrections add \$80)	\$ 260
R-value, D 2844, CT 301	\$ 425
Sand Equivalent, D 2419, CT 217	\$ 110
Sieve Analysis, D 422, CT 202	\$ 110
Sieve Analysis, 200 Wash, D 1140, CT 202	\$ 90
Specific Gravity, D 854	\$ 200
Triaxial Shear, C.D, D 4767, T 297	\$ 390
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt. \$	\$ 330
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt. \$	\$ 190
Triaxial Shear, U.U., D 2850	\$ 140
Unconfined Compression, D 2166, T 208	\$ 100
Wax Density, D 1188	\$ 90

Roofing

Built-up Roofing, cut-out samples, D 2829	\$ 165
Roofing Materials Analysis, D 2829	\$ 500
Roofing Tile Absorption, (set of 5), UBC 15-5	\$ 190
Roofing Tile Strength Test, (set of 5), UBC 15-5	\$ 190

Masonry

Brick Absorption, 24-hour submersion, C 67	\$ 45
Brick Absorption, 5-hour boiling, C 67	\$ 55
Brick Absorption, 7-day, C 67	\$ 60
Brick Compression Test, C 67	\$ 45
Brick Efflorescence, C 67	\$ 45
Brick Modulus of Rupture, C 67	\$ 40
Brick Moisture as received, C 67	\$ 35
Brick Saturation Coefficient, C 67	\$ 50
Concrete Block Compression Test, 8x8x16, C 140	\$ 60
Concrete Block Conformance Package, C 90	\$ 1100
Concrete Block Linear Shrinkage, C 426	\$ 120
Concrete Block Unit Weight and Absorption, C 140	\$ 55
Cores, Compression or Shear Bond, CA Code	\$ 85
Masonry Grout, 3x3x6 prism compression, UBC 21-18	\$ 30
Masonry Mortar, 2x4 cylinder compression, UBC 21-16	\$ 30
Masonry Prism, half size, compression, UBC 21-17	\$ 180

Concrete

Cement Analysis Chemical and Physical, C 109	\$ 1,650
Compression Tests, 6x12 Cylinder, C 39	\$ 30
Concrete Mix Design Review, Job Spec	\$ 140
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI	\$ 750
Concrete Cores, Compression (excludes sampling), C 42	\$ 55
Drying Shrinkage, C 157	\$ 250
Flexural Test, C 78	\$ 100
Flexural Test, C 293	\$ 55
Flexural Test, CT 523	\$ 100
Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI	\$ 250
Jobsite Testing Laboratory	Quote
Lightweight Concrete Fill, Compression, C 495	\$ 55
Petrographic Analysis, C 856	\$ 1,100
Splitting Tensile Strength, C 496	\$ 80

Reinforcing and Structural Steel

Fireproofing Density Test, UBC 7-6	\$ 70
Hardness Test, Rockwell, A-370	\$ 80
High Strength Bolt, Nut & Washer Conformance, set, A-32	\$ 205
Mechanically Spliced Reinforcing Tensile Test, ACI	\$ 95
Pre-Stress Strand (7 wire), A 416	\$ 140
Chemical Analysis, A-36, A-615	\$ 120
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706	
No. 8 Rebar	\$ 55
No. 11 Rebar	\$ 75
No. 18 Rebar	\$ 150
Structural Steel Tensile Test: Up to 200,000 lbs. (machining extra), A 370	\$ 105
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI	\$ 80
Tensile Test for Fiberwrap (ASTM D-3039)	\$ 675

Asphalt Concrete

Asphalt Mix Design, Caltrans	\$ 2,200
Asphalt Mix Design Review, Job Spec	\$ 150
Extraction, % Asphalt, including Gradation, D 2172, CT 310	\$ 215
Film Stripping, CT 302	\$ 100
Hveem Stability and Unit Weight CTM or ASTM, CT 366	\$ 195
Marshall Stability, Flow and Unit Weight, T-245	\$ 215
Maximum Theoretical Unit Weight, D 2041	\$ 120
Swell, CT 305	\$ 165
Unit Weight sample or core, D 2726, CT 308	\$ 90

