INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES
SPECIAL INSPECTION AND TESTING SERVICES

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the 1st day of July, 2022 by and between the Alum Rock Union School District, ("District") and Ninyo & Moore Geotechnical and Environmental Sciences Consultant ("Consultant"), (together, "Parties").

WHEREAS, Public Contract Code section 20111, subdivision (d), provides that professional services, requiring specialized knowledge, training, or skill, are not subject to public bidding requirements; and

WHEREAS, Government Code section 53060, authorizes the District to contract with and employ any person(s) for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, the District duly determined that it needs some or all of the services (collectively, "Services") to be provided pursuant to this Agreement; and

WHEREAS, the Consultant is specially trained, experienced, and competent to perform the Services required by the District, as needed on the basis set forth in this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Services**. Consultant shall provide special inspection and testing services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").

2. **Term**. Consultant shall commence providing Services under this Agreement on July 1___ ___, 2022__ and will diligently perform as required and complete performance by June 30,____ ___, 2024__ ("Term"), unless this Agreement is terminated and/or otherwise cancelled prior to that time.

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

   ___X___ Signed Agreement
   ___X___ Prevailing Wage Certification
   ___X___ Workers' Compensation Certification
   ___X___ Fingerprinting/Criminal Background Investigation Certification
   ___X___ Insurance Certificates and Endorsements
   ___X___ W-9 Form
   ___X___ COVID-19 Vaccination / Testing Certification
   _____ Other: _____

4. **Compensation**. District shall pay Consultant according to the following terms and conditions:

   4.1. Payment shall be made within thirty (30) days after Consultant submits an invoice to the District for Services actually completed and after the District's written approval of the Services, or the portion of the Services for which payment is to be made. The schedule of deliverable Services to be produced is as follows:

4.1.1. _____ _____
4.1.2. _____ _____
4.1.3. _____ _____
4.1.4. _____ _____
4.1.5. _____ _____

4.2. The Services shall be performed at the hourly billing rates and/or unit prices included in **Exhibit "B."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Consultant in performing its Services pursuant to this Agreement.

4.3. If Consultant works at more than one site, Consultant shall invoice for each site separately.

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. _____.

6. **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.

7. **Independent Contractor**. Consultant represents and warrants that Consultant is an independent contractor or business entity that is: (i) free from the control and direction of the District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of the District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. 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.

8. **Performance of Services.**

8.1. **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.

8.2. **Due Diligence**. Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.

8.3. **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.

8.4. **District Approval.** The work completed herein 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.

8.5. **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.

9. **Deliverables.** 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.

10. **Audit**. 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.

11. **Disputes**. In the event of a dispute between the Parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the Parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

12. **Termination**.

12.1. **For Convenience by District**. District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for 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 of mailing, whichever is sooner.

12.2. **With Cause by District**. District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

12.2.1. material violation of this Agreement by the Consultant; or

12.2.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or

12.2.3. 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 required Services from another consultant. If the expense, fees, and/or costs to the District exceed the cost of providing the Service 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.

13. **Indemnification**.

13.1. To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "Claims") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from the performance of this Agreement unless the Claims are caused wholly by the sole or active negligence or willful misconduct of the Indemnified Parties. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified Parties.

13.2. Consultant shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim, subject to section 13.1 above. Consultant's obligation pursuant to this Article includes reimbursing the District for the cost of any settlement paid by the Indemnified Parties and for any and all fees and costs, including but not limited to legal fees and costs, expert witness fees, and consultant fees, incurred by the Indemnified Parties in the defense of any Claim(s) and to enforce the indemnity herein, subject to section 13.1 above. Consultant's obligation to indemnify shall not be restricted to insurance proceeds.

13.3. District may withhold any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant from amounts owing to Consultant.

14. **Insurance**.

14.1. 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.

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

14.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect 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.)

14.1.2. **Workers' Compensation and Employer's Liability Insurance.** Workers' Compensation Insurance and Employer's 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, 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.

14.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Consultant's profession, coverage to continue through completion of construction plus three (3) years thereafter.

14.2. **Proof of Insurance.** 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:

14.2.1. 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."

14.2.2. 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.

14.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employer's Liability Insurance. An

endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

14.2.4. All policies except the Professional Liability, Workers' Compensation, and Employer's Liability Insurance Policies shall be written on an occurrence form.

