

<b>Board Office Use: Legislative File Info.</b>	
File ID Number	19-0448
Introduction Date	4/10/2019
Enactment Number	
Enactment Date	



# Memo

**To** Board of Education  
**From** Kyla Johnson-Trammell, Superintendent  
Ali Metzler, Community Schools Leadership Coordinator

**Board Meeting Date** 4/10/2019

**Subject** Memorandum of Understanding

Contractor: Sierra Club

Services For: Community Partnerships, Community Schools and Student Services Dept.

**Action Requested and Recommendation**

Approval by the Board of Education of Memorandum of Understanding between the District and Sierra Club, Oakland, CA for the latter to provide their Inspiring Connections Outdoors (ICO) program in which ICO volunteers partner with individual OUSD teachers to provide students with experiences in nature that engender a connection with the natural world; outings range from environmental education and day hikes to overnight camping, snow trips and backpacking at Madison Park Upper, Oakland International HS and Oakland High School for the period of November 12, 2018 through November 11, 2021 at no cost to the District.

**Background**

*(Why do we need these services? Why have you selected this vendor?)*

While engaging students in the wonder, beauty, and interconnectedness of the natural world, students receive not only outdoor education but are also immersed in the healing power of nature. The ICO program promotes development of interpersonal skills and self-esteem by involving participants in teamwork, teaching them self-reliance outside an urban setting, and encouraging them to take an active role in protecting the environment. We create opportunities for personal development of participants from different cultures by fostering respect of self and others, and providing urban youth with outdoor skills training and leadership opportunities.

**The following are the costs to parents or students (if applicable):**

No costs to parents or students; donations raised for large outings.

**Competitively Bid**

Was this contract competitively bid? No

If no, exception: No fees to OUSD for services; in kind partnership

**Fiscal Impact**

Funding resource(s): No fiscal impact

**Attachments**

- Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING, NO COST TO OAKLAND UNIFIED SCHOOL DISTRICT**

**I. Parties**

The purpose of this Memorandum of Understanding ("MOU") is to establish a relationship between Oakland Unified School District ("OUSD") and Sierra Club  
[CONTRACTOR—name of your organization].

WHEREAS, the CONTRACTOR's services or program described in this MOU will be provided at no cost to OUSD (or students or parents unless otherwise agreed upon by both parties); and

BOTH PARTIES HEREBY enter into this MOU to enable CONTRACTOR to provide said program(s) selected in Section II of the MOU.

**II. Site Name(s)**

Unless otherwise further agreed to in writing by the parties, the School Sites governed by this MOU are the following (attach separate document if more space is needed):

Madison Park

Oakland International

Oakland High School

**III. CONTRACTOR Responsibilities/Scope of Services**

A. Provide a description of the services that your program(s) will be providing to OUSD. Please be specific by answering all of the following questions.

1. A detailed description of the type of services your program(s) will provide to OUSD (reference Exhibit A: Scope of Work)
2. A description of your organization and relevant experience (reference Exhibit B: Statement of Qualifications)
3. Please disclose all costs to parents or students (if applicable). If no such costs, leave blank or write "N/A."

ICO trips are generally at no cost to students, teachers or parents, with the exception that

gas/toll for parent or teachers driving on the trip. In some cases where we are taking a more expensive trip (e.g. a

hike with a ferry ride to Angel Island, a voluntary donating might be requested, but trip participation would not

be gated on whether a donation was made.

4. **Alignment with District Strategic Plan:** Indicate the goals and visions supported by the services of this contract: (Check all that apply.)

