

DEC 18 2025

**INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES
(Geotechnical and Other Services)**

**MENLO PARK
CITY SCHOOL DISTRICT**

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the 18th day of December, 2025, by and between the **Menlo Park City School District**, ("District") and **Ninyo & Moore Geotechnical & Environmental Science Consultants** ("Consultant"), (each a "Party," and together, the "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 4526, authorizes the District to contract with and employ any person(s) for the furnishing of architecture, landscape architecture, environmental, engineering, land surveying, and construction project management services on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required;

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

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

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** The Consultant shall provide geotechnical evaluation, geologic hazards assessment and environmental consulting services, as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** The term of this Agreement shall be December 19, 2025, through January 30, 2026 ("Term"), unless this Agreement is earlier terminated and/or otherwise cancelled prior to that time. Consultant shall commence providing services under this Agreement and will diligently perform Services as required and complete performance thereof. The Term may be extended via an amendment, consistent with Section 28, but in no case shall such extension exceed a total of one (1) calendar year in duration.
3. **Submittal of Documents.** The Consultant shall not commence the Services 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:

- Signed Agreement
- Workers' Compensation Certification
- Prevailing Wage Certification
- Fingerprinting/Criminal Background Investigation Certification
- Insurance Certificates and Endorsements
- W-9 Form (incorporated onto signature page)

4. **Compensation.** District agrees to pay the Consultant compensation for Services satisfactorily rendered, it being agreed that the total fee under this Agreement is not to exceed **Forty-Nine Thousand Eight Hundred Dollars and No/100 Cents (\$49,800.00)**.

For the Services, District shall pay Consultant according to the following terms and conditions:

- 4.1. Payment for the Services shall be made for all undisputed amounts based upon the delivery of the work product as determined by the District. Payment shall be made within thirty (30) days after the Consultant submits an invoice to the District for Services actually rendered and after the District's written approval of the Services, or the portion of the Services for which payment is to be made.
- 4.2. [RESERVED]
- 4.3. If Consultant works at more than one site, Consultant shall invoice for each site separately.
- 4.4. [RESERVED]
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. Services-related expenses approved in advance by District.
6. **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, in the performance of the Services under 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.
7. **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.
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. 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.
 - 8.1.1. Consultant's evaluation will be conducted in accordance with the 2022 California Building Code (CBC), California Geological Survey (CGS) Note 48 (Nov 2022) and CGS Special Publication 117A. The purpose of Consultant's Geotechnical

Evaluation and Geologic Hazards Assessment will be to assess the soil properties and the geologic hazards capable of impacting the site and provide geotechnical recommendations for the design and construction of the proposed improvements.

- 8.2. **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.
- 8.3. **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:
 - 8.3.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
 - 8.3.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
- 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. **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.
10. **Ownership of Data.** Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for the District to use, at its discretion, all plans including, but not limited to, record drawings, specifications, estimates and other documents that Consultant prepared or caused to be prepared pursuant to this Agreement. Consultant retains all rights to all copyrights over designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that Consultant prepares or causes to be prepared pursuant to this Agreement. In the event the District changes or uses any fully or partially completed documents without Consultant's knowledge or participation or both, the District agrees to release Consultant of responsibility for such changes, and shall hold Consultant harmless from and against any and all claims on account of any damages or losses to property or persons, or economic losses, arising out of that change or use, unless Consultant is found to be liable in a forum of competent jurisdiction. In the event that the District uses any fully or partially completed documents without the Consultant's full involvement, the District shall remove all title blocks and other information that might identify Consultant.
11. **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 agrees to take such actions as are necessary to protect the rights assigned to the District in this Agreement, and to refrain from taking any action that would impair those rights. Consultant's responsibilities under this Agreement include without limitation, placing proper notice of copyright on all versions of the plans and specifications. 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.

12. **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.

13. **Termination.**

13.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement for its own convenience and compensate Consultant only for those Services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of the 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.

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

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

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

13.2.3. 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 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.

13.3. Upon termination, Consultant shall provide the District with all documents produced, maintained or collected by Consultant pursuant to this Agreement, whether or not such documents are final or draft documents.