14.3. **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.

15. **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 Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement are 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 Services 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.

15.1. **LABOR CODE REQUIREMENTS**: Consultant shall comply with all applicable provisions of the California Labor Code, Division 3, Part 7, Chapter 1, Articles 1 – 5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars ($1,000). Copies of the prevailing rate of per diem wages are on file with the District.

15.1.1. **Registration**: If applicable, before a public works contract can be awarded, Consultant and its subcontractor(s) shall be registered with the Department of Industrial Relations in accordance with Labor Code section 1771.1.

15.1.2. **Certified Payroll Records**: Consultant and its subcontractor(s) shall keep accurate certified payroll records of workers and shall electronically submit certified payroll records directly to the Department of Industrial Relations no less than every 30 days while Work is being performed and within 30 days after the final day of Work performed on the Project, or within ten (10) days of any request by the District or the Department of Industrial Relations.

15.1.3. **Labor Compliance**: Consultant shall perform the Services of the Project while complying with all the applicable regulations, including section 16000, et seq., of Title 8 of the California Code of Regulations and is subject to labor compliance monitoring and enforcement by the Department of Industrial Relations.

16. **Certificates/Permits/Licenses/Registration**. Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this Agreement.

17. **COVID-19 Vaccination / Testing Requirements**

Vaccination Requirements

Consultant shall fill out, sign, date and submit to District the COVID-19 Vaccination/Testing Certification Form, attached hereto.

According to the August 11, 2021, California Department of Public Health ("CDPH") State Public Health Officer Order ("Order"), a person is "fully vaccinated" for COVID-19 if two weeks or more have passed since they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna or vaccine authorized by the World Health Organization), or two weeks or more have passed since they received a single-dose vaccine (Johnson and Johnson[J&J]/Janssen).

Pursuant to the CDPH Guidance for Vaccine Records Guidelines & Standards, Consultant shall only accept the following as proof of vaccination:

(a) COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services Centers for Disease Control & Prevention or WHO Yellow Card which includes name of person vaccinated, type of vaccine provided and date last dose administered);

(b) a photo of a Vaccination Record Card as a separate document;

(c) a photo of a Vaccination Record Card stored on a phone or electronic device;

(d) documentation of COVID-19 vaccination from a health care provider;

(e) digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader name, date of birth, vaccine dates and vaccine type; or

(f) documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.

In the absence of knowledge to the contrary, Consultant may accept the documentation presented in (a) through (f) above as valid.

Consultant shall have a plan in place for tracking verified Consultant personnel vaccination status. Records of vaccination verification must be made available, upon request, to the local health jurisdiction for purposes of case investigation.

Consultant personnel, including any and all tiers of subcontractor, supplier, and any other personnel entering the project site, who are not fully vaccinated, or for whom vaccine status is unknown or documentation is not provided, must be considered unvaccinated.

Weekly Testing Requirements

Consultant shall ensure that Consultant personnel, including any and all tiers of subcontractor, supplier, and any other worker entering the project site, who are unvaccinated or who are not fully vaccinated are required to undergo diagnostic screening testing, as specified below:

(a) Consultant personnel may be tested with either antigen or molecular tests to satisfy this requirement, but unvaccinated or incompletely vaccinated workers must be tested at least once weekly with either PCR testing or antigen testing. Any PCR (molecular) or antigen test used must either have Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services.

(b) Unvaccinated or not fully vaccinated Consultant personnel must also observe all other infection control requirements, and are not exempted from the testing requirement even if they have a medical contraindication to vaccination, since they are still potentially able to spread the illness. Previous history of COVID-19 from which the

individual recovered more than 90 days earlier, or a previous positive antibody test for COVID-19, do not waive this requirement for testing.

Consultant shall have a plan in place for tracking test results and conducting workplace contact tracing, and must report results to local public health departments, if applicable.

18. **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 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, Consultant agrees to require like compliance by all of its subcontractor(s).