- Ensure a high quality instructional core
- Develop social, emotional and physical health
- Create equitable opportunities for learning
- High quality and effective instruction
- Prepare students for success in college and careers
- Safe, healthy and supportive schools
- Accountable for quality
- Full service community schools district

B. Ensure that all CONTRACTOR personnel, including subcontractors, will comply with any policy and systems in place at OUSD and School(s). This includes, but is not limited to the following:

1. **Drug and Smoke Free**—No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, CONTRACTORS, or subcontractors are to use drugs at these School(s).
2. **Anti-Discrimination**—It is the policy of OUSD that in connection with CONTRACTOR's services under this MOU there shall 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, age, or other legally protected class. Therefore, the CONTRACTOR agrees to comply with all applicable Federal and California laws.
3. **Conflict of Interest**--CONTRACTOR shall abide by and be subject to all applicable OUSD policies, regulations, statutes or other laws regarding conflict of interest. CONTRACTOR shall not hire any OUSD employee to perform the services in this MOU, and affirms that to the best of its knowledge no such conflict presently exists. CONTRACTOR agrees to alert OUSD in writing if and when a potential conflict arises.
4. **Family Education Rights and Privacy Act**—CONTRACTOR shall observe all District policies and regulations, and state and federal laws, including the Family Education Rights and Privacy Act of 1974, commonly known as FERPA, related to the confidentiality of pupil and personnel records. A separate Data Sharing Agreement is required if CONTRACTOR seeks identifiable student information.

C. **Tuberculosis Screening:** CONTRACTOR is required to screen employees and agents who will be present at OUSD sites during the current school year. CONTRACTOR affirms that each person has current proof of negative TB testing on file and TB results are monitored. Please see **Section IV** for the relevant documentation that is required.

D. **Fingerprinting of Employees and Agents.** The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to CONTRACTOR's services under this MOU. CONTRACTOR certifies its compliance with these provisions as follows:

CONTRACTOR certifies that CONTRACTOR has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all CONTRACTOR's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by OUSD, or acting as independent contractors of CONTRACTOR, who may have contact with

OUSD pupils in the course of providing services pursuant to the MOU, 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.

CONTRACTOR further certifies that it has received and reviewed fingerprint results for each of its Employees and CONTRACTOR has requested and reviews subsequent arrest records for all Employees who may come into contact with OUSD pupils in providing services to the District under this MOU. [Please see **Section IV** for the relevant documentation that is required.]

In the event that OUSD, in its sole discretion, at any time during the term of this MOU, desires the removal of any CONTRACTOR related person, employee, representative or agent from any OUSD school; site; and/or property, CONTRACTOR shall immediately, upon receiving notice from OUSD of such desire, cause the removal of such person or persons.

#### E. Insurance

1. **General Liability:** ***EITHER*** (a) CONTRACTOR maintains general liability insurance that names OUSD as an additional insured, for operations, students, volunteers, and personnel at location where CONTRACTOR provides programs/services with at least \$1 Million in coverage, and furnish certificate of said insurance to OUSD ***OR*** (b) CONTRACTOR is not required to maintain general liability insurance under this MOU if the Risk Management Officer signs a waiver of insurance. Please see **Section IV** for the relevant documentation that is required.
2. **Workers' Compensation:** If CONTRACTOR employs any person to perform work in connection with this MOU, CONTRACTOR shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California and federal laws, when applicable. The CONTRACTORS' Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease. Please see **Section IV** for the relevant documentation that is required.

Check one of the boxes below:

- CONTRACTOR is 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 will comply with such provisions before commencing the performance of the Work of this Contract.
- CONTRACTOR does not employ anyone in the manner subject to the workers' compensation laws of California.

- F. **Communication**—CONTRACTOR agrees to communicate with School(s) and OUSD staff, both formally and informally, to ensure, to the best of the program's ability, that the CONTRACTOR'S services are aligned with the School(s) and OUSD's mission and objectives and are adequately meeting student's needs. At the request of School(s) or OUSD staff, CONTRACTOR shall provide reasonable data and information to students participating in the CONTRACTOR's program.
- G. **Confidentiality**—CONTRACTOR shall maintain strict confidentiality of all information about individual students received under this MOU and will not disseminate such information without the express written consent of OUSD. CONTRACTOR will comply with FERPA, and will be allowed to use the data received to solicit funding to continue to expand its services/program, so

long as there is no information from which the identity of any student in the CONTRACTOR's program as a participant could be made.

