

Board Office Use: Legislative File Info.	
File ID Number	21-1255
Introduction Date	6-16-2021
Enactment Number	21-1046
Enactment Date	6/16/2021 If



**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo (Bid Award)

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Tadashi Nakadegawa, Deputy Chief, Division of Facilities Planning and Management

Board Meeting Date June 16, 2021

Subject Award of Agreement Between Owner and Contractor - Competitively Bid –Bay Construction Company – Frick Middle School Intensive Support Site Fence Installation Project – Division of Facilities Planning & Management

Action Requested Approval by the Board of Education of Award of Agreement Between Owner to Bay Construction Company, Oakland, California (“Contractor”), for the latter to provide Fence Installation, for the Frick Middle School Intensive Support Site Project, as described in Article I of the Agreement, in the amount of **\$160,000.00**, which includes a contingency of **\$30,000.00**, as the lowest responsive bidder, and rejecting all other bids if any, and authorizing the President and Secretary of the Board to sign the Agreement for same with said bidder with the work scheduled to commence on **June 17, 2021**, and scheduled to last for **Sixty (60)** Calendar days, ending **August 16, 2021**.

Discussion The scope of work of the contract consists of Fence Installation. Contractor was selected through competitive bidding. (Public Contract Code § 22037).

LBP (Local Business Participation Percentage) 100.00%

Recommendation Approval by the Board of Education of Award of Agreement Between Owner to Bay Construction Company, Oakland, California (“Contractor”), for the latter to provide Fence Installation, for the Frick Middle School Intensive Support Site Project, as described in Article I of the Agreement, in the amount of **\$160,000.00**, which includes a contingency of **\$30,000.00**, as the lowest responsive bidder, and rejecting all other bids if any, and authorizing the President and Secretary of the Board to sign the Agreement for same with said bidder with the work scheduled to commence on **June 17, 2021**, and scheduled to last for **Sixty (60)** Calendar days, ending **August 16, 2021**.

Fiscal Impact Fund 21, Measure B

Attachments

- Agreement
- Payment & Performance Bonds
- Insurance Certificate



CONTRACT JUSTIFICATION FORM

This Form Shall Be Submitted to the Board Office With Every Agenda Contract.

Legislative File ID No. 21-1255

Department: Buildings & Grounds Department

Vendor Name: Bay Construction Company

Project Name: Frick Middle School Intensive Support Site Fence Installation Project

Project No.: 15105

Contract Term: Intended Start: 6-17-2021

Intended End: 8-16-2021

Total Cost Over Contract Term: \$160,000.00

Approved by: Tadashi Nakadegawa

Is Vendor a local Oakland Business or has it met the requirements of the

Local Business Policy? Yes (No if Unchecked)

How was this contractor or vendor selected?

Bay Construction, was selected by the District as the lowest responsive and responsible bid.

Summarize the services or supplies this contractor or vendor will be providing.

Contractor will provide Fence Installation for the Frick Middle School Intensive Support Site.

Was this contract competitively bid? Check box for "Yes" (If "No," leave box unchecked)

If "No," please answer the following questions:

1) How did you determine the price is competitive?

[Empty text box for answer]

2) Please check the competitive bidding exception relied upon:

Construction Contract:

- Price is at or under UPCCAA threshold of \$60,000 (as of 1/1/19)
- CMAS contract [may only include “incidental work or service”] (Public Contract Code §§10101(a) and 10298(a)) – *contact legal counsel to discuss if applicable*
- Emergency contract (Public Contract Code §§22035 and 22050) – *contact legal counsel to discuss if applicable*
- No advantage to bidding – *contact legal counsel to discuss if applicable*
- Sole source contractor – *contact legal counsel to discuss if applicable*
- Completion contract – *contact legal counsel to discuss if applicable*
- Lease-leaseback contract RFP process – *contact legal counsel to discuss if applicable*
- Design-build contract RFP process – *contact legal counsel to discuss if applicable*
- Energy service contract – *contact legal counsel to discuss if applicable*
- Other: _____ – *contact legal counsel to discuss if applicable*

Consultant Contract:

