

PROFESSIONAL SERVICES CONTRACT BETWEEN  
THE CITY OF HUNTINGTON BEACH AND  
NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES CONSULTANTS  
FOR  
ON-CALL MATERIALS TESTING AND ENGINEERING SERVICES

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Huntington Beach, a municipal corporation of the State of California, hereinafter referred to as "CITY," and NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES CONSULTANTS, a California Corporation hereinafter referred to as "CONSULTANT."

WHEREAS, CITY desires to engage the services of a consultant to provide on-call Materials Testing and Engineering Services; and

Pursuant to documentation on file in the office of the City Clerk, the provisions of the Huntington Beach Municipal Code, Chapter 3.03, relating to procurement of professional service contracts have been complied with; and

CONSULTANT has been selected to perform these services,

NOW, THEREFORE, it is agreed by CITY and CONSULTANT as follows:

1. SCOPE OF SERVICES

CONSULTANT shall provide all services as described in **Exhibit "A,"** which is attached hereto and incorporated into this Agreement by this reference. These services shall sometimes hereinafter be referred to as the "PROJECT."

CONSULTANT hereby designates Garreth Saiki who shall represent it and be its sole contact and agent in all consultations with CITY during the performance of this Agreement.

2. CITY STAFF ASSISTANCE

CITY shall assign a staff coordinator to work directly with CONSULTANT in the performance of this Agreement.

3. TERM; TIME OF PERFORMANCE

Time is of the essence of this Agreement. The services of CONSULTANT are to commence on \_\_\_\_\_, 20\_\_\_\_ (the "Commencement Date"). This Agreement shall automatically terminate three (3) years from the Commencement Date, unless extended or sooner terminated as provided herein. All tasks specified in **Exhibit "A"** shall be completed no later than three (3) years from the Commencement Date. The time for performance of the tasks identified in **Exhibit "A"** are generally to be shown in **Exhibit "A."** This schedule may be amended to benefit the PROJECT if mutually agreed to in writing by CITY and CONSULTANT.

In the event the Commencement Date precedes the Effective Date, CONSULTANT shall be bound by all terms and conditions as provided herein.

4. COMPENSATION

In consideration of the performance of the services described herein, CITY agrees to pay CONSULTANT on a time and materials basis at the rates specified in **Exhibit "B,"** which is attached hereto and incorporated by reference into this Agreement, a fee, including all costs and expenses, not to exceed Six Hundred Thousand Dollars (\$600,000.00).

5. EXTRA WORK

In the event CITY requires additional services not included in **Exhibit "A"** or changes in the scope of services described in **Exhibit "A,"** CONSULTANT will undertake such work only after receiving written authorization from CITY. Additional compensation for such extra work shall be allowed only if the prior written approval of CITY is obtained.

6. METHOD OF PAYMENT

CONSULTANT shall be paid pursuant to the terms of **Exhibit "B."**

7. DISPOSITION OF PLANS, ESTIMATES AND OTHER DOCUMENTS

CONSULTANT agrees that title to all materials prepared hereunder, including, without limitation, all original drawings, designs, reports, both field and office notices, calculations, computer code, language, data or programs, maps, memoranda, letters and other documents, shall belong to CITY, and CONSULTANT shall turn these materials over to CITY upon expiration or termination of this Agreement or upon PROJECT completion, whichever shall occur first. These materials may be used by CITY as it sees fit.

8. HOLD HARMLESS

A. CONSULTANT hereby agrees to protect, defend, indemnify and hold harmless CITY, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) arising out of or in connection with CONSULTANT's (or CONSULTANT's subcontractors, if any) negligent (or alleged negligent) performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement by CONSULTANT, its officers, agents or employees except such loss or damage which was caused by the sole negligence or willful misconduct of CITY. CONSULTANT will conduct all defense at its sole cost and expense and CITY shall approve selection of CONSULTANT's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by CONSULTANT.

B. To the extent that CONSULTANT performs "Design Professional Services" within the meaning of Civil Code Section 2782.8, then the following Hold Harmless provision applies in place of subsection A above:

"CONSULTANT hereby agrees to protect, defend, indemnify and hold harmless CITY and its officers, elected or appointed officials, employees, agents and volunteers, from and against any and all claims, damages, losses, expenses, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) to the extent that the claims against CONSULTANT arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. In no event shall the cost to defend charged to CONSULTANT exceed CONSULTANT's proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more other defendants to the claims and/or litigation is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, CONSULTANT shall meet and confer with CITY and other defendants regarding unpaid defense costs. The duty to indemnify, including the duty and the cost to defend, is limited as provided in California Civil Code Section 2782.8.

C. Regardless of whether subparagraph A or B applies, CITY shall be reimbursed by CONSULTANT for all costs and attorney's fees incurred by CITY in enforcing this obligation. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.

9. PROFESSIONAL LIABILITY INSURANCE

CONSULTANT shall obtain and furnish to CITY a professional liability insurance policy covering the work performed by it hereunder. This policy shall provide coverage for CONSULTANT's professional liability in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate. The above-mentioned insurance shall not contain a self-insured retention without the express written consent of CITY; however an insurance

policy "deductible" of Ten Thousand Dollars (\$10,000.00) or less is permitted. A claims-made policy shall be acceptable if the policy further provides that:

- A. The policy retroactive date coincides with or precedes the initiation of the scope of work (including subsequent policies purchased as renewals or replacements).
- B. CONSULTANT shall notify CITY of circumstances or incidents that might give rise to future claims.

CONSULTANT will make every effort to maintain similar insurance during the required extended period of coverage following PROJECT completion. If insurance is terminated for any reason, CONSULTANT agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this Agreement.

If CONSULTANT fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the CITY with required proof that insurance has been procured and is in force and paid for, the CITY shall have the right, at the CITY's election, to forthwith terminate this Agreement. Such termination shall not effect Consultant's right to be paid for its time and materials expended prior to notification of termination. CONSULTANT waives the right to receive compensation and agrees to indemnify the CITY for any work performed prior to approval of insurance by the CITY.