- H. **Register With/Update Provider Database**—In order to maintain accurate up-to-date information on the services provided, Contractor shall register in OUSD's provider database, update schools of operation prior to commencing services during subsequent school years, and update during the current school year when Contractor's schools of operation change.

#### IV. Required Documents

CONTRACTOR CANNOT commence the services agreed to in this MOU until it has submitted the following documents:

##### A. TB and Fingerprinting Clearance

###### Contractor (Individual):

- Submit clearance letter from authorized agency verifying individual has been Fingerprinted/Criminal Background Checked for this current fiscal year. Additionally, please provide documentation from health care provider showing negative TB status of individual within the last four years.

###### Contractor (Agency):

- Attach clearance letter from Agency/Community-Based Organization/Non-Profit Organization on agency letterhead verifying all personnel, including subcontractors, have been Fingerprinted/Criminal Background Checked and have TB clearance for this current fiscal year and signed by authorized personnel.

##### B. Insurance

###### Contractor (Individual/Agency):

- Please attach documentation of either proof of insurance, or a waiver signed by the Risk Management Officer. The additional insured address must read: Oakland Unified School District, Attention: Risk Management, 1000 Broadway Suite 440, Oakland, CA 94607. Waiver of insurance does not release CONTRACTOR from responsibility for any claim or demand.

#### V. Responsibilities of Oakland Unified School District

- A. **Space**—Provide a suitable classroom or space at the participating School(s), to be agreed upon by School(s) and the CONTRACTOR.
- B. **Janitorial Service**—Provide necessary services to maintain this space, which may include janitorial services, maintenance, utilities, and technology support.

#### VI. Duration

This MOU is for the 11/12/2018 -- 11/11/2021 period.  
[Insert mm/dd/year]      [Insert mm/dd/year]

**VII. Termination**

Either party may terminate this MOU at any time, without cause, with 30 day written notice to the other party. This MOU may be amended by mutual consent of the parties. All amendments must be in writing and signed by both parties.

**VIII. Defense/Indemnity/Hold Harmless**

Each party to this MOU agrees to defend, indemnify and hold harmless the other for and from any claims, causes of action, or any other proceeding of any type or kind that is made against the other where such claim, cause of action or other proceeding arises from the conduct, act, omission, or commission by the other party.

**IX. Jurisdiction**

This MOU shall be performed in Oakland, California and is governed by the laws of the State of California. The Alameda County Superior Court or the United States District Court for the Northern District of California shall have jurisdiction over any civil action arising out of or relating to this MOU.

**X. Notices**

Any notice provided for in this MOU shall be in writing and effective upon receipt at the address set forth below in this section, delivered by any of the following means: personal delivery; certified U.S. mail, return receipt requested; or electronic mail. Either party may change the addresses below by giving notice of such change pursuant to this section.

**DISTRICT**

Contact: Marion McWilliams  
Title: General Counsel  
Address: Office of the General Counsel  
1000 Broadway, Suite 680  
Oakland, CA 94607  
Phone: 510-879-8535  
Fax: 510-879-4046  
Email: marion.mcwilliams@ousd.org

**CONTRACTOR**

Contact: Mirida Berbero  
Title: Comptroller Director  
Address: 2520 San Pablo Ave Suite 100  
Berkeley CA 94702  
Phone: 510 549 8500  
E-mail: mirida.berbero@sonarclub.org

OUSD Sponsoring School/Department: Oakland International High School

**XI. Liability**

Other than as provided in this Agreement, OUSD'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 OUSD 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.

**XII. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

CONTRACTOR certifies to the best of his/her/its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation

Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov/>).

### **XIII. Integration and Modification**

This MOU constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This MOU may be amended or modified only in writing, signed by both Parties.

### **XIV. Assignment**

The rights and obligations of the each Party under this MOU shall not be assigned without the express prior written consent of the other Party.

### **XV. Waiver**

No delay or omission by either Party in exercising any right under this MOU shall operate as a waiver of that or any other right provided for in this MOU.

