Instructions / Cover Sheet
For
Independent Consultant Agreement for Professional Services
(Construction-Related)

☐ Geotechnical Services ☒ Hazardous Material Testing ☐ Special Testing & Inspection ☐ Surveying – Topographic

☐ Other Scope / Services: _____

Contract Number: _____

Funding Source: _____

Budget Number: _____

The District employee that is providing the attached Consultant Services Agreement for Construction-Related Professional Services to the person or entity that will be providing services to the District should first complete the following:

1. *Determine which of the following two (2) statutory provisions the District is relying on in entering into this Agreement:*

   The District is authorized by Section 4529.12 of the California Government Code to contract with and employ any persons for the furnishing of architecture, landscape architecture, engineering, environmental services, land surveying, and construction management through a fair, competitive selection process (e.g., by using a request for proposal or request for qualification process).

   [OR]

   The District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if those persons are specially trained and experienced and competent to perform the special services required.

2. *Review the insurance requirements for the person or entity and revise the insurance provisions of the agreement accordingly, if approved by the Superintendent or CBO.*

3. *Review the forms under section 3 (Submittal of Documents) and determine which of those documents should be attached to the agreement.*

4. *Completely fill in all blanks in the Agreement.*

5. *Ensure there is an accurate and complete description of the Consultant's Scope of Services for Exhibit "A" (see section 1, Services).* ***Do NOT attach or incorporate the Consultant's proposal. If the Consultant provides a proposal and the District accepts the scope description, then cut and past the scope description ONLY into Exhibit A of this Agreement.***

6. *Require the Consultant to complete the following before it commences Work under the Agreement:*
   - *Complete and return all required certificates and documents, including insurance documents and bonds (if required).*
   - *Provide all information regarding the Consultant's licensing and type of business entity in the blanks located after the signature block.*

San Leandro Unified School District

INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES (CONSTRUCTION RELATED)

☐ Geotechnical Services ☒ Hazardous Material Testing ☐ Special Testing & Inspection ☐ Surveying – Topographic

☐ Other Scope / Services: _____

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the _____ day of _____, 2016, by and between the **San Leandro Unified School District** ("District") and _____ ("Consultant"), (individually a "Party" or collectively the "Parties").

NOW, THEREFORE, the Parties agree as follows:

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

   Perform comprehensive hazardous materials surveys, cost estimates, and hazardous materials renovation/demolition.

   1.1. The Services shall be performed on the following project(s) / site(s) ("Project"):

   Districtwide All Schools

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

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

   [CHOOSE APPROPRIATE TERM PROVISION]:

   From _____, 20__, to _____, 20__.

   [OR]

   The period of construction of the Project.

   [OR]

   _____ (___) Months, beginning on _____, 20__.

   [OR]

   The duration of the services provided under this Agreement

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

required as indicated below:

x	Signed Agreement
x	Workers' Compensation Certification
x	Fingerprinting/Criminal Background Investigation Certification
x	Insurance Certificates and Endorsements
x	W-9 Form
x	Bonds (as required or requested by District)

4. **Compensation**. Consultant's fee for the performance of Consultant's Services shall be on an hourly basis and/or a per unit basis, as indicated in **Exhibit "B"** (Prices for Services District shall pay Consultant according to the following terms and conditions:

   4.1. Payment for the Work shall be made for all undisputed amounts in monthly installment payments within thirty (30) days after the Consultant submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or the portion of the Work for which payment is to be made.

   4.2. Consultant shall prepare a separate invoice for each site, if Consultant performs Services at more than one site. The itemized invoice shall reflect the hours spent by the Consultant in performing its Services pursuant to this Agreement.

5. **Expenses**. District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Services for District, except as authorized by prior written approval of the District.

6. **Independent Contractor**. Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of Consultant's Work, District being interested only in the results obtained.

7. Consultant and Sub-consultant Registration and Compliance.

   7.1. Consultant acknowledges that, for purposes of Labor Code section 1725.5, all or some of the Work is a public work to which Labor Code section 1771 applies and that the Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Consultant shall comply with Labor Code section 1725.5, including without limitation the registration requirements for itself and its sub-consultants. Consultant represents that all of its sub-consultants are registered pursuant to Labor Code section 1725.5.

   7.2. Labor Code section 1771.1(a) states the following:

> "A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."

7.3. Consultant shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its CPRs to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations.

7.4. Consultant shall post job site notices, as required by law, including without limitation Labor Code section 1771.4.

7.5. Consultant shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempted by the Labor Commissioner for the Project.

8. **Designated Representatives.** Consultant shall coordinate with District personnel and/or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work related to the Project.

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

8.1 "Not applicable"

10. **Performance of Services.**

10.1. **Standard of Care**.

10.1.1. 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's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.

10.1.2. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.

10.1.3. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.

