

**AMENDMENT 4 TO AGREEMENT
BETWEEN THE COUNTY OF SAN MATEO AND
NINYO & MOORE**

THIS AMENDMENT TO THE AGREEMENT, entered into this 23rd day of May 2023, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and Ninyo & Moore, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, the parties entered into an Agreement for the purpose of **materials testing and special inspection services** for the Navigation Center Project on April 21, 2022; and

WHEREAS, the parties amended the Agreement to increase the contract value by \$73,190 for a not to exceed amount of \$125,588; and

WHEREAS, the parties amended the Agreement to increase the contract value by \$48,540 for a not to exceed amount of \$174,128; and

WHEREAS, the parties amended the Agreement to increase the contract value by \$24,872 previously billed through April 2023 for unanticipated compaction work for a new not to exceed amount of \$199,000, and

WHEREAS, the parties wish to amend the Agreement through Board execution to increase the contract value by \$21,946 to cover the remaining cost of the unanticipated compaction work for a final not to exceed contract amount of \$220,946; and

WHEREAS, the parties wish to amend the Agreement to delete Paragraph 4 Exhibit B "Fee Schedule and Terms" and replace with the updated Paragraph 4 Exhibit B "Fee Schedule and Terms".

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Section 3, PAYMENTS, of the agreement is amended to read as follows:

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed **TWO HUNDRED TWENTY THOUSAND NINE HUNDRED FORTY-SIX DOLLARS AND NO CENTS (\$220,946.00)**. In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this agreement.

2. **Replace Paragraph 4 Exhibit B** "Updated Fee Schedule and Terms" effective April 2023 (rev. 5/23/2023) attached to the end of this document.

Exhibit B (rev. 5/23/2023)

Any additional work requested outside of the contract or authorized rates and scope of work can only be billed with proper written County approval, contractor's proposal on the additional requested work, and all necessary backup documentation.

The approved total not-to-exceed amount shall be **TWO HUNDRED TWENTY THOUSAND NINE HUNDRED FORTY-SIX DOLLARS AND NO CENTS (\$220,946.00)** over the term of this agreement.

3. All other terms and conditions of the agreement dated April 21, 2022, between the County and Contractor shall remain in full force and effect.

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: NINYO & MOORE

DocuSigned by:

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Contractor Signature

May-04-2023 | 09:26 PDT
Date

Ruchil Shah
Contractor Name (please print)

For County:

COUNTY OF SAN MATEO

By:
President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:
Clerk of Said Board



April 7, 2023
Project No.: 404268001

Ms. Jasmine Gao
County of San Mateo Project Development Unit
555 County Center, 2nd Floor
Redwood City, California 94063

Subject: Change Order Request No. 3 Rev.2
for Geotechnical Observation, Special inspection and Materials Testing Services
for the Navigation Center Project
275 Blomquist Street
Redwood City, California 94063

Dear Ms. Gao:

As you know, we are providing geotechnical observation and testing services in accordance with our contract dated April 21, 2022, change order request No.1 dated August 16, 2022, change order request No.2 dated November 14, 2022, plans and specifications, and as requested by the XL Construction field engineer Matthew Kim. The fee for the requested additional services provided during the construction of the subject project and associated improvements will exceed the estimated amount presented in our proposal, change order No.1 and change order 2. In preparing this change order request, we reviewed our accounting records and current projection of the construction schedule with Matthew Kim.

This need for additional funds can be attributed to more unanticipated compaction work than the updated schedule that was provided to us on November 13, 2022, which shows the city inspection and sign-off date is January 4, 2023. Additional field and shop welding inspections are needed due to additional out of state shop inspections, unanticipated weekend overtime work, repair works, extended construction schedule, and the work section was divided into smaller sections than we estimated. Back in February our previous change order request #2, which was based on the schedule and estimate dated November 7 and November 17, 2022. The schedule indicated that the final inspection sign-off date would be 1/4/2023. Our team has been diligently working to consolidate multiple types of inspections and merge various periodic inspection requests into one. However, due to changes in the construction schedule, additional service requests (out-of-state shop welding), repair work, and unanticipated weekend work, more funds are required to complete the project.

Below is a summary of the main factors that have resulted in additional inspections and testing:

- The welding schedule changed from 5 weeks to November 2022 through April 2023, requiring more inspections than anticipated. Since the end of November, Ninyo & Moore has been performing special onsite inspections for 2-3 days per week.
- There were unexpected requests for small sections of compaction work.
- Ninyo & Moore received inefficient inspection requests for the Newman shop welding.
- Ninyo & Moore were asked to conduct additional shop welding inspections and conference meetings for Modular Elevators.
- There were site-visit cancellations and extra trips due to weather-related issues.