#### 10. CERTIFICATE OF INSURANCE

Prior to commencing performance of the work hereunder, CONSULTANT shall furnish to CITY a certificate of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverage as required by this Agreement; the certificate shall:

- A. provide the name and policy number of each carrier and policy;
- B. state that the policy is currently in force; and

- C. shall promise that such policy shall not be suspended, voided or canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice; however, ten (10) days' prior written notice in the event of cancellation for nonpayment of premium.

CONSULTANT shall maintain the foregoing insurance coverage in force until the work under this Agreement is fully completed and accepted by CITY.

The requirement for carrying the foregoing insurance coverage shall not derogate from CONSULTANT's defense, hold harmless and indemnification obligations as set forth in this Agreement. CITY or its representative shall at all times have the right to demand the original or a copy of the policy of insurance. CONSULTANT shall pay, in a prompt and timely manner, the premiums on the insurance hereinabove required.

11. INDEPENDENT CONTRACTOR

CONSULTANT is, and shall be, acting at all times in the performance of this Agreement as an independent contractor herein and not as an employee of CITY. CONSULTANT shall secure at its own cost and expense, and be responsible for any and all payment of all taxes, social security, state disability insurance compensation, unemployment compensation and other payroll deductions for CONSULTANT and its officers, agents and employees and all business licenses, if any, in connection with the PROJECT and/or the services to be performed hereunder.

12. TERMINATION OF AGREEMENT

All work required hereunder shall be performed in a good and workmanlike manner. CITY may terminate CONSULTANT's services hereunder at any time with or without cause, and whether or not the PROJECT is fully complete. Any termination of this Agreement by CITY shall be made in writing, notice of which shall be delivered to CONSULTANT as provided herein. In the

event of termination, all finished and unfinished documents, exhibits, report, and evidence shall, at the option of CITY, become its property and shall be promptly delivered to it by CONSULTANT.

13. ASSIGNMENT AND DELEGATION

This Agreement is a personal service contract and the work hereunder shall not be assigned, delegated or subcontracted by CONSULTANT to any other person or entity without the prior express written consent of CITY. If an assignment, delegation or subcontract is approved, all approved assignees, delegates and subconsultants must satisfy the insurance requirements as set forth in Sections 9 and 10 hereinabove.

14. COPYRIGHTS/PATENTS

CITY shall own all rights to any patent or copyright on any work, item or material produced as a result of this Agreement.

15. CITY EMPLOYEES AND OFFICIALS

CONSULTANT shall employ no CITY official nor any regular CITY employee in the work performed pursuant to this Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of the applicable provisions of the California Government Code.

16. NOTICES

Any notices, certificates, or other communications hereunder shall be given either by personal delivery to CONSULTANT's agent (as designated in Section 1 hereinabove) or to CITY as the situation shall warrant, or by enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the United States Postal Service, to the addresses specified below. CITY and CONSULTANT may designate different addresses to which subsequent notices, certificates or other communications will be sent by notifying the other party via personal delivery, a reputable overnight carrier or U. S. certified mail-return receipt requested:

TO CITY:

City of Huntington Beach  
ATTN: Director of Public Works  
2000 Main Street  
Huntington Beach, CA 92648

TO CONSULTANT:

NINYO & MOORE GEOTECHNICAL  
AND ENVIRONMENTAL SCIENCES  
CONSULTANTS  
ATTN: Garreth Saiki  
5710 Ruffin Road  
San Diego, CA 92123

17. CONSENT

When CITY's consent/approval is required under this Agreement, its consent/approval for one transaction or event shall not be deemed to be a consent/approval to any subsequent occurrence of the same or any other transaction or event.

18. MODIFICATION

No waiver or modification of any language in this Agreement shall be valid unless in writing and duly executed by both parties.

19. SECTION HEADINGS

The titles, captions, section, paragraph and subject headings, and descriptive phrases at the beginning of the various sections in this Agreement are merely descriptive and are included solely for convenience of reference only and are not representative of matters included or excluded from such provisions, and do not interpret, define, limit or describe, or construe the intent of the parties or affect the construction or interpretation of any provision of this Agreement.

20. INTERPRETATION OF THIS AGREEMENT

The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. If any provision of this Agreement is held by an arbitrator or court of competent jurisdiction to be unenforceable, void, illegal or invalid, such holding shall not invalidate or affect the remaining covenants and provisions of this Agreement. No covenant or provision shall be deemed dependent



upon any other unless so expressly provided here. As used in this Agreement, the masculine or neuter gender and singular or plural number shall be deemed to include the other whenever the context so indicates or requires. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation contrary to which the parties have no right to contract, then the latter shall prevail, and the provision of this Agreement which is hereby affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.

21. DUPLICATE ORIGINAL

The original of this Agreement and one or more copies hereto have been prepared and signed in counterparts as duplicate originals, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original. Each duplicate original shall be deemed an original instrument as against any party who has signed it.

22. IMMIGRATION

CONSULTANT shall be responsible for full compliance with the immigration and naturalization laws of the United States and shall, in particular, comply with the provisions of the United States Code regarding employment verification.

23. LEGAL SERVICES SUBCONTRACTING PROHIBITED

CONSULTANT and CITY agree that CITY is not liable for payment of any subcontractor work involving legal services, and that such legal services are expressly outside the scope of services contemplated hereunder. CONSULTANT understands that pursuant to *Huntington Beach City Charter* Section 309, the City Attorney is the exclusive legal counsel for CITY; and CITY shall not be liable for payment of any legal services expenses incurred by CONSULTANT.

24. ATTORNEY'S FEES

In the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees, such that the prevailing party shall not be entitled to recover its attorney's fees from the nonprevailing party.

25. SURVIVAL

Terms and conditions of this Agreement, which by their sense and context survive the expiration or termination of this Agreement, shall so survive.

26. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

27. SIGNATORIES

Each undersigned represents and warrants that its signature hereinbelow has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify CITY fully for any injuries or damages to CITY in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

28. ENTIRETY

The parties acknowledge and agree that they are entering into this Agreement freely and voluntarily following extensive arm's length negotiation, and that each has had the opportunity to consult with legal counsel prior to executing this Agreement. The parties also acknowledge and agree that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by that party or anyone acting on that party's behalf, which are not embodied in this Agreement, and that that party has not executed this Agreement in reliance on any representation, inducement, promise, agreement, warranty, fact or circumstance not expressly set forth in this

Agreement. This Agreement, and the attached exhibits, contain the entire agreement between the parties respecting the subject matter of this Agreement, and supersede all prior understandings and agreements whether oral or in writing between the parties respecting the subject matter hereof.

29. GENERAL PRINCIPALS CERTIFICATION FOR FEDERAL-AID CONTRACTS

CONSULTANT shall comply generally accepted accounting principles and good business practices. CONSULTANT shall, at its own expense, furnish all cost items associated with the proposed services except as specified to be furnished by City. CONSULTANT shall retain financial records, supporting documents, statistical records, and all other records pertinent to the proposed services for a period of a minimum of three (3) years from the expiration of the term of the Master Agreement.

CONSULTANT shall take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive or is considered sensitive consistent with laws regarding privacy and responsibility over confidentiality.

30. NON-DISCRIMINATION CERTIFICATION FOR FEDERAL-AID CONTRACTS

CONSULTANT shall take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive or is considered sensitive consistent with laws regarding privacy and responsibility over confidentiality.

CONSULTANT shall ensure that services and facilities are provided without regard to ethnic group identification, race, color, national origin, creed, religion, age, sex, physical or mental disability, political affiliation, or marital status in accordance with applicable laws, including, but not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200-d); Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 324); Section 504 of the Rehabilitation Act of 1973; the Civil Rights Restoration Act of 1987 (P.L. 100-209); Executive Order 12898 (February 11, 1994); Executive Order 13166 (August 16, 2000); Title VII of the Civil Rights Act of

1964 (42 U.S.C 2000-d); the Age Discrimination Act of 1975 (42 U.S.C. 6101); Article 9.5, Chapter 1, Part 1, Division 2, Title 2 (Section 11135, et seq) of the California Government Code; Title 9, Chapter 4, Subchapter 6 (Section 10800, et seq) of the CCR and California Department of Social Services Manual of Policies and Procedures (CDSS MPP) Division 21.

CONSULTANT shall ensure that proposed activities be accomplished in an equitable and impartial manner so that no person shall be excluded because of race, color, gender, or national origin from participation in, or be denied the benefits, or any program or activity for which federal financial assistance is received (31 CFR Part 22).

### 31. MBE AND WBE CERTIFICATION FOR FEDERAL-AID CONTRACTS

It is the policy of the City to encourage the participation of disadvantaged, minority and women owned business enterprises in the City's procurement process.

CONSULTANT agrees to use its best efforts to carry out this policy when sourcing the use of outside consultants, advisors and contractors to the fullest extent practicable, consistent with the efficient performance of a contract. CONSULTANT may rely on written representations by consultants, advisors and contractors regarding their status. CONSULTANT shall report to the City the names of all consultants, advisors and contractors hired for the proposed services and information on whether or not they are a disadvantaged, minority or women-owned business enterprise, as defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

CONSULTANT shall, in accordance with 2 CFR 200.321, take affirmative steps to include minority business, women's business enterprises, and labor surplus area firms when sourcing the use of outside consultants, advisors, and contractors for a contract by:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

(d) Establishing delivery schedules, where the requirements permit, which encourage participation by small and minority businesses and women's business enterprises; and

(e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

32. DOMESTIC PREFERENCE CERTIFICATION FOR FEDERAL-AID CONTRACTS

It is the policy of the City to encourage a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders.

CONSULTANT agrees to use its best efforts to comply with 2 CFR 200.322 to the fullest extent possible consistent with the efficient performance of a contract.

33. RECOVERED MATERIALS CERTIFICATION FOR FEDERAL-AID CONTRACTS

CONSULTANT shall comply with 2 CFR 200.322 and procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a

satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000. CONSULTANT certifies that the percentage of recovered materials to be used in the performance of this Agreement will be at least the amount required by applicable specifications or other contractual requirements. For contracts over \$100,000 in total value, CONSULTANT shall estimate the percentage of total material utilized for the performance of the project that is recovered materials and shall provide such estimate to City upon request.

34. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT  
CERTIFICATION FOR FEDERAL-AID CONTRACTS

CONSULTANT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401-7671q. CONSULTANT agrees to report each violation to the USDA and the appropriate EPA Regional Office.

CONSULTANT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). CONSULTANT agrees to report each violation to the USDA and the appropriate EPA Regional Office.

35. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS PRIMARY COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

1. The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this certification. Indicate to whom it applies, initiating agency, and dates of action.

36. NON-LOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing and submitting this document, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an

officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

### 37. EFFECTIVE DATE


This Agreement shall be effective on the date of its approval by the City Council.

This Agreement shall expire when terminated as provided herein.




CONSULTANT,

NINYO & MOORE GEOTECHNICAL  
AND ENVIRONMENTAL SCIENCES  
CONSULTANTS

By:   
Abram Ninyo, President  
print name

ITS: (circle one) Chairman President Vice President

AND

By:   
Elaine O. Aitua, Assistant Secretary  
print name

ITS: (circle one) Secretary/Chief Financial Officer Asst.  
Secretary Treasurer

CITY OF HUNTINGTON BEACH, a  
municipal corporation of the State of  
California

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

INITIATED AND APPROVED:

  
Director of Public Works

REVIEWED AND APPROVED:

\_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

  
City Attorney W

## EXHIBIT "A"

1. For some projects the consultant shall be responsible for all the tests as required by the Caltrans Standard Specifications and the Project Special Provisions.

2. Any required sampling and testing shall be done by personnel and laboratory with the appropriate accreditation for the testing and sampling designated to perform. Proof of the appropriate accreditation shall be submitted for approval by the City.

3. Provide a qualified technician as necessary to conduct density tests as required. The tests will be performed with a nuclear densometer in accordance with ASTM D2922 or sand cone in accordance with ASTM D1556. Maximum density curves (ASTM D1557) will be performed on various material types as they are encountered.