### **XVI. No Rights in Third Parties**

This MOU does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.

### **XVII. Counterparts**

This MOU and all amendments and modifications to it may be executed in counterparts, and all counterparts together shall be construed as one document.

### **XVIII. Intellectual Property**

During the term of this MOU, any works created by or inventions of Contractor, his agents or employees, within the scope of the work contracted herein shall belong to the District together with all associated copy rights and patents. Contractor shall not publish any aspect of the work performed hereunder without prior written consent of the District.

### **XIX. Relationship of Parties**

This is not an employment contract. CONTRACTOR, in the performance of this Agreement, shall be and act as an independent contractor. CONTRACTOR understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. CONTRACTOR 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 CONTRACTOR's employees. In the performance of the work herein contemplated, CONTRACTOR is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, OUSD being interested only in the results obtained.

**XX. 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 given the proper authority and empowered to enter into this Agreement.

**XXI. Incorporation of Recitals and Exhibits**

The Recitals and each exhibit attached hereto are hereby incorporated herein by reference. CONTRACTOR agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this Agreement, the terms and provisions of this Agreement shall govern.

**XXII. Public Document**


This contract, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.

IN WITNESS THEREOF, the parties to this agreement have duly executed it on the day, month and year set forth below.

**OAKLAND UNIFIED SCHOOL DISTRICT**

**CONTRACTOR**

- President, Board of Education      Date (mm/dd/year)
- Superintendent
- Chief or Deputy Chief


  
 \_\_\_\_\_  
 Contractor Signature      Date (mm/dd/year) 11/12/18

Myria Bebero, Chapter Director  
 \_\_\_\_\_  
 Print Name, Title

\_\_\_\_\_  
 Secretary, Board of Education      Date (mm/dd/year)

Form approved by OUSD General Counsel for 2017-18  
FY

OAKLAND UNIFIED SCHOOL DISTRICT  
Office of the General Counsel  
APPROVED FOR FORM AND SUBSTANCE

By:   
 \_\_\_\_\_ 3/8/19  
 Michael L. Smith, Attorney at Law

OUSD or the District verifies that the Contractor does not appear on the Excluded Parties List at <https://www.sam.gov/>



## EXHIBIT "A" SCOPE OF WORK

**Description of Services to be Provided and Specific Expected Outcomes:** Highlight each program that you provide to OUSD. Attach a separate document if more space is needed.

Sierra Club Inspiring Connections Outdoors (ICO) is a program in which ICO volunteers partner with individual OUSD teachers to provide students with experiences in nature that engender a connection with the natural world. There are 50 ICO groups nation wide whose volunteer leaders conduct more than 800 outings for approximately 14,000 youth each year. Outings range from environmental education and day hikes to overnight camping, snow trips and backpacking. Each trip is planned by a trained ICO leader and OUSD teacher. ICO provides additional volunteers, transportation and funding for the outing.

Once an ICO group successfully establishes its relationship with an agency, it develops a schedule of outings based on the ages and abilities of the participating youth and on the number of available volunteers. Outings usually begin as small trips, such as day hikes to nearby parks, beaches, or lakes. After leaders have had time to develop a rapport with participants they encourage longer or more challenging outings, such as overnight camping trips and backpacking trips, that allow participants to further build their confidence by testing the new skills they have acquired. When an ICO group works with a school, the teacher often coordinates the outing with the class curriculum, using the outing as an experiential teaching tool. Every trip is different, but each is a vital opportunity for our participants to discover themselves in a new environment, learning about their own interests and abilities in the process.