Aggregates

Absorption, Coarse, C 127	\$ 35
Absorption, Fine, C 128	\$ 35
Clay Lumps and Friable Particles, C 142	\$ 100
Cleaness Value, CT 227	\$ 160
Crushed Particles, CT 205	\$ 140
Durability, Coarse, CT 229	\$ 165
Durability, Fine, CT 229	\$ 165
Los Angeles Abrasion, C 131 or C 535	\$ 180
Mortar making properties of fine aggregate, C 87	\$ 275
Organic Impurities, C 40	\$ 55
Potential Reactivity of Aggregate (Chemical Method), C 289	\$ 390
Sand Equivalent, CT 217	\$ 90
Sieve Analysis, Coarse Aggregate, C 136	\$ 125
Sieve Analysis, Fine Aggregate (including wash), C 136	\$ 125
Sodium Sulfate Soundness (per size fraction), C 88	\$ 160
Specific Gravity, Coarse, C 127	\$ 75
Specific Gravity, Fine, C 128	\$ 110

Special preparation of standard test specimens will be charged at the technician's hourly rate.

Ninyo & Moore is accredited to perform the AASHTO equivalent of many ASTM test procedures.

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

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

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

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Agreement.

Date: 4/7/16

Name of Consultant or Company: NINYO & MOORE

Signature: Terence K Wang

Print Name and Title: TERENCE K WANG / PRINCIPAL ENGINEER

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Agreement.)

FINGERPRINTING / CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

One of the three boxes below **must** be checked, with the corresponding certification provided, and this form attached to the Independent Consultant Agreement for Professional Services ("Agreement"):

☒ **[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]** Consultant's employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Education Code § 45125.1 (c))

Date: _____
District Representative's Name and Title: _____
Signature: _____

☐ The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant's services under this Agreement and Consultant certifies its compliance with these provisions as follows: *"Consultant certifies that the Consultant has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Consultant's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122. 1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*

☐ Consultant's services under this Agreement shall be limited to the construction, reconstruction, rehabilitation, or repair of a school facility and although all Employees will have contact, other than limited contact, with District pupils, pursuant to Education Code section 45125.2 District shall ensure the safety of the pupils by at least one of the following as marked:

_____ The installation of a physical barrier at the worksite to limit contact with pupils.

_____ Continual supervision and monitoring of all Consultant's on-site employees of Consultant by an employee of Consultant, _____, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

_____ Surveillance of Employees by District personnel. **[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]**

Date: _____
District Representative's Name and Title: _____
Signature: _____

Megan's Law (Sex Offenders). I have verified and will continue to verify that the employees of Contractor that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

[MUST BE COMPLETED BY CONSULTANT'S AUTHORIZED REPRESENTATIVE.] I am a _____

representative of the Consultant entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

Date:

4/7/16

Name of Consultant or Company:

NINTO & MOORE

Signature:

Terence & Wang

Print Name and Title:

TERENCE & WANG / PRINCIPAL ENGINEER

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION**

I am aware of and hereby certify that neither NINYO & MOORE [Type name of Consultant] nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. I further agree that I will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

Where the Consultant or any lower participant is unable to certify to this statement, it shall attach an explanation hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named Consultant on the 7 day of APRIL 2016 for the purposes of submission of this Agreement.

By:



Signature

TERENCE K WANG

Typed or Printed Name

PRINCIPAL ENGINEER

Title

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/08/2016

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 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 Dealey, Renton & Associates P. O. Box 12675 Oakland, CA 94604-2675 510 465-3090 Mandy Guo		CONTACT NAME: Doris A. Chambers PHONE (A/C, No, Ext): 510 465-3090 E-MAIL ADDRESS: dchambers@dealeyrenton.com FAX (A/C, No): 510 452-2193															
INSURED Ninyo & Moore Geotechnical & Environmental Sciences Consultants 1956 Webster Street, Suite 400 Oakland, CA 94612		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Travelers Property Casualty Co</td> <td>25674</td> </tr> <tr> <td>INSURER B: American Automobile Ins. Co.</td> <td>21849</td> </tr> <tr> <td>INSURER C: Evanston Insurance Company</td> <td>35378</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Travelers Property Casualty Co	25674	INSURER B: American Automobile Ins. Co.	21849	INSURER C: Evanston Insurance Company	35378	INSURER D:		INSURER E:		INSURER F:	
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INSURER E:																	
INSURER F:																	

COVERAGES

CERTIFICATE NUMBER:

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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual <input checked="" type="checkbox"/> OCP GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	X	X	6308986R247	10/03/2015	10/03/2016	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	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	X	X	8108986R247	10/03/2015	10/03/2016	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 \$	X	X	CUP8986R247	10/03/2015	10/03/2016	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	WZP81025302	05/01/2015	05/01/2016	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.I. EACH ACCIDENT \$1,000,000 E.I. DISEASE - EA EMPLOYEE \$1,000,000 E.I. DISEASE - POLICY LIMIT \$1,000,000
C	Professional Liab & Contractor's Pollution Liab.			MAX7PL0001977	10/03/2015	04/03/2017	\$5,000,000 per Claim \$5,000,000 Annl Aggr.