4. Provide an ACI-certified technician as necessary to make sets of concrete cylinders as needed and perform slump tests for minor concrete and bridge structure concrete.

5. Perform compression strength tests on concrete cylinders in accordance with ASTM C39 for bridge structure concrete.

6. Consultant shall keep records of all samples and tests in the project files as permanent job records. Materials incorporated into the project, represented by failing tests, must be documented in the project files also. Test results shall cite applicable contract requirements, test and/or analytical procedures used. Provide actual results and include a statement that the item tested or analyzed conforms or fails to conform to specified requirements. Test results shall be signed by a testing laboratory representative authorized to sign certified documentation and forward to the City.

7. Maintain a rework items list of work performed that does not comply with the Contract. The Contractor shall be responsible for including on this list items needing rework including those identified by the Engineer.

8. Maximum density tests shall be performed at the job site unless otherwise approved by the City Engineer.

9. Consultant shall keep records of all samples and tests in the project files as permanent job records. Materials incorporated into the project, represented by failing tests, shall also be documented in the project files.

10. Consultant shall use the most economical mode of transportation available consistent with the time element involved.

11. Project Certification – Send a materials certification memorandum to the Public Works Contract Administrator, City of Huntington Beach, upon completion of the project. File a copy of the memorandum in the job files. Note all non-conforming materials on the memorandum. This includes materials accepted at reduced pay factors.

12. A California licensed engineer shall sign the materials certification memorandum.

13. Any Non-Compliance results of materials shall be reported to the City's Project Manager and City Project Inspector within twenty-four (24) hours from the time of sampling.

## EXHIBIT "B"

### Payment Schedule (Hourly Payment)

#### A. Hourly Rate

CONSULTANT'S fees for such services shall be based upon the following hourly rate and cost schedule:

SEE ATTACHED EXHIBIT B

#### B. Travel Charges for time during travel are not reimbursable.

#### C. Billing

1. All billing shall be done monthly in fifteen (15) minute increments and matched to an appropriate breakdown of the time that was taken to perform that work and who performed it.
2. Each month's bill should include a total to date. That total should provide, at a glance, the total fees and costs incurred to date for the project.
3. A copy of memoranda, letters, reports, calculations and other documentation prepared by CONSULTANT may be required to be submitted to CITY to demonstrate progress toward completion of tasks. In the event CITY rejects or has comments on any such product, CITY shall identify specific requirements for satisfactory completion.
4. CONSULTANT shall submit to CITY an invoice for each monthly payment due. Such invoice shall:
  - A) Reference this Agreement;
  - B) Describe the services performed;
  - C) Show the total amount of the payment due;
  - D) Include a certification by a principal member of CONSULTANT's firm that the work has been performed in accordance with the provisions of this Agreement; and
  - E) For all payments include an estimate of the percentage of work completed.

Upon submission of any such invoice, if CITY is satisfied that CONSULTANT is making satisfactory progress toward completion of tasks in accordance with this Agreement, CITY shall approve the invoice, in which event payment shall be made within thirty (30) days of receipt of the invoice by CITY. Such approval shall not be unreasonably withheld. If CITY does not approve an invoice, CITY shall notify CONSULTANT in writing of the reasons for non-approval and the schedule of performance set forth in Exhibit "A" may at the option of CITY be suspended until the parties agree that past performance by CONSULTANT is in, or has been brought into compliance, or until this Agreement has expired or is terminated as provided herein.

5. Any billings for extra work or additional services authorized in advance and in writing by CITY shall be invoiced separately to CITY. Such invoice shall contain all of the information required above, and in addition shall list the hours expended and hourly rate charged for such time. Such invoices shall be approved by CITY if the work performed is in accordance with the extra work or additional services requested, and if CITY is satisfied that the statement of hours worked and costs incurred is accurate. Such approval shall not be unreasonably withheld. Any dispute between the parties concerning payment of such an invoice shall be treated as separate and apart from the ongoing performance of the remainder of this Agreement.

## EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)  
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant Ninyo & Moore☐ Prime Consultant☒ Subconsultant☐ 2nd Tier SubconsultantProject No. \_\_\_\_\_ Contract No. \_\_\_\_\_ Participation Amount \$ \_\_\_\_\_ Date 3/1/2022

For Combined Rate	Fringe Benefit % + General & Administrative %	= 137.19%	Combined ICR%
OR			
For Home Office Rate	Fringe Benefit % + General & Administrative %	= 0.00%	Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	= 0.00%	Field Office ICR%
OH Rate Fee			= 10%

BILLING INFORMATION				CALCULATION INFORMATION				
Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup>			Effective Date of Hourly Rate		Actual or Avg. Hourly Rate <sup>3</sup>	% or \$ Increase	Hourly Range - for Classifications Only
	Straight	OT(1.5x)	OT(2x)	From	To			
Garreth Saiki, Principal Engineer* Geotechnical Engineer/Geologist/Env. Scientist	\$193.18	N/A	N/A	03/01/2022	12/31/2022	\$74.04	0.0%	Not Applicable
	\$198.97	N/A	N/A	01/01/2023	12/31/2023	\$76.26	3.0%	
	\$204.94	N/A	N/A	01/01/2024	12/31/2024	\$78.55	3.0%	
	\$211.09	N/A	N/A	01/01/2025	12/31/2025	\$80.91	3.0%	
	\$217.42	N/A	N/A	01/01/2026	01/01/2026	\$83.33	3.0%	
Alfredo Tino Rodriguez, Principal, Construction Services* Principal Engineer/Geologist/Env. Scientist	\$188.17	N/A	N/A	03/01/2022	12/31/2022	\$72.12	0.0%	Not Applicable
	\$193.81	N/A	N/A	01/01/2023	12/31/2023	\$74.28	3.0%	
	\$199.63	N/A	N/A	01/01/2024	12/31/2024	\$76.51	3.0%	
	\$205.62	N/A	N/A	01/01/2025	12/31/2025	\$78.81	3.0%	
	\$211.78	N/A	N/A	01/01/2026	01/01/2026	\$81.17	3.0%	
Randy Reichert* Project Manager Senior Engineer/Geologist/Env. Scientist	\$125.45	N/A	N/A	03/01/2022	12/31/2022	\$48.08	0.0%	Not Applicable
	\$129.21	N/A	N/A	01/01/2023	12/31/2023	\$49.52	3.0%	
	\$133.08	N/A	N/A	01/01/2024	12/31/2024	\$51.01	3.0%	
	\$137.08	N/A	N/A	01/01/2025	12/31/2025	\$52.54	3.0%	
	\$141.19	N/A	N/A	01/01/2026	01/01/2026	\$54.11	3.0%	
James Dalgity* Laboratory Manager	\$96.59	N/A	N/A	03/01/2022	12/31/2022	\$37.02	0.0%	Not Applicable
	\$99.49	N/A	N/A	01/01/2023	12/31/2023	\$38.13	3.0%	
	\$102.47	N/A	N/A	01/01/2024	12/31/2024	\$39.27	3.0%	
	\$105.54	N/A	N/A	01/01/2025	12/31/2025	\$40.45	3.0%	
	\$108.71	N/A	N/A	01/01/2026	01/01/2026	\$41.67	3.0%	

