***Independent Consultant Agreement for Professional Services***
***(Construction-Related)***

***Including:*** **Engineering, Surveying, Testing and related professional Services**

☐ Other Scope / Services:

***Contract Number:*** ***N/A***

***Funding Source:*** ***J1 Bond***

***Budget Number:*** ***N/A***

*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)**

**Engineering, Surveying, Testing and related professional Services**

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the ___11th_____ day of May , 2019, by and between the **San Leandro Unified School District** ("District") and BKF Engineering ("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:

Engineering, Surveying, Testing and related professional Services including Fire Flow testing, Storm Water quality compliance, Surveying, Planning and related services.

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

***District Wide***

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

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

From May 8, 2019, to May 8, 2020.

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 |
| | Fingerprinting/Criminal Background Investigation Certification |
| X | Insurance Certificates and Endorsements |
| X | W-9 Form |
| | 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 project basis, as indicated (Prices for Services) or as required based on the Hourly Rate Fee Schedule in **Exhibit "B"**. 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 Subconsultant 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 subconsultants. Consultant represents that all of its subconsultants 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:

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 subconsultants 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 | BKF Engineers |
| 14735 Juniper Street | 1646 N. California Blvd., Suite 400 |
| San Leandro, CA 94579 | Walnut Creek, CA 94596 |
| ATTN: Aaron Kerrigan | ATTN: Eric Swanson, PLS |

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: _____ |

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**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"**

**SURVEYING – TOPOGRAPHIC**

**DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT**

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**.]

Consultant shall perform the following surveying-topographical Services as indicated in the District's RFP, and shall include, without limitation:

**Aerial Topographic Survey Control**

A. Set aerial control panels at locations by aerial mapping company, if any. Perform field survey and office calculations to determine horizontal and vertical locations of aerial control panels. Survey to be tied into appropriate benchmarks.
B. Provide ASCII digital file with coordinates and elevations of aerial control points.

**Boundary Survey**

A. Perform research at County Survey Records Department and City Engineering Department to obtain record maps necessary to perform boundary survey. Obtain copy of assessor's parcel map, record maps, records of survey, etc.
B. District will purchase Preliminary Title Reports for the subject properties and provide all referenced documents in the title reports.
C. Perform field boundary survey to locate existing property corner monuments and survey monuments on adjoining properties as necessary to determine property boundary location.
D. Compute location of property boundary and plot in same coordinate reference with aerial mapping, if any. Include in digital and paper copies to be provided to District.
E. Coordination with District, Master Architect, and others as needed.

**Complete Comprehensive Base Mapping (utilities, easements, boundary, and topography)**

A. Perform research at City Engineering Department to obtain record drawings for existing public (and private) improvements including existing city-owned utilities on or within the influence of the proposed project.
B. Obtain record facility maps from franchise utilities (PG&E gas and electric, SBC, Cable TV)
C. Use additional field survey shots and prepare existing base utilities information as well as augmentation to the base mapping for other key features.
D. Use information contained in the preliminary title report, identify record easement information and other potential constraints to the development of the property on the base map graphically.
E. Circulate the base mapping for use and comment by District, Master Architect, and others as needed.

**Prepare a Record of Survey**

A. Prepare and file with County Surveyor a record of survey map of the property boundary. Record of survey will be signed and sealed by a California professional land surveyor or professional engineer authorized to practice land surveying in California.
B. Set property corner monuments as required by County Surveyor. Monuments will be identified (tagged) with PLS or RCE License number.

**Additional Services**

A. Field topographic shots for verifying and/or augmenting aerial topographic survey will be taken as a part of the comprehensive base mapping work. These shots will including tying in existing utilities on the property as well as general shots to validate the terrain model developed by the aerial mapping subconsultant.
B. Set two inter-visible project survey control monuments (one of which shall be the project benchmark) near edge of the property for use as Project control throughout the project planning, design development and subsequent construction. Monuments will be durable in nature with identifiable markers such as brass discs, aluminum washers or other such tag(s).
C. Attend meetings and assist in survey related issues as needed.

**Exhibit "B"**
**Prices for Services**

BkF 100+ YEARS
ENGINEERS . SURVEYORS . PLANNERS

# PROFESSIONAL PERSONNEL SERVICE FEES

JANUARY 1, 2019 - DECEMBER 31, 2019

| PERSONNEL | HOURLY RATES |
|---|---|
| **ENGINEERING** | |
| Senior Associate | $220.00 |
| Associate | $214.00 |
| Project Manager | $204.00 - $210.00 |
| Engineer IV | $189.00 |
| Engineer I, II, III | $134.00 - $154.00 - $174.00 |
| Engineering Assistant | $82.00 |
| Junior Engineer | $70.00 |
| **PLANNING** | |
| Planner I, II, III, IV | $134.00 - $154.00 - $174.00 - $189.00 |
| **SURVEYING** | |
| Senior Associate | $220.00 |
| Associate | $214.00 |
| Project Manager | $204.00 - $210.00 |
| Surveyor I, II, III, IV | $134.00 - $154.00 - $174.00 - $189.00 |
| Survey Party Chief | $175.00 |
| Survey Chainman | $113.00 |
| Apprentice I, II, III, IV | $70.00 - $93.00 - $103.00 - $109.00 |
| Instrumentman | $150.00 |
| Surveying Assistant | $82.00 |
| Junior Surveyor | $70.00 |
| Utility Locating Superintendent | $176.00 |
| Utility Locator I, II, III | $91.00 - $129.00 - $155.00 |
| BIM Specialist I, II, III | $134.00 - $154.00 - $174.00 |
| **DESIGN AND DRAFTING** | |
| Technician I, II, III, IV | $128.00 - $136.00 - $148.00 - $161.00 |
| Drafter I, II, III, IV | $100.00 - $110.00 - $118.00 - $132.00 |
| **CONSTRUCTION ADMINISTRATION/QSP-QSD** | |
| Senior Construction Administrator | $198.00 |
| Resident Engineer | $147.00 |
| Field Engineer I, II, III | $134.00 - $154.00 - $174.00 |
| Senior Consultant | $229.00 |
| **SERVICES AND EXPENSES** | |
| Project Assistant | $82.00 |
| Clerical/Administrative Assistant | $70.00 |

Principals' time on projects is chargeable at $246.00 per hour.

Charges for outside services, equipment, and facilities not furnished directly by BKF Engineers will be billed at cost plus 10%. Such charges may include, but shall not be limited to printing and reproduction services; shipping, delivery, and courier charges; subconsultant fees and expenses; special fees, permits, and insurance; transportation on public carriers, meals, and lodging; and consumable materials. Mileage will be charged at the prevailing IRS rate per mile. Monthly invoices are due within 30 days from invoice date. Interest will be charged at 0.833% per month on past due accounts. Expert witness/litigation rates are available upon request.