14. **Indemnification.** To the furthest extent permitted by California law, Consultant shall indemnify and hold harmless the District, its Board of Education ("Board"), agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Consultant ("Claim"). Consultant shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Consultant's own expense, including attorneys' fees and costs, from any and all Claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld. Whereas the cost to defend the Indemnified Parties charged to the Consultant shall not exceed the proportionate percentage of Consultant's fault as determined by a court of competent jurisdiction, any amounts paid in excess of such established fault will be reimbursed by the District. Notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the design professional shall meet and confer with other parties regarding unpaid defense costs. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

14.1. Consultant shall pay and satisfy any judgment, award, or decree that may be rendered against the Indemnified Parties in any Claim, subject to the Section 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 the Section above. Consultant's obligation to indemnify shall not be restricted to insurance proceeds.

14.2. 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.

15. **Insurance.**

15.1. 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.

| 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 |
| Employer's Liability | \$ 1,000,000 |

15.1.1. 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.)

15.1.2. 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. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of District for all work performed by Consultant, its employees, agents and subcontractors. 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.

15.1.3. Professional Liability (Errors and Omissions). Professional Liability Insurance as appropriate to the Consultant's profession, coverage to continue through completion of construction plus two (2) years thereafter.

15.2. 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:

15.2.1. 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."

15.2.2. 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.

- 15.2.3. An endorsement stating that the District and its Board, 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. An endorsement shall also state that there shall be a waiver of any subrogation.
- 15.2.4. All policies except the Professional Liability, Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.
- 15.3. **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.
- 15.4. If Consultant normally carries insurance in an amount greater than the minimum amounts required herein, that greater amount shall become the minimum required amount of insurance for purposes of the Agreement. Therefore, Consultant hereby acknowledges and agrees that all insurance carried by it shall be deemed liability coverage for all actions it performs in connection with the Agreement.
- 15.5. Insurance written on a "claims made" basis shall be retroactive to a date that coincides with or precedes Consultant's commencement of the Services, including subsequent policies purchased as renewals or replacements.
16. **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 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 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 Services 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.
- 16.1. **Labor Code Requirements:** Where required, Consultant shall comply with all applicable provisions of the California Labor Code, Division 2, Part 7, Chapter 1, Articles 1 – 5, including, without limitation, the payment of the general prevailing per diem wage rates for "public works" and "maintenance" projects of more than one thousand dollars (\$1,000) ("Prevailing Wage Laws"). Copies of the prevailing rate of per diem wages are on file with the District. Since Consultant is performing a public works or maintenance project for more than one thousand dollars (\$1,000) in compensation, Consultant hereby agrees to fully comply with and to require its consultant(s), subcontractor(s), and any other affiliates who are performing any part of the Services to fully comply with all requirements of the Prevailing Wage Laws.
- 16.1.1. **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. At least one week before commencing work, Consultant shall provide to District the name and DIR registration number for Consultant and any applicable subcontractor.

- 16.1.2. **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 weekly or within ten (10) days of any request by the District or the Department of Industrial Relations, pursuant to Labor Code section 1776.
- 16.1.3. **Labor Compliance:** Consultant shall perform the Services 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.
17. **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.
18. **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.
19. **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, mental disability, reproductive health decision making, medical condition, genetic information, marital status, sex, gender identity, gender expression, age, sexual orientation, gender, veteran or military status, 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 of its subcontractor(s).
20. **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:
- 20.1. All site visits shall be arranged through the District;
 - 20.2. 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;
 - 20.3. Consultant and/or Consultant's employees shall check in with the school office each day immediately upon arriving at the school site;
 - 20.4. Once at such location, Consultant and Consultant's employees shall not change locations without contacting the District;
 - 20.5. Consultant and Consultant's employees shall not use student restroom facilities; and

- 20.6. 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.
21. **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 (SFP Funds) to have a participation 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). If this Contract uses SFP Funds, Consultant must submit, with its executed Contract, appropriate documentation to the District identifying the steps Consultant has taken to solicit DVBE participation in conjunction with this Contract.
22. **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.
23. **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.
24. **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.
25. **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.
26. **Tolling.** Consultant agrees to toll all statutes of limitations for District's assertion of claims against Consultant that arise out of, pertain to, or relate to contractors' or subcontractors'

claims against District involving Consultant's services under this Agreement, until the contractors' or subcontractors' claims are finally resolved.

27. **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, addressed as follows:

District:

Menlo Park City School District
181 Encinal Ave.
Atherton, CA 94027
ATTN: Sandra Franco, Director of
Maintenance, Operations & Transportation

Consultant:

**Ninyo & Moore Geotechnical and
Environmental Sciences Consultants**
95 Edge Road
Atherton, CA 94027
510.343.3001
ATTN: Rathna P. Mothkuri, PMP, Project
Engineer, and Ransom H. Hennefer, PE, GE,
Principal Engineer

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.