## NOTES:

- Key personnel must be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must
- The cost proposal format shall not be amended.
- Billing rate = actual hourly rate \* (1 + ICR) \* (1 + Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and
- For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

EXHIBIT B

## EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)  
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant Ninyo & Moore☐ Prime Consultant☒ Subconsultant☐ 2nd Tier SubconsultantProject No. \_\_\_\_\_ Contract No. \_\_\_\_\_ Participation Amount \$ \_\_\_\_\_ Date 3/1/2022

For Combined Rate	Fringe Benefit % + General & Administrative %	=	137.19%	Combined ICR%
OR				
For Home Office Rate	Fringe Benefit % + General & Administrative %	=	0.00%	Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=	0.00%	Field Office ICR%
OH Rate Fee = 10%				

BILLING INFORMATION				CALCULATION INFORMATION				
Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup>			Effective Date of Hourly Rate		Actual or Avg. Hourly Rate <sup>3</sup>	% or \$ Increase	Hourly Range - for Classifications Only
	Straight	OT(1.5x)	OT(2x)	From	To			
Group 1-Materials Tester**	\$163.80	\$195.19	\$226.58	03/01/2022	12/31/2022	\$62.78	0.0%	Not Applicable
	\$168.71	\$201.04	\$233.38	01/01/2023	12/31/2023	\$64.66	3.0%	
	\$168.71	\$201.04	\$233.38	01/01/2024	12/31/2024	\$64.66	3.0%	
	\$173.77	\$207.08	\$240.38	01/01/2025	12/31/2025	\$66.60	3.0%	
	\$178.99	\$213.29	\$247.59	01/01/2026	01/01/2026	\$68.60	3.0%	
Group 2-Materials Tester**	\$168.44	\$200.72	\$233.00	03/01/2022	12/31/2022	\$64.56	0.0%	Not Applicable
	\$173.50	\$206.74	\$239.99	01/01/2023	12/31/2023	\$66.50	3.0%	
	\$178.70	\$212.95	\$247.19	01/01/2024	12/31/2024	\$68.49	3.0%	
	\$184.06	\$219.34	\$254.61	01/01/2025	12/31/2025	\$70.55	3.0%	
	\$189.58	\$225.92	\$262.25	01/01/2026	01/01/2026	\$72.66	3.0%	
Group 3-Materials Tester **	\$176.11	\$209.86	\$243.61	03/01/2022	12/31/2022	\$67.50	3.5%	Not Applicable
	\$182.28	\$217.21	\$252.14	01/01/2023	12/31/2023	\$69.86	3.5%	
	\$188.66	\$224.81	\$260.96	01/01/2024	12/31/2024	\$72.31	3.5%	
	\$195.26	\$232.68	\$270.10	01/01/2025	12/31/2025	\$74.84	3.5%	
	\$202.09	\$240.82	\$279.55	01/01/2026	01/01/2026	\$77.46	3.5%	
Field Operations Manager*	\$117.41	N/A	N/A	03/01/2022	12/31/2022	\$45.00	0.0%	\$35.00-\$60.00
	\$120.93	N/A	N/A	01/01/2023	12/31/2023	\$46.35	3.0%	
	\$124.56	N/A	N/A	01/01/2024	12/31/2024	\$47.74	3.0%	
	\$128.30	N/A	N/A	01/01/2025	12/31/2025	\$49.17	3.0%	
	\$132.14	N/A	N/A	01/01/2026	01/01/2026	\$50.65	3.0%	
Dispatcher*	\$88.71	\$105.71	\$122.71	03/01/2022	12/31/2022	\$34.00	0.0%	
	\$91.37	\$108.88	\$126.39	01/01/2023	12/31/2023	\$35.02	3.0%	
	\$94.11	\$112.15	\$130.18	01/01/2024	12/31/2024	\$36.07	3.0%	
	\$96.93	\$115.51	\$134.09	01/01/2025	12/31/2025	\$37.15	3.0%	
	\$99.84	\$118.98	\$138.11	01/01/2026	01/01/2026	\$38.27	3.0%	

## NOTES:

- Key personnel must be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must
- The cost proposal format shall not be amended.
- Billing rate = actual hourly rate \* (1+ ICR) \* (1+ Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and
- For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

## EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)  
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant Ninyo & Moore ☐ Prime Consultant ☒ Subconsultant ☐ 2nd Tier SubconsultantProject No. \_\_\_\_\_ Contract No. \_\_\_\_\_ Participation Amount: \_\_\_\_\_ Date 3/1/2022

For Combined Rate	Fringe Benefit % + General & Administrative %	= 137.19%	Combined ICR%
OR			
For Home Office Rate	Fringe Benefit % + General & Administrative %	= 0.00%	Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	= 0.00%	Field Office ICR%

OH Rate Fee	=	10%
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## BILLING INFORMATION