19. **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. Consultant expressly acknowledges that the following conditions shall apply to any work performed by Consultant and/or Consultant's employees on a school site:

    19.1. All site visits shall be arranged through the District;

    19.2. Consultant and Consultant's employees shall inform District of their proposed activities and location at the school site, allowing District time to arrange site visits without a disruption to the educational process;

    19.3. Consultant and/or Consultant's employees shall check in with the school office each day immediately upon arriving at the school site;

    19.4. Once at such location, Consultant and Consultant's employees shall not change locations without contacting the District;

    19.5. Consultant and Consultant's employees shall not use student restroom facilities; and

    19.6. If Consultant and Consultant's employees find themselves alone with a student, Consultant and Consultant's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

20. **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 the District, appropriate documentation to the District identifying the steps the Consultant has taken to solicit DVBE participation in conjunction with this Agreement, if applicable.

21. **Assignment**. The obligations of Consultant pursuant to this Agreement shall not be assigned by Consultant.

22. **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.

23. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors**. The District may evaluate Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:

    23.1. Requesting that District employee(s) evaluate Consultant and Consultant's employees and subcontractors and each of their performance.

    23.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).

24. **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.

25. **Confidentiality**. 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.

26. **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 or electronic mail, addressed as follows:

District:

Alum Rock Union School District
2930 Gay Avenue
San Jose, CA 95127
FAX:
EMAIL: kolvira.chheng@arusd.org
ATTN: Mr. Kolvira Chheng,
Assistant Superintendent, Business Services

Consultant:

[Ninyo & Moore]
2149 O'Toole Ave., Suite 30,
San Jose, CA 95131
FAX: 408-435-9006
EMAIL: rshah@ninyoandmoore.com
ATTN: Ruchil R. Shah

Any notice personally given or sent by facsimile transmission or electronic mail 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.

27. **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.

28. **California Law; Venue**. 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.

29. **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.

30. **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.

31. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.

32. **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.

33. **Attorney's 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.

34. **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.

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

36. **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.

37. **Counterparts.** This Agreement may be executed in one or more counterparts, and all counterparts together shall be construed as one document. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature. All counterparts so executed shall constitute one Agreement binding all the Parties hereto.

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

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

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

Dated: _____, 20___	Dated: June 23, 2022
Alum Rock Union School District	Ninyo & Moore
By: _____	By: _____
Print Name: _____	Print Name: Mark Reeser
Print Title: _____	Print Title: Principal / Director of Construction Services

Information regarding Consultant:

License No.: 697063 A
100000481

Registration No.: _____

Address: 2149 O' Toole Avenue, Suite 30
San Jose, California 95131

Telephone: 408-435-9000

Facsimile: _____

E-Mail: rshah@ninyoandmoore.com

33-0269828
Employer Identification and/or
Social Security Number

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of $600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the

District requires Consultant to furnish the information requested in this section.

Type of Business Entity:
_____ Individual
_____ Sole Proprietorship
_____ Partnership
_____ Limited Partnership

__X__ Corporation, State: California

_____ Limited Liability Company
_____ Other: _____

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

Consultant's entire Proposal is **not** made part of this Agreement. If there is any conflict between Consultant's Proposal and any provision of this Agreement, the provisions of this Agreement shall control.

TESTING AND INSPECTION

1. CONSULTANT'S SCOPE OF SERVICES

1.1 The scope of services will generally consist of the following:

1.1.1 Compacted fill inspection and testing

1.1.2 Reinforcing steel inspection and testing

1.1.3 Structural steel inspection and testing

1.1.4 Brick and block inspection and testing

1.1.5 Glued laminated structural lumbar inspection and testing

1.1.6 _____ inspection and testing

1.1.7 _____ inspection and testing

1.1.8 _____ inspection and testing

A Division of the State Architect (DSA) Form 103, Statement of Structural Tests and Special Inspections, must be completed for each project and attached to this **Exhibit "A."** Form 103 indicates the type(s) of Inspection(s) and/or testing that will be performed as part of the scope of this Agreement.

1.2 The Services shall be performed on the following project(s)/sites(s) ("Project"): **[INSERT SPECIFIC SCHOOL SITE(S)]**

The Consultant's Service at any one of 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 component(s).