28. **Integration/Entire Agreement of Parties/Amendments.** 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.
29. **Governing 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.
30. **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.
31. **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.
32. **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.
33. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant. Any such assignment shall be null and void.
34. **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.

35. **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.
36. **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.
37. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
38. **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 authorized and empowered to enter into this Agreement.
39. **Counterparts.** This Agreement and all amendments and supplements to it 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 Parties hereto.
40. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

[Signature page follows.]

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

Dated: December 18, 2025

Dated: December 10, 2025

Menlo Park City School District

Ninyo & Moore Geotechnical and Environmental Sciences Consultants

By: 

By: 

Print Name: Kristen Gracia

Print Name: Ransom Hennefer

Print Title: Superintendent

Print Title: Principal Engineer

Information regarding Consultant:

License No.: 697063

33-0269828 :

Registration No.: 1000004481

Employer Identification and/or Social Security Number

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

Telephone: 408.435.9000 (x15304)

Facsimile: N/A

E-Mail: rhennefer@ninyo@moore.com

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 the Consultant to furnish the information requested in this section.

Type of Business Entity:
 Individual
 Sole Proprietorship
 Partnership
 Limited Partnership
 Corporation, State: CA
 Limited Liability Company
 Other: _____

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

Consultant's entire proposal, dated as of November 11, 2025 ("Proposal"), is **not** made part of this Agreement.

Consultant reviewed regional seismic hazard reports and maps and applicable codes governing public school construction in California. Based on Consultant's review, the subject site is not located in an earthquake, landslide, or liquefaction hazard zone established by the California Geological Survey (CGS).

Consultant agrees to provide the following Services:

Task 1 – Geotechnical Evaluation & Geologic Hazards Assessment

- Review of readily available geologic and seismic literature pertinent to the project area including geologic maps and reports, regional fault maps, seismic hazard maps and aerial photography.
- Review existing geotechnical reports or subsurface information that is available in the vicinity of the site.
- Perform a site reconnaissance to observe the general site conditions and to mark the proposed locations for subsurface exploration.
- Review existing utility plans provided. Coordinate with Underground Service Alert to mark the
- underground utilities in the vicinity of the proposed locations for subsurface exploration.
- Perform a private utility survey by ground penetrating radar and electro-magnetic scanning to check the exploration locations for potential conflicts with underground utilities.
- Procure a boring permit from San Mateo County Environmental Health Services.
- Perform a subsurface exploration consisting of 15 exploratory borings to depths of up to 25 feet below existing grade. The actual depths of the explorations will be influenced by the subsurface conditions encountered. A representative of Ninyo & Moore will log the subsurface conditions exposed in the borings, and collect bulk and relatively undisturbed soil samples for laboratory testing. The borings will be backfilled with grout in compliance with the San Mateo county boring permit and drilled holes in pavement will be patched using cold patch asphalt.
- Perform refraction microtremor (ReMi) geophysical survey to determine the project's Site Class and shear wave velocity profile.
- Perform laboratory tests on selected soil samples to evaluate in-situ soil moisture content and density, fines content, particle size distribution, Atterberg limits, consolidation characteristics, shear strength, expansion index, and soil corrosivity, as appropriate for the subsurface materials encountered.
- Compile and analyze the field and laboratory data and the results of our geologic review to
- evaluate the following:
 - Subsurface conditions encountered at the site including stratigraphy, depth to groundwater if encountered, and published historic groundwater depth.
 - Geologic considerations and seismic hazards present on site including potential for corrosive soils, expansive soils, unsuitable materials, settlement, strong ground shaking, fault surface rupture, landsliding, flooding, and a quantitative assessment of liquefaction and related hazards.
 - Measures to mitigate the potential seismic hazards and geologic considerations as appropriate, and site suitability for the proposed construction from a geotechnical perspective.
 - Earthwork and compaction criteria, including subgrade preparation, fill placement, underground utility installation, allowable temporary slopes, suitable fill materials, and remedial grading measures to mitigate expansive soils or unsuitable materials as appropriate.