10.1.4. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.

10.2. **Meetings.** In addition to all public hearings and meetings, Consultant agrees to participate in coordination meetings to discuss District strategies, timetables, implementations of Services, and any other issues deemed relevant to the Project.

10.3. **District Approval.**

10.3.1. The District has the right to inspect and supervise to secure satisfactory completion of the Services.
10.3.2. Prior to any documents being made public, Consultant shall provide in draft form to District staff and District legal counsel, all documents that it or its sub-consultants prepare.

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

11. **Information.**

11.1. **Furnished by District.** Upon request by Consultant, District shall furnish Consultant any information and documents readily available to District that the Consultant determines may be of use to the Consultant in the performance of the Services. District shall rely upon Consultant to determine which information and documents may be of use to the Consultant in performance of the Services. District makes no representations with respect to the reliability, accuracy, or completeness of any information or documents furnished by the District. Consultant shall determine if it is appropriate to rely on the District furnished information or documents. Consultant shall determine if clarification, additional information, or additional data is needed, and if so, to seek it out.

11.2. **Furnished by Others.** Consultant is to obtain, utilizing its own personnel, any required information that has been developed by other public or private entities that are not under contract to District. Consultant shall determine if it is appropriate to rely on the information or data developed by these other public or private entities. Consultant shall determine if clarification, additional information, or additional data is needed.

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

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

14. **Audit**. Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents. For a period of three (3) years after final payment under this Agreement, all expenditures of public funds in excess of ten thousand dollars ($10,000) shall be subject to examination and audit by the State Auditor. The audit shall be confined to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering the Agreement.

15. **Termination**.

15.1. **Without Cause by District**. District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for the Services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of Services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three (3) days after the day the notice was mailed, whichever is sooner.

15.2. **Without Cause by Consultant**. Consultant may, upon thirty (30) day notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant

for Services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of Services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.

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

15.3.1. material violation of this Agreement by the Consultant; or
15.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
15.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

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

15.4. **With Cause by Consultant**. Consultant may only terminate this Agreement after giving written notice of intention to terminate for cause and the expiration of the time to cure. Cause shall only include:

15.4.1. Material violation of this Agreement by the District, or
15.4.2. Failure of the District to timely pay undisputed Consultant invoices.

Written notice by Consultant shall contain the reasons for such intention to terminate and unless within seven (7) 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 seven (7) calendar days cease and terminate. In the event of this termination, the District may secure the Services from another Consultant.

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

17. **Insurance**.

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

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

17.1.2. **Workers' Compensation and Employers' Liability Insurance**. Workers' Compensation Insurance and

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

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

Type of Coverage	**Minimum Requirement**
Commercial General Liability Insurance, including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	$ 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

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

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

17.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

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

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

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

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

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

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

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

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

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

24. **Fingerprinting of Employees**. The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services.

25. **Disabled Veteran Business Enterprises.** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building to have a participation goal of at least three percent (3%), per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises (DVBE). In accordance therewith, the Consultant must submit, upon request by District, appropriate documentation to the District identifying the steps the Consultant has taken to solicit DVBE participation in conjunction with this Agreement, if applicable.

26. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.

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

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

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

28. **Limitation of District Liability**. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

29. **Disputes**. In the event of a dispute between the Parties as to performance of Work, Agreement interpretation, or

payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Consultant shall neither rescind the Agreement nor stop Work.

30. **Confidentiality**. The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

31. **Notice**. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or sent by overnight delivery service, addressed as follows:

District:	**Consultant:**
San Leandro Unified School District	Vista Environmental Consulting
14735 Juniper Street	2984 Teagarden Street
San Leandro, CA 94579	San Leandro, CA 94577
ATTN: Aaron Kerrigan	Attn: Charles Bove

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service.

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

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

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

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

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

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

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

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

40. Signature Authority. Each Party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.

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

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

43. **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 herein.

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

Dated: _____, 20___	Dated: _____, 20___
San Leandro Unified School District	_____
By: _____	By: _____
Print Name: _____	Print Name: _____
Print Title: _____	Print Title: _____

Information regarding Consultant:

Consultant: _____

License No.: _____

Address: _____

_____

Telephone: _____

Facsimile: _____

E-Mail: _____

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

_____:
Employer Identification and/or Social Security Number

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

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

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

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

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

Date: _____

Name of Consultant or Company: _____

Signature: _____

Print Name and Title: _____

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

FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

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

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

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

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

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

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

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

_____ Surveillance of Employees by District personnel. [**TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.**]
Date: _____
District Representative's Name and Title: _____
Signature: _____

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

[MUST BE COMPLETED BY CONSULTANT'S AUTHORIZED REPRESENTATIVE.] I am a representative of the Consultant entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

Date: _____
Name of Consultant or Company: _____
Signature: _____
Print Name and Title: _____

EXHIBIT "A"

HAZARDOUS MATERIAL TESTING

DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

Perform comprehensive hazardous materials surveys, cost estimates, and hazardous materials renovation/demolition

Consultant's entire Proposal is **not** made part of this Agreement.