1.3 Consultant shall provide the Services set forth herein, as well as any incidental service necessary for the full and adequate completion of Project in strict accordance with all local, state and federal laws rules and regulations, including but not limited to, the State Building Code, California Code of Regulations, Title 24 and Instructions of Division of the State Architect ("DSA"), Statement of Structural Tests and Special Inspections, (form DSA 103 or more current version), and instructions included herein. Inspector shall comply with all the requirements of a DSA project inspector including, without limitation, all the requirements included and/or referenced in the following forms:

1.3.1 Form DSA IR 17-1 through 17-10, as applicable, Structural Tests and Special Inspection.

1.3.2 Form DSA PR 13-01, Construction Oversight Process Procedure.

1.3.3 Form DSA PR 13-02, Project Certification Process Procedure.

1.3.4 DSA 152 Manual.

1.3.5 All other applicable DSA requirements.

1.4 Special Inspectors and testing staff shall be prepared to attend Project progress meetings and other specially called meetings as determined by the Project Inspector.

1.5 Consultant shall respond to the Project Inspector's scheduling and coordination for Inspections and for Sampling and Testing Services.

1.6 Consultant shall report all project-related activities to the Project Inspector and perform work under the supervision of the design professional in general responsible charge. Consultant shall prepare daily and/or individual occurrence reports of Special Inspections and Testing results on previously approved forms and provide sufficient copies to the Project Inspector on the same day the inspections were performed for his/her distribution to the Construction Contractor and Architect. Daily special inspection reports must be submitted in a timely manner such that construction is not delayed and not to exceed 14 days from the date the special inspections were performed. The reports are to be submitted to DSA, architect, structural engineer, Project Inspector and District.

1.7 Consultant shall immediately submit reports of materials or work not conforming to the requirements of the DSA-approved construction documents to the DSA, architect, structural engineer, Project Inspector and District.

1.8 Consultant shall submit an interim Verified Report (form DSA 292 or more current form) to the DSA electronically and a copy to the Project Inspector for each of the applicable eight sections of form DSA 152 prior to the Project Inspector signing off that section of the project inspection card.

1.9 Consultant shall submit Verified Reports (form DSA 292 or more current form) to the DSA, Project Inspector, District and design profession in responsible charge if any of the following events occur: (1) within 14 days of the completion of the special inspection work, (2) work on the Project is suspended for a period of more than one month, (3) the Services of the Consultant are terminated for any reason prior to completion of the Project, or (4) DSA requests a Verified Report.

2. CONSULTANT'S GENERAL OBLIGATIONS, DUTIES, AND RESPONSIBILITIES

2.1 The Consultant is personally responsible for verifying whether or not every aspect of the work that he or she is responsible to inspect is in compliance with DSA approved documents.

2.2 The Consultant is subject to supervision/direction from the project inspector, architect, structural engineer, and DSA. However, the Consultant shall base all conclusion exclusively on the requirements of the DSA approved documents and applicable codes. In no case shall direction of the architect or engineer be construed to cause work to be done that does not conform with the DSA approved documents.

2.3 The Consultant is always responsible for the following duties:

2.3.1 Preparation for Inspection

2.3.1.1 Review and understand DSA approved plans, specifications, addenda, change orders and Field Change Documents relevant to the tasks to be performed. Review shop drawings, manufacturer's instructions, or other related documents which do not require the approval of DSA.

2.3.1.2 Coordinate with testing laboratory for any sampling and testing requirements. Coordinate with project inspector on the interface of the work inspected with other aspects of the work.

2.3.1.3 Verify that all materials, existing conditions, tools, consumables, formwork, shoring and other items that may affect working conditions meet requirements of DSA approved documents. Verify that construction workers are appropriately certified when required

2.3.1.4 Coordinate with the project inspector on the interface of the work inspected with other aspects of the work.

2.3.2 Inspection

2.3.1.5 Timely complete inspections in accordance with applicable standard of care, all applicable regulations and guidelines, and in accordance with this Agreement.

2.3.3 Reporting

2.3.3.1 Verbally report all deviations from DSA approved documents to the contractor and project inspector immediately. When deviations are not immediately corrected, report the deviations in writing to the contractor, project inspector, DSA, project architect and structural engineer. Report resolution of deviations to all Parties in writing when deviations are corrected.

2.3.3.2 Keep a log of deviations including status and resolution.

2.3.3.3 **Special Inspection Reports.** Consultants working at the project site are required to submit reports on a daily basis to the project inspector. Special inspectors working at locations off-site are required to submit daily report to the project inspector within 14 days of the date of inspection. All daily reports must be copied to the project architect, structural engineer, District, and DSA within 14 days of the date of the inspection. Reports indicating deviations in the work shall be forwarded immediately. A daily special inspection report template (DSA-250 or current version) is provided on the DSA website.