## CALCULATION INFORMATION

Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup>			Effective Date of Hourly Rate		Actual or Avg. Hourly Rate <sup>3</sup>	% or \$ Increase	Hourly Range - for Classifications Only
	Straight	OT(1.5x)	OT(2x)	From	To			
Geotechnical Assistant*	\$57.40	\$68.40	\$79.40	03/01/2022	12/31/2022	\$22.00	0.0%	\$17.00 - \$35.00
	\$59.12	\$70.45	\$81.78	01/01/2023	12/31/2023	\$22.66	3.0%	
	\$60.90	\$72.57	\$84.24	01/01/2024	12/31/2024	\$23.34	3.0%	
	\$62.72	\$74.74	\$86.76	01/01/2025	12/31/2025	\$24.04	3.0%	
	\$64.60	\$76.98	\$89.37	01/01/2026	01/01/2026	\$24.76	3.0%	
Laboratory Technician*	\$57.40	\$68.40	\$79.40	03/01/2022	12/31/2022	\$22.00	0.0%	\$17.00 - \$35.00
	\$59.12	\$70.45	\$81.78	01/01/2023	12/31/2023	\$22.66	3.0%	
	\$60.90	\$72.57	\$84.24	01/01/2024	12/31/2024	\$23.34	3.0%	
	\$62.72	\$74.74	\$86.76	01/01/2025	12/31/2025	\$24.04	3.0%	
	\$64.60	\$76.98	\$89.37	01/01/2026	01/01/2026	\$24.76	3.0%	
Data Processor*	\$75.66	\$90.16	\$104.66	03/01/2022	12/31/2022	\$29.00	0.0%	\$18.00 - \$45.00
	\$77.93	\$92.87	\$107.80	01/01/2023	12/31/2023	\$29.87	3.0%	
	\$80.27	\$95.65	\$111.04	01/01/2024	12/31/2024	\$30.77	3.0%	
	\$82.68	\$98.52	\$114.37	01/01/2025	12/31/2025	\$31.69	3.0%	
	\$85.16	\$101.48	\$117.80	01/01/2026	01/01/2026	\$32.64	3.0%	

## NOTES:

1. Key personnel must be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate \* (1+ ICR) \* (1+ Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

**EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3**  
**SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)**  
**(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)**

Consultant Ninyo & Moore ☐ Prime Consultant ☒ Subconsultant

Project No. \_\_\_\_\_ Contract No. \_\_\_\_\_ Date 3/1/2022

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	Quantity	Unit	Unit Cost	Total
Laboratory Testing Services in Accordance with the Attached Schedule of Fees for Laboratory Testing				
			\$	\$
			\$	\$
			\$	\$
			\$	\$
Subconsultant 1:				\$
Subconsultant 2:				\$
Subconsultant 3:				\$
Subconsultant 4:				\$

Note: Add additional pages if necessary.

**NOTES:**

1. List other direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentation.
2. Proposed ODC items should be consistently billed regardless of client and contract type.
3. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
4. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
5. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
6. Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.



## 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, Gyration 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
Cleaness 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.

**EXHIBIT 10-K CONSULTANT ANNUAL CERTIFICATION OF  
INDIRECT COSTS AND FINANCIAL MANAGEMENT SYSTEM**

*(Note: If a Safe Harbor Indirect Cost Rate is approved, this form is not required.)*

**Consultant's Full Legal Name:** Ninyo & Moore Geotechnical and Environmental Sciences Consultants

**Important:** Consultant means the individual or consultant providing engineering and design related services as a party of a contract with a recipient or sub-recipient of Federal assistance. Therefore, the Indirect Cost Rate(s) shall not be combined with its parent company or subsidiaries.

**Indirect Cost Rate:**

Combined Rate 137.19 % **OR**

Home Office Rate \_\_\_\_\_ % and Field Office Rate (if applicable) \_\_\_\_\_ %

Facilities Capital Cost of Money \_\_\_\_\_ % (if applicable)

**Fiscal period \*** 1/1/2020 - 12/31/2020

\* Fiscal period is annual one year applicable accounting period that the Indirect Cost Rate was developed (not the contract period). The Indirect Cost Rate is based on the consultant's one-year applicable accounting period for which financial statements are regularly prepared by the consultant.

I have reviewed the proposal to establish an Indirect Cost Rate(s) for the **fiscal period** as specified above and have determined to the best of my knowledge and belief that:

- All costs included in the cost proposal to establish the indirect cost rate(s) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) 48, Code of Federal Regulations (CFR), Chapter 1, Part 31 (48 CFR Part 31);
- The cost proposal does not include any costs which are expressly unallowable under the cost principles of 48 CFR Part 31;
- The accounting treatment and billing of prevailing wage delta costs are consistent with our prevailing wage policy as either direct labor, indirect costs, or other direct costs on all federally-funded A&E Consultant Contracts.
- All known material transactions or events that have occurred subsequent to year-end affecting the consultant's ownership, organization, and indirect cost rates have been disclosed as of the date of this certification.

I am providing the required and applicable documents as instructed on Exhibit 10-A.

**Financial Management System:**

Our labor charging, job costing, and accounting systems meet the standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred, appropriately accounted for, are allocable to the contract, and comply with the federal requirements as set forth in Title 23 United States Code (U.S.C.) Section 112(b)(2); 48 CFR Part 31.201-2(d); 23 CFR, Chapter 1, Part 172.11(a)(2); and all applicable state and federal rules and regulations.