- Construction project manager, land surveyor, or environmental services – selected based on demonstrated competence and professional qualifications (Government Code §4526)
- Architect or engineer – use of a fair, competitive RFP selection process (Government Code §§4529.10 et seq.)
- Architect or engineer when state funds being used – use of competitive process consistent with Government Code §§4526-4528 (Education Code §17070.50)
- Other professional or specially trained services or advice – no bidding or RFP required (Public Contract Code §20111(d) and Government Code §53060) – *contact legal counsel to discuss if applicable*
- For services other than above, the cost of services is \$96,700 or less (as of 1/1/21)
- No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*

Purchasing Contract:

- Price is at or under bid threshold of \$96,700 (as of 1/1/21)
- Certain instructional materials (Public Contract Code §20118.3)
- Data processing systems and supporting software – choose one of three lowest bidders (Public Contract Code §20118.1)

- Electronic equipment – competitive negotiation (Public Contract Code §20118.2) – *contact legal counsel to discuss if applicable*
- CMAS contract [may only include “incidental work or service”] (Public Contract Code §§10101(a) and 10298(a)) – *contact legal counsel to discuss if applicable*
- Piggyback contract for purchase of personal property (Public Contract Code §20118) – *contact legal counsel to discuss if applicable*
- Supplies for emergency construction contract (Public Contract Code §§22035 and 22050) – *contact legal counsel to discuss if applicable*
- No advantage to bidding (including sole source) – *contact legal counsel to discuss if applicable*
- Other: _____

Maintenance Contract:

- Price is at or under bid threshold of \$96,700 (as of 1/1/21)
- No advantage to bidding (including sole source) – *contact legal counsel to discuss*
- Other: _____

3) Explain in detail the facts that support the applicability of the exception marked above:

AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement, effective **June 17, 2021**, is by and between the Oakland Unified School District, in Alameda County, California, hereinafter called the "Owner," and **BAY CONSTRUCTION COMPANY** hereinafter called the "Contractor."

WITNESSETH: That the Contractor and the Owner for the consideration hereinafter named agree as follows:

ARTICLE I. SCOPE OF WORK. The Contractor agrees to furnish all labor, equipment and materials, including tools, implements, and appliances required, and to perform all the work required, by the Contract (the "Work") in a good and workmanlike manner, free from any and all liens and claims from mechanics, material suppliers, subcontractors, artisans, machinists, teamsters, freight carriers, and laborers, and as specified in

the Frick Middle School Intensive Support Site Fence Installation Project, 2845
64th Avenue, Oakland, CA,

all in strict compliance with the plans, drawings and specifications therefore prepared by

Oakland Unified School District, Oakland, CA 94601, PH 510-535-2728,

and other Contract Documents relating thereto.

The Contract as awarded includes the base scope of work only as specified in the Bid Form.

The base scope of work includes: installation of 464 feet by 10 feet high and a pair of gates of Regis II fencing (fencing is on site), demo of existing 10 foot chain link fencing, five-foot-deep reinforced footings for posts, temporary construction fencing, patch existing asphalt, minimum number of concrete pours, get rebar and concrete tested by CEL, footing to be poured low and asphalt topping with sona tube. During the Work, the Contractor shall comply with all legal, contractual, and local government requirements related to the novel coronavirus and COVID-19 that apply to the Work, including "social distancing," masks, and hygiene as may be ordered by the State or local authorities and as may be directed in the Contract Documents.

ARTICLE II. CONTRACT DOCUMENTS. The Contractor and the Owner agree that all of the documents listed in Article 1.1.1 of the General Conditions form the "Contract Documents" which form the "Contract."

ARTICLE III. TIME TO COMPLETE AND LIQUIDATED DAMAGES.

Time is of the essence in this Contract, and the time of Completion for the Work

("the Contract Time") shall be **Sixty Days (60)** calendar days, which shall start to run either on (a) the date of commencement of the Work as established in the Owner's Notice to Proceed, or (b) if no date of commencement is established in a Notice to Proceed from Owner, the date of Contractor's actual commencement of the Work (including mobilization). The Owner anticipates that the Contract Time will start to run on **June 17, 2021**, in which case the deadline for Completion would be **August 16, 2021**.