2.3.3.4 **Special Inspection Verified Reports.** Consultant shall submit verified reports on Form DSA-292, or current version, in accordance with Title 24, Part 1, Section 4-336. When more than one special inspector shares responsibility for inspecting a specific facet of construction, each special inspector shall clearly describe the portions of the construction they inspected in detail on Form DSA-292, or current version.

2.4 Frequency of Special Inspections

2.4.1 **Periodic.** The part-time or intermittent observation of work requiring special inspection by an approved special inspector who is present in the area where the work has been or is being performed and at the completion of the work. The period of time between inspections varies for different type of work, the pace of the construction, the number of workers, the quality of workmanship, and other factors. It is the responsibility of the special inspector to provide inspections at an appropriate frequency and at appropriate times during construction. The inspector must have adequate experience and exhibit good judgment in determining the frequency and timing of inspections.

2.4.2 **Continuous.** The full-time observation of work requiring special inspection by an approved special inspector who is present in the area where the work is being performed, as required.

2.4.3 **Factory-Built Building In-Plant Inspection.** Inspectors performing factory-built building "in-plant" inspection are responsible for all aspects of the inspection of construction and for monitoring all work of the testing laboratories and special inspection that occurs in the fabrication plant, except for factory-built building stockpile projects where the construction done in the fabrication plant is the entire scope of the project.

3. ACCEPTED INDUSTRY PRACTICES, COMPLIANCE WITH ALL LAWS

3.1 The Inspector shall follow accepted industry practices and comply with all applicable federal, state and local laws, regulations, and ordinances applicable to the work on the Project including California Code of Regulations, Title 24, including amendments, in the edition referenced in the Contract Documents.

3.2 The inspection shall be according to the DSA inspection rules and regulations including, without limitation, all the requirements included and/or referenced in the following forms:

3.2.1 Form DSA IR 17-4, Basics of Structural Tests and Special Inspections.

3.2.2 Form DSA IR 17-6, Structural Inspector Duties and Responsibilities.

3.2.3 Form DSA IR 17-7, Soils and Foundations Testing and Inspection.

3.2.4 Form DSA IR A-15 Testing and Inspection of Remotely Fabricated Structural Elements.

3.2.5 DSA 152 Manual.

4. Nothing in the drawings, plans and specifications is to be construed to permit construction work not conforming to the above industry practices and/or federal, state and local laws, regulations, and ordinances applicable to the Work.

EXHIBIT "B"
HOURLY BILLING RATES AND SAMPLING AND TESTING UNIT PRICES

Consultant's entire proposal is **not** incorporated.

[INSERT HOURLY RATES AND FEE SCHEDULE FROM CONSULTANT]

Schedule of Fees

Hourly Charges for Personnel

Professional Staff

Principal Engineer/Geologist/Environmental Scientist/Certified Industrial Hygienist	$ 188
Senior Engineer/Geologist/Environmental Scientist	$ 178
Senior Project Engineer/Geologist/Environmental Scientist	$ 173
Project Engineer/Geologist/Environmental Scientist	$ 165
Senior Staff Engineer/Geologist/Environmental Scientist	$ 150
Staff Engineer/Geologist/Environmental Scientist	$ 134
GIS Analyst	$ 123
Technical Illustrator/CAD Operator	$ 98

Field Staff

Certified Asbestos/Lead Technician	$ 173
Field Operations Manager	$ 119
Nondestructive Examination Technician (UT, MT, LP)	$ 114
Supervisory Technician	$ 104
Special Inspector (Concrete, Masonry, Structural Steel, Welding, and Fireproofing)	$ 104
Senior Technician	$ 103
Technician	$ 98

Administrative Staff

Information Specialist	$ 83
Geotechnical/Environmental/Laboratory Assistant	$ 81
Data Processor	$ 71

Other Charges

Concrete Coring Equipment (includes technician)	$ 190/hr
Anchor Load Test Equipment (includes technician)	$ 190/hr
GPR Equipment	$ 180/hr
Inclinometer	$ 100/hr
Hand Auger Equipment	$ 80/hr
Rebar Locator (Pachometer)	$ 25/hr
Vapor Emission Kit	$ 65/kit
Nuclear Density Gauge	$ 12/hr
X-Ray Fluorescence	$ 70/hr
PID/FID	$ 25/hr
Air Sampling Pump	$ 10/hr
Field Vehicle	$ 15/hr
Expert Witness Testimony	$ 450/hr
Direct Expenses	Cost plus 15 %

Special equipment charges will be provided upon request.