- Site class and seismic coefficients for seismic design conforming to the 2025 California Building Code and Chapter 11 of the American Society of Civil Engineers (ASCE) Standard 7-22.
- Design parameters for shallow foundations including allowable bearing capacity, lateral load resistance, foundation embedment depth, and estimated settlement.
- Design criteria for drilled pier foundations including side friction and lateral load resistance.
- Lateral earth pressures and design parameters for retaining walls.
- Recommendations for structural section for new on-site asphalt concrete pavement for the proposed parking and asphalt play areas.
- Recommendations for concrete flatwork.
- Prepare a report presenting the findings of our subsurface evaluation, the conclusions from our geologic hazards' assessment, and our geotechnical recommendations for design and construction of the proposed improvements.

Task 2 – Environmental Consulting Services

- Perform a limited assessment of shallow site soils for the potential presence of contamination. Eight discrete soil samples will be collected from eight select borings at depths shallower than 5 feet. Samples will be collected in laboratory-supplied glass jars and will be placed in a cooler with ice for delivery under chain-of-custody to a State-certified environmental laboratory. Ninyo & Moore will instruct the laboratory to analyze the samples by compositing each set of four discrete samples into one 4-point composite sample. The two composite samples will be analyzed on a dry-weight basis for the following on a 5-day turnaround:
 - Total Petroleum Hydrocarbons as Diesel (TPHd) and as Motor Oil (TPHmo) by United States Environmental Protection Agency (EPA) Method 8015b.
 - CAM 17 Metals by EPA Method 6010/7471.
 - TPH as Gasoline (TPHg) and Volatile Organic Compounds by EPA Method 8260B.
 - Semi-Volatile Organic Compounds by EPA Method 8270C.
 - Organochlorine Pesticides and Polychlorinated Biphenyls by EPA Method 8081A/8082.
 - Title 22 Soluble Threshold Limit Concentration (STLC), waste extraction test (WET) and Toxicity Characteristic Leaching Procedure (TCLP) analysis, if needed for solubility as required (up to 4 analyses). The need for these analyses will be based on initial sample results, and additional turn-around time of approximately 7-days past the initial 5-day turn-around will be required if these analyses are run.

ASSUMPTIONS

- Consultant's subsurface exploration may be performed during typical weekday construction hours during the school's December administrative holidays. In the event that weekend work is needed, this can be performed for an additional fee of \$4,200.
- Consultant will contact Underground Service Alert prior to performing our subsurface evaluation. However, the client will provide our firm with any additional information regarding the presence of utilities within the project areas. Ninyo & Moore will not be responsible for utilities encountered during drilling that have not been marked out or shown on the plans.
- Some ground disturbance should be expected as a result of our fieldwork. Bore holes in pavement will be patched with cold patch asphalt.
- Hazardous materials will not be encountered during the subsurface evaluation.

SCHEDULE

Consultant will begin Services immediately upon receipt of written authorization.

We have tentatively scheduled a drill rig for December 22 & 23, 2025. Which is anticipated to fall on administrative holiday days to minimize disruption to the school. We anticipate that Consultant's geotechnical report will be issued approximately 3 weeks after completion of our field investigation, (by January 14, 2026, assuming the December 22 & 23 drill dates are acceptable). Preliminary

recommendations can be provided immediately after completion of the subsurface exploration, if requested.

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

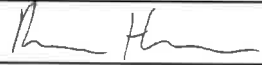
Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- 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 Services under this Agreement.

Date: 12/10/2025

Name of Consultant: Ninyo & Moore

Signature: 

Print Name and Title: Ransom Hennefer, Principal Engineer

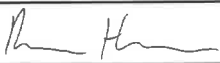
(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)

**PREVAILING WAGE AND
RELATED LABOR REQUIREMENTS 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 Services related to any project including, without limitation, labor compliance monitoring and enforcement by the Department of Industrial Relations.

Date: December 10, 2025

Name of Consultant: Ninyo & Moore

Signature: 

Print Name and Title: Ransom Hennefer, Principal Engineer

FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

The undersigned does hereby certify to District that I am a representative of Consultant entering into this Agreement with 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 Services 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 District pupils or (ii) if Consultant's employees or any subcontractor or supplier of any tier of the Agreement 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 Consultant performs the criminal background check, it shall immediately provide any subsequent arrest and conviction information it receives to 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 Education 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 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 Education 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: _____

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Name/Company: _____


Name/Company: _____

Name/Company: _____

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

Date: December 10, 2025

Name of Consultant: Ninyo & Moore

Signature: 

Print Name: Ransom Hennefer

Title: Principal Engineer

[End of document.]