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost

## Consultant Annual Certification of Indirect Costs and Financial Management System

accounts;

- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;
- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR;
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirement

Cost Reimbursements on Contracts:

I also understand that failure to comply with 48 CFR Part 16.301-3 or knowingly charge unallowable costs to Federal-Aid Highway Program (FAHP) contracts may result in possible penalties and sanctions as provided by the following:

- Sanctions and Penalties - 23 CFR Part 172.11(c)(4)
- False Claims Act - Title 31 U.S.C. Sections 3729-3733
- Statements or entries generally - Title 18 U.S.C. Section 1001
- Major Fraud Act - Title 18 U.S.C. Section 1031

All A&E Contract Information:

- Total participation amount \$ 10,000,000 on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is 6.
- Years of consultant's experience with 48 CFR Part 31 is 35.
- Audit history of the consultant's current and prior years (if applicable)
 

<input type="checkbox"/> Cognizant ICR Audit	<input type="checkbox"/> Local Gov't ICR Audit	<input type="checkbox"/> Caltrans ICR Audit
<input type="checkbox"/> CPA ICR Audit	<input type="checkbox"/> Federal Gov't ICR Audit	

I, the undersigned, certify all of the above to the best of my knowledge and belief and that I have reviewed the Indirect Cost Rate Schedule to determine that any costs which are expressly unallowable under the Federal cost principles have been removed and comply with Title 23 U.S.C. Section 112(b)(2), 48 CFR Part 31, 23 CFR Part 172, and all applicable state and federal rules and regulations. I also certify that I understand that all documentation of compliance must be retained by the consultant. I hereby acknowledge that costs that are noncompliant with the federal and state requirements are not eligible for reimbursement and must be returned to Caltrans.

Name\*\*: Tamara Richards

Title\*\*: Controller

Signature: Tamara A. Richards

Date of Certification (mm/dd/yyyy): 2/23/2022

Email\*\*: trichards@ninyoandmoore.com

Phone Number\*\*: 858.576.1000 ext. 11287

\*\*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President, a Chief Financial Officer, or equivalent, who has authority to represent the financial information used to establish the indirect cost rate.

Note: **Both prime and subconsultants as parties of a contract must complete their own Exhibit 10-K forms.**  
*Caltrans will not process local agency's invoices until a complete Exhibit 10-K form is accepted and approved by Caltrans Audits and Investigations.*

Distribution: 1) Original - Local Agency Project File  
 2) Copy - Consultant  
 3) Copy - Caltrans Audits and Investigations

## EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change  <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known  Congressional District, if known _____	<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known _____	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b> CFDA Number, if applicable _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>	
<b>10. Name and Address of Lobby Entity</b> (If individual, last name, first name, MI)	<b>11. Individuals Performing Services</b> (including address if different from No. 10) (last name, first name, MI)	
(attach Continuation Sheet(s) if necessary)		
<b>12. Amount of Payment (check all that apply)</b> \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<b>14. Type of Payment (check all that apply)</b> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
<b>13. Form of Payment (check all that apply):</b> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____		
<b>15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12:</b> (attach Continuation Sheet(s) if necessary)		
<b>16. Continuation Sheet(s) attached:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>		
<b>17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>		
Signature: <u>Garreth M. Saiki</u> Print Name: <u>Garreth Saiki, PE, GE</u> Title: <u>Principal Engineer</u> Telephone No.: <u>949.753.7070</u> Date: <u>3/9/2022</u>		Authorized for Local Reproduction Standard Form - LLL

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/23/2022

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

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

<b>PRODUCER</b> AssuredPartners Design Professionals Insurance Services, LLC 3697 Mt. Diablo Blvd Suite 230 Lafayette CA 94549		<b>CONTACT NAME:</b> Jennifer Aguirre <b>PHONE (A/C, No, Ext):</b> 510-465-3090 <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b> DesignProCerts@AssuredPartners.com	
<b>INSURED</b> Ninyo & Moore Geotechnical & Environmental Sciences Consultants 475 Goddard, Suite 200 Irvine CA 92618		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Travelers Property Casualty Company of America <b>INSURER B:</b> Evanston Insurance Company <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	
License# 6003745 NINY&MO-01		<b>NAIC #</b> 25674 35378	

## COVERAGES

CERTIFICATE NUMBER: 2078033945

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>COMMERCIAL GENERAL LIABILITY</b> <input checked="" type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab <input checked="" type="checkbox"/> OCP GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	6308986R247	10/3/2022	10/3/2023	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	8107N033091	APPROVED AS TO FORM	10/3/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	Y	Y	CUP9J428527	10/3/2022	10/3/2023	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	UB6P428399	5/1/2022	5/1/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B	Professional Liab. & Contractor's Pollution Liab. Computer Network Security	Y		MKLV7PL0005551	10/3/2022	10/3/2023	Per Claim \$5,000,000 Annual Aggregate \$5,000,000

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

Umbrella Liability policy is a follow-form to underlying General Liability/Auto Liability/Employers Liability.  
 N&M Project Number/Name: #041RV02-03337 / City of Huntington Beach/ On-Call Materials Testing & Inspection Services & Engineering Services.

## CERTIFICATE HOLDER

## CANCELLATION 30 Day Notice of Cancellation

City of Huntington Beach Attn: Keegan Olds 2000 Main Street City Hall 1st Floor Huntington Beach, CA 92648	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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PROFESSIONAL SERVICES CONTRACT BETWEEN  
THE CITY OF HUNTINGTON BEACH AND  
NINYO & MOORE  
FOR  
ON CALL MATERIAL TESTING AND ENGINEERING SERVICES

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Huntington Beach, a municipal corporation of the State of California, hereinafter referred to as "CITY," and NINYO & MOORE., hereinafter referred to as "CONSULTANT."

WHEREAS, CITY desires to engage the services of a consultant to provide On-Call Material Testing and Engineering Services; and

Pursuant to documentation on file in the office of the City Clerk, the provisions of the Huntington Beach Municipal Code, Chapter 3.03, relating to procurement of professional service contracts have been complied with; and

CONSULTANT has been selected to perform these services,

NOW, THEREFORE, it is agreed by CITY and CONSULTANT as follows:

1. SCOPE OF SERVICES

CONSULTANT shall provide all services as described in **Exhibit "A,"** which is attached hereto and incorporated into this Agreement by this reference. These services shall sometimes hereinafter be referred to as the "PROJECT."

CONSULTANT hereby designates Garreth Saiki, who shall represent it and be its sole contact and agent in all consultations with CITY during the performance of this Agreement.

2. CITY STAFF ASSISTANCE

CITY shall assign a staff coordinator to work directly with CONSULTANT in the performance of this Agreement.