Failure to Complete the Work within the Contract Time and in the manner provided for by the Contract Documents, or failure to complete any specified portion of the Work by a milestone deadline, shall subject the Contractor to liquidated damages. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work were not Completed within the Contract Time, or if any specified portion of the Work were not completed by a milestone deadline, are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the Work, disruption of activities, costs of administration and supervision, third party claims, and the incalculable inconvenience and loss suffered by the public.

Accordingly, the parties agree that One Thousand Dollars and No/100 (\$1,000.00) per each calendar day of delay shall be the amount of damages which the Owner shall directly incur upon failure of the Contractor to Complete the Work within the Contract Time or Complete any specified portion of the Work by a milestone deadline, as described above. Liquidated damages will accrue for failure to meet milestone deadlines even if the Contractor Completes the Work within the Contract Time.

In addition, Contractor shall be subject to liquidated damages, or actual damages if liquidated damages are not recoverable under law, for causing another contractor on the Project to fail to timely complete its work under its contract or for causing delayed *completion* of the Project. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if another contractor on the Project were to fail to timely complete its work under its contract or delay *completion* of the Project are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages which the Owner would suffer in the event of such delay include, but are not limited to, loss of the use of the Work, loss of use of the other contractor's work, loss of use of the Project, disruption of activities, costs of administration and supervision, third party claims, the incalculable inconvenience and loss suffered by the public, and an Owner's inability to recover its delay damages from the contractors whose work was delayed by Contractor.

Accordingly, the parties agree that One Thousand Dollars and No/100 (\$1,000.00) per each calendar day of delay shall be the amount of damages which the Owner shall

directly incur upon Contractor causing another contractor on the Project to fail to timely complete its work under its contract or causing delayed *completion* of the Project.

For Contractor's obligations regarding claims against Owner from other contractors on the Project alleging that Contractor caused delays to their work, see General Conditions sections 3.7.4, 3.16 and 6.2.3.

If liquidated damages accrue as described above, the Owner, in addition to all other remedies provided by law, shall have the right to assess the liquidated damages at any time, and to withhold liquidated damages (and any interest thereon) at any time from any and all retention or progress payments, which would otherwise be or become due the Contractor. In addition, if it is reasonably apparent to the Owner before liquidated damages begin to accrue that they will accrue, Owner may assess and withhold, from retention or progress payments, the estimated amount of liquidated damages that will accrue in the future. If the retained percentage or withheld progress payments are not sufficient to discharge all liabilities of the Contractor incurred under this Article, the Contractor and its sureties shall continue to remain liable to the Owner until all such liabilities are satisfied in full.

If Owner accepts any work or makes any payment under the Contract Documents after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any provision in the Contract Documents regarding time of Completion, milestone deadlines, or liquidated damages.

ARTICLE IV. PAYMENT AND RETENTION. The Owner agrees to pay the Contractor in current funds **ONE HUNDRED SIXTY THOUSAND DOLLARS NO/100(\$160,000.00)** for Work satisfactorily performed after receipt of properly documented and submitted Applications for Payment and to make payments on account thereof, as provided in the General Conditions.

The above contract price includes a general allowance (also known as a contingency allowance) of **THIRTY THOUSAND DOLLARS NO/100 (\$30,000.00)** to pay any additional amounts to which the Contractor may be entitled under the Contract Documents other than specific allowances. Any payment from a contractual allowance is entirely at the discretion, and only with the advanced written approval, of the Owner. To request payment from a contractual allowance, the Contractor must fully comply with the Contract Documents' requirements related to Notice to Potential Changes, Change Order Requests, and Claims, including but not limited to Articles 4 and 7 of the General Conditions and its provisions regarding waiver of rights for failure to comply. If the Owner approves in writing a payment from a contractual allowance, no change order approved by Owner's governing body shall be required and the Contractor may include a request for such payment in its next progress payment application. Contractor's inclusion of a request for such payment in a progress payment application, or Contractor's acceptance of a progress payment that includes such payment, shall act as a full and complete waiver by Contractor of all rights to recover additional amounts, or to receive a time extension or other consideration, related to the underlying basis of such payment; and such waiver shall be in addition to any other waiver that applies under the Contract