[**IF A CONSULTANT PROVIDES AN ACCEPTABLE DESCRIPTION OF SERVICES AS PART OF A PROPOSAL, THAT DESCRIPTION OF SERVICES CAN BE ATTACHED WITHOUT ANY TERMS, CONDITIONS, LIMITATIONS, ETC., FROM THAT PROPOSAL**.]

1.

2. The scope of Services are more specifically described herein.

3.

4. **Summary of Work in Exhibit "A'" by Task** 5.	6. **Amount**
7. **Design Phase**. Performing non-destructive sampling survey for ACMs, LBPs, and LCMs using PLM asbestos analysis for 40 samples and XRF for lead with written report of findings; attending one 3-hour meeting to discuss abatement steps; preparing a management plan with no training. 8.	9. $_____
10. **Pre-Bid Phase.** Preparing ACM, LBP, and LCM scope of work and abatement specifications; assisting in preparing bid/contract documents; attending one 3-hour pre-bid meeting. 11.	12. $_____
13. **Construction.** Performing pre-shift full-time oversight of abatement and remediation with 15 air samples collected for PCM asbestos analysis per shift; reviewing contractor submittals; attending weekly project meetings and other meetings; lead analysis for 15 wipe samples; and waste characterization assuming two bulk samples for lead analysis using TTLC, STLC and TCLP analysis on a 5-day laboratory response time. 14.	15. $_____
16. **Close-Out.** Compiling documents related to ACMs, LBPs, and LCMs. 17.	18. $_____
19. 20. **Total**	21. 22. $_____ 23.

1. SERVICES GENERALLY

1.1. In general, the Services to be provided by the Consultant will include:

1.1.1. Construction document review

1.1.2. Building inspections/surveying and testing for:

1.1.2.1. Asbestos-containing materials ("ACM"),

1.1.2.2. Lead-containing materials ("LCM"), and

1.1.3. Identify other hazardous materials of importance required prior to demolition

1.1.4. Bulk sampling for ACM and LCM

1.1.5. X-Ray fluorescence (XRF) testing for LCM

1.1.6. Preparation of removal specifications and plans, identifying all items that require abatement prior to demolition

1.1.7. ACM and LCM abatement compliance inspections, including environmental and clearance air monitoring, quality control and assurance programs for field sampling

1.1.8. Project support and analytical services for an emergency or planned repair, renovation, and demolition projects as required by the District

1.2. Consultant will monitor the abatement work to ensure compliance with contract specifications and all federal, state, and local regulatory requirements applicable to such work.

1.3. Work shall be performed in accordance with:

1.3.1. Asbestos Hazard Emergency Response Act (AHERA),
1.3.2. Title 8 of the California Code of Regulations, including Sections 1529 and 1532.1,
1.3.3. Education Code Section 49410 et seq.,
1.3.4. Health and Safety Code section 25914 et seq.,
1.3.5. Labor Code Section 6501 et seq., and
1.3.6. All applicable local, state and federal laws, all in support of the construction commencing throughout the District.

2. DESIGN PHASE:

2.1. Prepare a detailed survey/inspection of the Site for the presence of asbestos and lead containing materials, which will include review of available pertinent existing historical documentation/previous reports of proposed areas where materials or areas of ACM and LCM may be located.

2.2. Meet with the District Representatives as needed to decide what abatement steps should be undertaken in connection with the modernization plans for the Site.

2.3. Develop a management plan to identify ACM and LCM.

2.4. Assess, sample and analyze materials for ACM at the Site:

2.4.1. Visual assessment of accessible areas.

2.4.2. Preliminary assessment to determine homogeneous area and sampling schemes.

2.4.3. Non-destructive bulk sampling and analysis by Polarized Light Microscopy (PLM) of suspect ACM. Analysis to be in accordance with United States Environmental Protection Agency (USEPA) protocol as found in the Asbestos Hazard Emergency Response Act (Code of Federal Regulation, Section 40, Part 763).

2.5. Assess, sample and analyze LCM at the respective Project sites:

2.5.1. Visual assessment of accessible areas.

2.5.2. Preliminary assessment to determine homogeneous areas and sampling schemes.

2.5.3. X-ray fluorescence (XRF) sampling of painted surfaces to assess lead content. If inconclusive, sample tests are to be provided.

2.6. Consultant shall provide seventy two (72) hour notice to the designated representative of the District prior to starting any on-site assessment or sampling. The Consultant shall notify the District representative for all work to be performed, including the date and time of the Consultant's visit. Sampling may only be performed when staff and students are not present in the areas to be sampled. The Consultant shall not displace staff or students for sampling purposes.