3. TERM; TIME OF PERFORMANCE

Time is of the essence of this Agreement. The services of CONSULTANT are to commence on December 21, 2021 (the "Commencement Date"). This Agreement shall automatically terminate three (3) years from the Commencement Date, unless extended or sooner terminated as provided herein. All tasks specified in Exhibit "A" shall be completed no later than (3) three years from the Commencement Date. The time for performance of the tasks identified in Exhibit "A" are generally to be shown in Exhibit "A." This schedule may be amended to benefit the PROJECT if mutually agreed to in writing by CITY and CONSULTANT.

In the event the Commencement Date precedes the Effective Date, CONSULTANT shall be bound by all terms and conditions as provided herein.

4. COMPENSATION

In consideration of the performance of the services described herein, CITY agrees to pay CONSULTANT on a time and materials basis at the rates specified in Exhibit "B," which is attached hereto and incorporated by reference into this Agreement, a fee, including all costs and expenses, not to exceed Six Hundred Thousand Dollars (\$600,000.00).

5. EXTRA WORK

In the event CITY requires additional services not included in Exhibit "A" or changes in the scope of services described in Exhibit "A," CONSULTANT will undertake such work only after receiving written authorization from CITY. Additional compensation for such extra work shall be allowed only if the prior written approval of CITY is obtained.

6. METHOD OF PAYMENT

CONSULTANT shall be paid pursuant to the terms of Exhibit "B."

7. DISPOSITION OF PLANS, ESTIMATES AND OTHER DOCUMENTS

CONSULTANT agrees that title to all materials prepared hereunder, including, without limitation, all original drawings, designs, reports, both field and office notices, calculations, computer code, language, data or programs, maps, memoranda, letters and other documents, shall belong to CITY, and CONSULTANT shall turn these materials over to CITY upon expiration or termination of this Agreement or upon PROJECT completion, whichever shall occur first. These materials may be used by CITY as it sees fit.

8. HOLD HARMLESS

A. CONSULTANT hereby agrees to protect, defend, indemnify and hold harmless CITY, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) arising out of or in connection with CONSULTANT's (or CONSULTANT's subcontractors, if any) negligent (or alleged negligent) performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement by CONSULTANT, its officers, agents or employees except such loss or damage which was caused by the sole negligence or willful misconduct of CITY. CONSULTANT will conduct all defense at its sole cost and expense and CITY shall approve selection of CONSULTANT's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by CONSULTANT.

B. To the extent that CONSULTANT performs "Design Professional Services" within the meaning of Civil Code Section 2782.8, then the following Hold Harmless provision applies in place of subsection A above:



"CONSULTANT hereby agrees to protect, defend, indemnify and hold harmless CITY and its officers, elected or appointed officials, employees, agents and volunteers, from and against any and all claims, damages, losses, expenses, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) to the extent that the claims against CONSULTANT arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. In no event shall the cost to defend charged to CONSULTANT exceed CONSULTANT's proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more other defendants to the claims and/or litigation is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, CONSULTANT shall meet and confer with CITY and other defendants regarding unpaid defense costs. The duty to indemnify, including the duty and the cost to defend, is limited as provided in California Civil Code Section 2782.8.

C. Regardless of whether subparagraph A or B applies, CITY shall be reimbursed by CONSULTANT for all costs and attorney's fees incurred by CITY in enforcing this obligation. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.

#### 9. PROFESSIONAL LIABILITY INSURANCE

CONSULTANT shall obtain and furnish to CITY a professional liability insurance policy covering the work performed by it hereunder. This policy shall provide coverage for CONSULTANT's professional liability in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate. The above-mentioned insurance shall not contain a self-insured retention without the express written consent of CITY; however an insurance

policy "deductible" of Ten Thousand Dollars (\$10,000.00) or less is permitted. A claims-made policy shall be acceptable if the policy further provides that:

- A. The policy retroactive date coincides with or precedes the initiation of the scope of work (including subsequent policies purchased as renewals or replacements).
- B. CONSULTANT shall notify CITY of circumstances or incidents that might give rise to future claims.

CONSULTANT will make every effort to maintain similar insurance during the required extended period of coverage following PROJECT completion. If insurance is terminated for any reason, CONSULTANT agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this Agreement.

If CONSULTANT fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the CITY with required proof that insurance has been procured and is in force and paid for, the CITY shall have the right, at the CITY's election, to forthwith terminate this Agreement. Such termination shall not effect Consultant's right to be paid for its time and materials expended prior to notification of termination. CONSULTANT waives the right to receive compensation and agrees to indemnify the CITY for any work performed prior to approval of insurance by the CITY.

#### 10. CERTIFICATE OF INSURANCE

Prior to commencing performance of the work hereunder, CONSULTANT shall furnish to CITY a certificate of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverage as required by this Agreement; the certificate shall:

- A. provide the name and policy number of each carrier and policy;
- B. state that the policy is currently in force; and

- C. shall promise that such policy shall not be suspended, voided or canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice; however, ten (10) days' prior written notice in the event of cancellation for nonpayment of premium.

CONSULTANT shall maintain the foregoing insurance coverage in force until the work under this Agreement is fully completed and accepted by CITY.

The requirement for carrying the foregoing insurance coverage shall not derogate from CONSULTANT's defense, hold harmless and indemnification obligations as set forth in this Agreement. CITY or its representative shall at all times have the right to demand the original or a copy of the policy of insurance. CONSULTANT shall pay, in a prompt and timely manner, the premiums on the insurance hereinabove required.

11. INDEPENDENT CONTRACTOR

CONSULTANT is, and shall be, acting at all times in the performance of this Agreement as an independent contractor herein and not as an employee of CITY. CONSULTANT shall secure at its own cost and expense, and be responsible for any and all payment of all taxes, social security, state disability insurance compensation, unemployment compensation and other payroll deductions for CONSULTANT and its officers, agents and employees and all business licenses, if any, in connection with the PROJECT and/or the services to be performed hereunder.

12. TERMINATION OF AGREEMENT

All work required hereunder shall be performed in a good and workmanlike manner. CITY may terminate CONSULTANT's services hereunder at any time with or without cause, and whether or not the PROJECT is fully complete. Any termination of this Agreement by CITY shall be made in writing, notice of which shall be delivered to CONSULTANT as provided herein. In the