Once a trip destination is agreed to, preparations begin with the ICO leader lining up qualified drivers or public transportation, and ICO volunteers to provide trip oversight and outdoor education. ICO also provides the outdoor, camping and/or backpacking equipment needed, and food for the trip. Each trip is preceded by a pre-trip meeting where the ICO leader meets with the students to describe the outing, review what to bring on the trip (often with a show and tell for camping/backpacking trips), and to review time/date and expectations for the trip. Tents, sleeping bags, backpacks, warm clothing and other gear are provided by ICO. At the trail-head or campsite, the trip ahead, safety, and rules for the trail are discussed. On a longer trip, these are reviewed and expanded upon as activities change during the outing. During the outing ICO volunteers engage the students in discussions of nature and the environment around, and provide skills training relevant to the type of trip. For overnight trips this includes campsite selection, setting up tents, care of equipment food preparation, and clean up.

Days trips for OUSD are often local hikes in East Bay Regional Parks (EBRPD), but can also be farther afield trips, for example to the Marin Headlands, Angel Island, the elephant seals at Ano Nuevo or kayaking with EBRPD at Big Break. Local camping destinations include EBRPD, San Mateo County regional parks, and local State Parks (e.g. Portola Redwood State Park and Francis State Beach) as well as trips to Yosemite or the snow with an overnight stay at the Sierra Club's Hutchinson Lodge. For older students the ultimate challenge is to put on a backpack and really get immersed in the outdoors, whether at our largest state park, Henry Coe, or on trips to the Sierras.

While engaging students in the wonder, beauty, and interconnectedness of the natural world students receive not only outdoor education but are also immersed in the healing power of nature. The ICO program promotes development of interpersonal skills and self-esteem by involving participants in teamwork, teaching them self-reliance outside an urban setting, and encouraging them to take an active role in protecting the environment. We create opportunities for personal development of participants from different cultures by fostering respect of self and others, and providing urban youth with outdoor skills training and leadership opportunities.

## EXHIBIT "B" STATEMENT OF QUALIFICATIONS

**Description of Organization and Relevant Experience:** For individual consultants, a résumé will suffice. Attach a separate document if more space is needed.

Certified Sierra Club ICO outings leaders undergo basic or first aid/wilderness first aid instruction and outdoor leadership training. The level of training is commensurate with their being a day hike, camping or backpacking leader. They also are mentored by experienced ICO leaders, who accompany them on outings and decide when they are ready to lead trips on their own. In addition, each ICO group conducts annual or biannual leadership trainings based on training materials distributed by the national Sierra Club office that cover topics such as, group management, pre-trip planning, safety management, and conducting environmental education activities. Learning how to teach outdoor skills, such as setting up and taking down tents, cooking on camping stoves, and practicing camp hygiene, and how to impart knowledge about an area's ecology are all part of the ICO training.





**ENDORSEMENT**

This endorsement, effective 12:01AM: **04/01/2018**  
Forms a part of Policy No.: **42-GLO-100162-05**  
Issued to: **Sierra Club and The Sierra Club Foundation**  
By: **National Fire & Marine Insurance Company**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**This endorsement modifies insurance provided under the following:**

**COMMERCIAL GENERAL LIABILITY POLICY  
PRODUCTS/COMPLETED OPERATIONS LIABILITY POLICY**

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any such person or organization but only to the extent required by a written contract executed prior to the "occurrence" or offense.	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
  2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:
- This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms and conditions of this policy remain unchanged.



Serving Alameda, Contra Costa, Marin and San Francisco counties

Martin C. Young  
Community Partnerships Manager  
Oakland Unified School District

February 4, 2019

Dear Mr. Young,

In regards to completing an MOU with OUSD, we are writing this letter to verify that all San Francisco Bay Chapter Sierra Club ICO program personnel entering schools and/or interacting with students are screened for TB and their fingerprints are cleared by CA DOJ/FBI with subsequent arrest notifications.

Current ICO volunteers cleared by OUSD/Be A Mentor are included below with their ATI numbers. As additional volunteers are cleared, their ATI numbers will be kept on file.

Sincerely,

A handwritten signature in black ink, appearing to read "Minda Berbeco", followed by a horizontal line.

Minda Berbeco  
Chapter Director, San Francisco Bay Chapter  
Sierra Club

	ATI
Michael Bandrowski	M024BAM001
Andrew Young	F361YOA421
Linda De Young	F025DEL159