Notes

For field and laboratory technicians and special inspectors, overtime rates at 1.5 times the regular rates will be charged for work performed in excess of 8 hours in one day Monday through Friday and all day on Saturday. Rates at twice the regular rates will be charged for all work in excess of 12 hours in one day, all day Sunday and on holidays.

Field technician and special inspection hours are charged portal to portal at a 4-hour minimum, and 8-hour minimum for hours exceeding 4 hours.

Invoices are payable upon receipt. A service charge of 1.5 percent per month may be charged on accounts not paid within 30 days.

Our rates will be adjusted in conjunction with the increase in the Prevailing Wage Determination during the life of the project, as applicable.

The terms and conditions are included in Ninyo & Moore's Work Authorization and Agreement form.

Schedule of Fees for Laboratory Testing

SOILS

Atterberg Limits, D 4318, CT 204	$ 170
California Bearing Ratio (CBR), D 1883	$ 550
Chloride and Sulfate Content, CT 417 & CT 422	$ 175
Consolidation, D 2435, CT 219	$ 300
Consolidation, Hydro-Collapse only, D 2435	$ 150
Consolidation – Time Rate, D 2435, CT 219	$ 200
Direct Shear – Remolded, D 3080	$ 350
Direct Shear – Undisturbed, D 3080	$ 300
Durability Index, CT 229	$ 175
Expansion Index, D 4829, IBC 18-3	$ 190
Expansion Potential (Method A), D 4546	$ 170
Geofabric Tensile and Elongation Test, D 4632	$ 200
Hydraulic Conductivity, D 5084	$ 350
Hydrometer Analysis, D 6913, CT 203	$ 220
Moisture, Ash, & Organic Matter of Peat/Organic Soils	$ 120
Moisture Only, D 2216, CT 226	$ 35
Moisture and Density, D 2937	$ 45
Permeability, CH, D 2434, CT 220	$ 300
pH and Resistivity, CT 643	$ 175
Proctor Density D1557, D 698, CT 216, AASHTO T-180	$ 220
Proctor Density with Rock Correction D 1557	$ 340
R-value, D 2844, CT 301	$ 375
Sand Equivalent, D 2419, CT 217	$ 125
Sieve Analysis, D 6913, CT 202	$ 145
Sieve Analysis, 200 Wash, D 1140, CT 202	$ 100
Specific Gravity, D 854	$ 125
Thermal Resistivity (ASTM 5334, IEEE 442)	$ 925
Triaxial Shear, C.D, D 4767, T 297	$ 550
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt	$ 450
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt	$ 350
Triaxial Shear, U.U., D 2850	$ 250
Unconfined Compression, D 2166, T 208	$ 180

MASONRY

Brick Absorption, 24-hour submersion, 5-hr boiling, 7-day, C 67	$ 70
Brick Compression Test, C 67	$ 55
Brick Efflorescence, C 67	$ 55
Brick Modulus of Rupture, C 67	$ 50
Brick Moisture as received, C 67	$ 45
Brick Saturation Coefficient, C 67	$ 60
Concrete Block Compression Test, 8x8x16, C 140	$ 70
Concrete Block Conformance Package, C 90	$ 500
Concrete Block Linear Shrinkage, C 426	$ 200
Concrete Block Unit Weight and Absorption, C 140	$ 70
Cores, Compression or Shear Bond, CA Code	$ 70
Masonry Grout, 3x3x6 prism compression, C 39	$ 45
Masonry Mortar, 2x4 cylinder compression, C 109	$ 35
Masonry Prism, half size, compression, C 1019	$ 120
Masonry Prism, Full size, compression, C 1019	$ 200

REINFORCING AND STRUCTURAL STEEL

Chemical Analysis, A 36, A 615	$ 135
Fireproofing Density Test, UBC 7-6	$ 90
Hardness Test, Rockwell, A 370	$ 80
High Strength Bolt, Nut & Washer Conformance, per assembly, A 325	$ 150
Mechanically Spliced Reinforcing Tensile Test, ACI	$ 175
Pre-Stress Strand (7 wire), A 416	$ 170
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706	$ 75
Structural Steel Tensile Test: Up to 200,000 lbs., A 370	$ 90
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI	$ 80