2.7. Consultant shall provide a Hazardous Building Material Survey (HBMS) report for the Project site. HBMS reports shall include a summary of findings and recommendations, and individual detailed sections for ACM and LCM.

2.8. District will provide, if available, copies of any available existing hazardous material reports prepared by others, as-built/record drawings (CD, if available) and copies of relevant modernization design drawings currently in progress to the Consultant.

3. PRE-BID PHASE

3.1. Consultant shall prepare a LCM/ACM scope of work and specifications for the Project site as directed by the District, which will include but not be limited to: work procedures, abatement drawings identifying type, extent and location at each building of ACM and LCM and disposal requirements, air sampling criteria and work area preparation.

3.2. Consultant shall assist District in the preparation of other bidding/contract documents for abatement contractors.

3.3. Consultant shall be available to attend Pre-Bid meetings to answer questions from bidding contractors.

4. CONSTRUCTION PHASE

4.1. Consultant shall provide oversight of abatement and remediation activities.

4.2. Consultant shall review contractor submittals, including the contractor's hazardous remediation plan, worker certificates, medical clearances, respirator fit tests and Injury Illness Prevention Plan (IIPP).

4.3. Consultant shall attend and participate in weekly project meetings, and any other meetings, as required.

4.4. Consultant shall monitor construction contractor with regard to monitoring abatement work (asbestos and lead removal), for compliance with abatement scope of work and specifications, as well as all necessary air monitoring, wipe sampling and necessary testing.

4.5. Consultant shall collect asbestos air samples during abatement work and analyze within twenty four (24) hours. Clearance air samples at conclusion of abatement work shall be analyzed in accordance with the requirements of the Asbestos Hazard Emergency Response Act (AHERA), the Asbestos School Hazard Abatement Reauthorization Act (ASHARA), 40 Code of Federal Regulations (CFR), Environmental Protection Agency (EPA) rules regarding asbestos containing materials in schools and other applicable requirements of responsible regulatory agencies.

4.6. Consultant shall characterize waste materials from lead abatement work. Waste characterization shall be performed in accordance with applicable requirements of responsible regulatory agencies. This includes characterization of wastes as hazardous waste and/or Resource Conservation Recovery Act (RCRA) hazardous waste.

5. CLOSEOUT

Within thirty (30) days of completion of the abatement work, Consultant shall provide District documentation detailing abatement work completed, results of monitoring and contractor observations, results of clearance sampling, copies of waste manifests for the disposal of hazardous and non-hazardous waste for the Project site, site inspection reports (daily field reports) of abatement activities and summary of abatement activities, abatement activity personnel, and certification that the abatement activities complied with all applicable Health and Safety laws, guidelines, and requirements of Cal/OSHA Title 8, California Department of Education (CDE), Department of Toxic Substances Control (DTSC), and the California Division of the State Architect (DSA).

Section 5 | Fee Schedule

Time and Materials Rate Sheet

Hourly Rates by Job Classification
The hourly rates listed below include direct salary, mandatory costs (fringe benefits, overhead and profit, etc.).

Principal-in-Charge **$175.00/hour**
Typically reviews contractual documents, reviews and signs legal documents, reviews and signs finished deliverables.

Certified Industrial Hygienist (CIH) **$195.00/hour**
Typically reviews and signs deliverables that require a CIH stamp to be placed on document. Assists in the development of hazardous materials and chemical specifications and other documents that may be required for more esoteric environmental issues.

Project Manager **$145.00/hour**
Typically directs field staff on all hazardous materials surveys and investigations. Develop deliverables such as survey, investigation and observation reports, specifications, and drawings.

Project Field Coordinator **$115.00/hour**
Typically directs field staff on all hazardous materials surveys and investigations. Assists in the development of deliverables such as surveys, investigation and observation reports, specifications, and drawings.

IH Field Technician – Certified Asbestos Consultant **$90.00/hour**
Typically performs surveys, inspections and abatement oversight under the direction of the project manager and/or the project field coordinator.

IH Field Technician – Certified Asbestos Site Surveillance Technician **$85.00/hour**
Typically performs surveys, inspections and abatement oversight under the direction of the project manager and/or the project field coordinator who are Certified Asbestos Consultants.

IH Field Technician – CDPH Lead Certified **$85.00/hour**
Typically performs lead surveys using a Niton XRF, inspections and abatement oversight under the direction of the project manager and/or the project field coordinator.

Clerical **$65.00/hour**
Typically performs data entry on reports, specifications and accounting. Also will perform copying, shipping and assisting in the completion of document deliverables.

Overtime/Holiday
Overtime may be assessed at 25% above the rates listed above.

Weekend/Night
Weekends and night work will not have an additional premium for the rates listed above.