SERVICES REMAINING

An estimate of additional time and associated fees for geotechnical observation, special inspection, and material testing services has been developed based on time already accrued and our current understanding of the remaining work and construction schedule for the project. It is our understanding that the remaining special inspection and material testing services include post-installed anchor inspection and testing, asphalt compaction, structural steel welding inspection, and final affidavit for the remainder of the project. Based on the construction schedule provided by the project team dated on 3/30/2023, construction activities will be continued into mid-April.

CONTRACT SUMMARY

We estimate our fees to be approximately \$46,818 more than the approved budget. Therefore, this change order request is for **\$46,818 (Forty-Six Thousand Eight Hundred Eighteen Dollars)**, as shown in the attached Table 1 - Change Order Request (Breakdown of Hours). The contract history for this project is as follows:

Contract History		
1	Approved Contract Amount	\$174,128
2	Change Order Request 3	\$46,818
New Contract Amount		\$220,946

The estimate provided for this change order request is based upon a review of the original contract, our services provided to date, and our current understanding of the remaining work and projected construction schedule.

AUTHORIZATION TO PROCEED

To authorize our services, please send us a Change Order. We appreciate this opportunity to be of continuing service.

Respectfully submitted,
NINYO & MOORE



Mingshen Chen
Project Manager



Lothus Hennefer, PE, PMP
Construction Services Manager

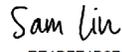
MGC/LMH/rk

Attachments: Table 1 - Breakdown of Estimated Fee

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Jasmine Gao

Apr-11-2023 | 15:39 PDT

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Sam Lin

Apr-11-2023 | 16:03 PDT

Table 1 - Breakdown of Estimated Fee for CO3 for Geotechnical Observation, Special Inspection and Materials Testing Services

Geotechnical Observation and Testing					
Labor Title	Task Duty	Proposed	Forecast	Approved Hours	
Field Technician	Compaction Testing (Regular Time)	660	730	70 hours @ \$ 95.00 /hour	\$ 6,650.00
Nuclear Gauge Charge		660	730	70 hours @ \$ 13.00 /hour	\$ 910.00
Vehicle/Equipment		660	730	70 hours @ \$ 12.00 /hour	\$ 840.00
Subtotal					\$ 8,400.00
Special Inspection and Materials Testing					
Labor Title	Task Duty	Proposed	Forecast	Approved Hours	
Special Inspector	Structural Steel Welding Inspection in the Field and Grouting Regular	160	340	180 hours @ \$ 95.00 /hour	\$ 17,100.00
Special Inspector	Structural Steel Welding Inspection in the Field and Grouting Overtime		16	16 hours @ \$142.50 /hour	\$ 2,280.00
Special Inspector	Structural Steel Welding Inspection in the Shop	80	132	52 hours @ \$ 95.00 /hour	\$ 4,940.00
Special Inspector	Reinforcing Steel and Concrete Placement Inspection, Sampling and Testing Concrete	210	250	40 hours @ \$ 95.00 /hour	\$ 3,800.00
Special Inspector	Post-Installed Anchors and Wedge Anchor Placement Inspection and Load Tests	80	96	16 hours @ \$ 95.00 /hour	\$ 1,520.00
Compression Tests	5 Concrete Cylinders/ 150 Cubic Yards(4"x8" Cylinders)	175	190	15 tests @ \$ 30.00 /test	\$ 450.00
Vehicle/Equipment		530	834	304 hours @ \$ 12.00 /hour	\$ 3,648.00
Subtotal					\$ 33,738.00
Project Management					
Labor Title	Task Duty	Proposed	Forecast	Approved Hours	
Project Assistant	Data Compilation & Distribution	32	44	12 hours @ \$ 80.00 /hour	\$ 960.00
Project Manager	Meetings, Submittal Review, Project Coordination and Progress Report Preparation	60	76	16 hours @ \$140.00 /hour	\$ 2,240.00
Principal Engineer	Project Oversight, Consultation, and Final Report Preparation	20	28	8 hours @ \$185.00 /hour	\$ 1,480.00
Subtotal					\$ 4,680.00
TOTAL ESTIMATED FEE					\$ 46,818.00