CONCRETE

Compression Tests, 6x12 Cylinder, C 39	$ 35
Concrete Mix Design Review, Job Spec	$ 300
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI	$ 850
Concrete Cores, Compression (excludes sampling), C 42	$ 120
Drying Shrinkage, C 157	$ 400
Flexural Test, C 78	$ 85
Flexural Test, C 293	$ 85
Flexural Test, CT 523	$ 95
Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI	$ 275
Lightweight Concrete Fill, Compression, C 495	$ 80
Petrographic Analysis, C 856	$ 2,000
Restrained Expansion of Shrinkage Compensation	$ 450
Splitting Tensile Strength, C 496	$ 100
3x6 Grout, (CLSM), C 39	$ 55
2x2x2 Non-Shrink Grout, C 109	$ 55

ASPHALT

Air Voids, T 269	$ 85
Asphalt Mix Design, Caltrans (incl. Aggregate Quality)	$ 4,500
Asphalt Mix Design Review, Job Spec	$ 180
Dust Proportioning, CT LP-4	$ 85
Extraction, % Asphalt, including Gradation, D 2172, CT 382	$ 250
Extraction, % Asphalt without Gradation, D 2172, CT 382	$ 150
Film Stripping, CT 302	$ 120
Hveem Stability and Unit Weight D 1560, T 246, CT 366	$ 225
Marshall Stability, Flow and Unit Weight, T 245	$ 240
Maximum Theoretical Unit Weight, D 2041, CT 309	$ 150
Moisture Content, CT 370	$ 95
Moisture Susceptibility and Tensile Stress Ratio, T 238, CT 371	$ 1,000
Slurry Wet Track Abrasion, D 3910	$ 150
Superpave, Asphalt Mix Verification (incl. Aggregate Quality)	$ 4,900
Superpave, Gyratory Unit Wt., T 312	$ 100
Superpave, Hamburg Wheel, 20,000 passes, T 324	$ 1,000
Unit Weight sample or core, D 2726, CT 308	$ 100
Voids in Mineral Aggregate, (VMA) CT LP-2	$ 90
Voids filled with Asphalt, (VFA) CT LP-3	$ 90
Wax Density, D 1188	$ 140

AGGREGATES

Clay Lumps and Friable Particles, C 142	$ 180
Cleanness Value, CT 227	$ 180
Crushed Particles, CT 205	$ 175
Durability, Coarse or Fine, CT 229	$ 205
Fine Aggregate Angularity, ASTM C 1252, T 304, CT 234	$ 180
Flat and Elongated Particle, D 4791	$ 220
Lightweight Particles, C 123	$ 180
Los Angeles Abrasion, C 131 or C 535	$ 200
Material Finer than No. 200 Sieve by Washing, C 117	$ 90
Organic Impurities, C 40	$ 90
Potential Alkali Reactivity, Mortar Bar Method, Coarse, C 1260	$ 1,250
Potential Alkali Reactivity, Mortar Bar Method, Fine, C 1260	$ 950
Potential Reactivity of Aggregate (Chemical Method), C 289	$ 475
Sand Equivalent, T 176, CT 217	$ 125
Sieve Analysis, Coarse Aggregate, T 27, C 136	$ 120
Sieve Analysis, Fine Aggregate (including wash), T 27, C 136	$ 145
Sodium Sulfate Soundness, C 88	$ 450
Specific Gravity and Absorption, Coarse, C 127, CT 206	$ 115
Specific Gravity and Absorption, Fine, C 128, CT 207	$ 175

ROOFING

Roofing Tile Absorption, (set of 5), C 67	$ 250
Roofing Tile Strength Test, (set of 5), C 67	$ 250

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.

PREVAILING WAGE CERTIFICATION

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours' notice, payroll records, and apprentice and trainee employment requirements, for all Work on the above Project, including, without limitation, labor compliance monitoring and enforcement by the Department of Industrial Relations.

Date: June 23, 2022

Proper Name of Consultant: Ninyo & Moore

Signature: 

Print Name: Mark Reeser

Title: Principal / Director of Construction Services

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 satisfactory proof 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 Contract.