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


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

REF: Fremont New Construction. Materials Testing and Construction Services. GENERAL LIABILITY/AUTOMOBILE

LIABILITY ADDITIONAL INSURED: Oakland Unified School District, District and the State and their agents, representatives, employees, trustees, officers, consultants, 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.

CERTIFICATE HOLDER

CANCELLATION

Oakland Unified School District Attn: Juanita White 955 High Street Oakland, CA 94601-0000	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 
---	---

POLICY NUMBER: 6308986R247

COMMERICAL GENERAL LIABILITY
ISSUE DATE: 10/03/2015

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

NAME OF PERSON(S) OR ORGANIZATION(S): Oakland Unified School District
Attn: Juanita White
955 High Street
Oakland, CA 94601-0000

PROJECT/LOCATION OF COVERED OPERATIONS:

NAME OF PERSON OR ORGANIZATION CONTINUATION: Oakland Unified School District, District and the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers.

PROVISIONS

A. The following is added to WHO IS AN INSURED (Section II):

The person or organization shown in the Schedule above is an additional insured on this Coverage Part, but only with respect to liability for bodily injury, "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf.

- a. In the performance of your ongoing operations;
- b. In connection with premises owned by or rented to you; or
- c. In connection with your work and included within the "products-completed operations hazard."

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- d. This insurance does not apply to the rendering of or failure to render any "professional services".
- e. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the LIMITS OF INSURANCE (Section III) for this Coverage Part.

B. The following is added to Paragraph a. of 4. Other Insurance in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):
However, if you specifically agree in a contract or agreement requiring insurance that, for the additional insured shown in the Schedule, the insurance provided to that additional insured under this

COMMERICAL GENERAL LIABILITY

Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance" for such additional insured. But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when the additional insured is also an additional insured under any other insurance.

- C. The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

We waive any rights of recovery we may have against the additional insured shown in the Schedule above because of payments we make for "bodily injury", "property damage" or "personal

injury" arising out of "your work" on or for the project, or at the location, shown in the Schedule above, performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that additional insured. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with that additional insured entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

- D. The following definition is added to DEFINITIONS (Section V):

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include the person or organization shown in the Schedule as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

Insured: Ninyo & Moore Geotechnical &

Policy Number: WZP81025302

Effective Date: 05/01/2015

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF OUR RIGHT TO RECOVER FROM
OTHERS ENDORSEMENT - CALIFORNIA**

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

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

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

SCHEDULE

Person or Organization

Job Description

Oakland Unified School District

Attn: Juanita White

55 High Street

Oakland, CA 94601-0000

NAME OF PERSON OR ORGANIZATION CONTINUATION: Oakland Unified School District, District and the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers.

Countersigned by



Authorized Representative



**OAKLAND UNIFIED
SCHOOL DISTRICT**

Community Schools, Thriving Students

INDEPENDENT CONSULTANT FOR PROFESSIONAL SERVICES ROUTING FORM

Project Information

Project Name	Fremont New Construction	Site	302
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Basic Directions

Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.

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

Contractor Information

Contractor Name	Ninyo & Moore	Agency's Contact	Terence Wang				
OUSD Vendor ID #	V058012	Title	Project Manager				
Street Address	1956 Webster Street, Suite 400	City	Oakland	State	CA	Zip	94612
Telephone	510-343-3000 X15218	Policy Expires	10-3-16				
Contractor History	Previously been an OUSD contractor? X Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes X No				
OUSD Project #	13158						

Term

Date Work Will Begin	5-11-2016	Date Work Will End By (not more than 5 years from start date)	12-31-2020
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Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$50,000.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$
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
9450	Measure J	3029905812	6252	\$50,000.00

Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Director, Facilities Planning and Management				
	Signature	Date Approved		4/14/2016	
2.	General Counsel, Department of Facilities Planning and Management				
	Signature	Date Approved		4-14-16	
	Interim Deputy Chief, Facilities Planning and Management				
3.	Signature	Date Approved		4-19-16	
	Senior Business Officer				
4.	Signature	Date Approved		4-21-16	
	President, Board of Education				
5.	Signature	Date Approved			