Date: June 23, 2022

Name of Consultant: Ninyo & Moore

Signature: _____

Print Name and Title: Mark Reeser
Principal / Director of Construction Services

(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 Contract.)

FINGERPRINTING CERTIFICATION/CRIMINAL BACKGROUND INVESTIGATION

The undersigned does hereby certify to the District that I am a representative of the Consultant entering into this Agreement with the District; that I am familiar with the facts herein certified; and that I am authorized and qualified to execute this certificate on behalf of Consultant.

Consultant certifies that it has taken at least one of the following actions (check all that apply):

☐ The Work of the Agreement is either (i) at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of the Agreement shall come in contact with the District pupils or (ii) if Consultant's employees or any subcontractor or supplier of any tier of the Contract interacts with pupils, such interaction shall only take place under the immediate supervision and control of the pupil's parent or guardian or a school employee, so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant under the Agreement.

☒ Consultant, who is not a sole proprietor, has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its subcontractors' employees 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 (A) that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1 and/or (B) that the prohibition does not apply to an employee as provided by Education Code section 45125.1(e)(2) or (3). When the Consultant performs the criminal background check, it shall immediately provide any subsequent arrest and conviction information it receives to the District pursuant to the subsequent arrest service. No work shall commence until the Department of Justice ascertains that Consultant's employees and any subcontractors' employees have not been convicted of a felony as defined in Government Code Section 45122.1.

A complete and accurate list of Consultant's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto as ATTACHMENT "A."

☐ Consultant is a sole proprietor and intends to comply with the fingerprinting requirements of Education Code section 45125.1(h) with respect to all Consultant's employees who may have contact with District pupils in the course of providing services pursuant to the Agreement, and hereby agrees to the District's preparation and submission of fingerprints such that the California Department of Justice may determine (A) that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1 and/or (B) that the prohibition does not apply to an employee as provided by Education Code section 45125.1(e)(2) or (3). No work shall commence until the Department of Justice ascertains that Consultant has not been convicted of a felony as defined in Government Code Section 45122.1.

Consultant's responsibility for background clearance extends to all of its employees, subcontractors, and employees of subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of Consultant.

FINGERPRINTING CERTIFICATION/CRIMINAL BACKGROUND INVESTIGATION

ATTACHMENT "A"

List of Employees/Subcontractors

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

Name/Company: _____

If further space is required for the list of employees/subcontractors, attach additional copies of this page.

Date: June 23, 2022

Name of Consultant: Ninyo & Moore

Signature: _____

Print Name: Mark Reeser

Title: Principal / Director of Construction Services

COVID-19 VACCINATION/TESTING CERTIFICATION

Consultant: Ninyo & Moore

The California Department of Public Health ("CDPH") requires, pursuant to its August 11, 2021, Order ("Order"), that all public and private schools serving students in transitional kindergarten through grade twelve, unless exempt, are required to verify the vaccine status of all K-12 school workers, effective October 15, 2021. Further, pursuant to the Order, all such schools are required to verify that all workers are either fully vaccinated or undergo weekly diagnostic testing.

In light of these CDPH requirements, Consultant certifies that the following entity:

_____ has verified that the Consultant personnel providing services at District's project site(s):

☐ X Have all been fully vaccinated in accordance with the CDPH Order.

☐ Have not all been fully vaccinated, but those who are unvaccinated or not fully vaccinated undergo weekly diagnostic testing in accordance with the CDPH Order.

☐ Have not been fully vaccinated and do not undergo weekly diagnostic testing in accordance with the CDPH Order.

Consultant understands that the District's project site will need to comply with the CDPH Order's COVID-19 requirements for fully vaccinated personnel or unvaccinated personnel. Personnel who are not fully vaccinated or decline to state their vaccination status will be treated as unvaccinated, and Consultant will comply with the CDPH Order, and all applicable state and local laws for vaccinated and unvaccinated personnel.

CERTIFICATION

I, Mark Reeser, certify that I am Consultant's Principal and that I have made a diligent effort to ascertain the facts with regard to the representations made herein.

Date: June 23, 2022

Proper Name of Consultant: Ninyo & Moore

Signature: _____

Print Name: Mark Reeser

Title: Principal / Director of Construction Services