Documents (including Article 4 of the General Conditions). If Contractor requests a time extension or other consideration in connection with or related to a requested payment from a contractual allowance, Contractor must comply with the Contract Documents' requirements related to Notice to Potential Changes, Change Order Requests, and Claims, including but not limited to Articles 4, 7, and 8 of the General Conditions and their provisions regarding waiver of rights for failure to comply, and no such time extension or other consideration may be issued until a change order is approved by the Owner's governing body pursuant to the Contract Documents. The amount of any contractual allowance may only be increased by a change order approved by Owner's governing body. Once a contractual allowance is fully spent, the Contractor must request any additional compensation pursuant to the procedures in the Contract Documents for Notices of Potential Claim, Change Order Requests, and Claims, and payment must be made by a change order approved by the Owner's governing body pursuant to the General Conditions. Upon Completion of the Work, all amounts in a contractual allowance that remain unspent and unencumbered shall remain the property of the Owner, Contractor shall have no claim to such funds, the Owner shall be entitled to a credit for such unused amounts against the above contract price, and the Owner may withhold such credit from any progress payment or release of retention.

ARTICLE V. CHANGES. Changes in this Agreement or in the Work to be done under this Agreement shall be made as provided in the General Conditions.

ARTICLE VI. TERMINATION. The Owner or Contractor may terminate the Contract as provided in the General Conditions.

ARTICLE VII. PREVAILING WAGES. The Project is a public work, the Work shall be performed as a public work and pursuant to the provisions of Section 1770 et seq. of the Labor Code of the State of California, which are hereby incorporated by reference and made a part hereof, the Director of Industrial Relations has determined the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification or type of worker needed to execute this Contract. Per Diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, apprenticeship or other training programs, and similar purposes. Copies of the rates are on file at the Owner's principal office. The rate of prevailing wage for any craft, classification or type of workmanship to be employed on this Project is the rate established by the applicable collective bargaining agreement which rate so provided is hereby adopted by reference and shall be effective for the life of this Agreement or until the Director of the Department of Industrial Relations determines that another rate be adopted. It shall be mandatory upon the Contractor and on any subcontractor to pay not less than the said specified rates to all workers employed in the execution of this Agreement.

The Contractor and any subcontractor under the Contractor as a penalty to the Owner shall forfeit not more than Two Hundred Dollars (\$200.00) for each calendar day

or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed. The difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

The Contractor and each Subcontractor shall keep or cause to be kept an accurate record for Work on this Contract and Project showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this Contract or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the Owner, its officers and agents and to the representatives of the Division of Labor Standards Enforcement of the State Department of Industrial Relations. The Contractor and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner.

Public works projects shall be subject to compliance monitoring and enforcement by the Department of Industrial Relations. For all projects over Twenty-Five Thousand Dollars (\$25,000), a contractor or subcontractor shall not be qualified to submit a bid or to be listed in a bid proposal subject to the requirements of Public Contract Code section 4104 unless currently registered and qualified under Labor Code section 1725.5 to perform public work as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code. For all projects over Twenty-Five Thousand Dollars (\$25,000), a contractor or subcontractor shall not be qualified to enter into, or engage in the performance of, any contract of public work (as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code) unless currently registered and qualified under Labor Code section 1725.5 to perform public work.

ARTICLE VIII. WORKING HOURS. In accordance with the provisions of Sections 1810 to 1815, inclusive, of the Labor Code of the State of California, which are hereby incorporated and made a part hereof, the time of service of any worker employed by the Contractor or a Subcontractor doing or contracting to do any part of the Work contemplated by this Agreement is limited and restricted to eight hours during any one calendar day and forty hours during any one calendar week, provided, that work may be performed by such employee in excess of said eight hours per day or forty hours per week provided that compensation for all hours worked in excess of eight hours per day, and forty hours per week, is paid at a rate not less than one and one-half (1½) times the basic rate of pay. The Contractor and every Subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by them in connection with the Work. The records shall be kept open at all reasonable hours to inspection by representatives of the Owner and the Division of Labor Law Enforcement. The Contractor shall as a penalty to the Owner forfeit Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Agreement by the Contractor or by any subcontractor for each calendar day during which

such worker is required or permitted to work more than eight hours in any one calendar day, and forty hours in any one calendar week, except as herein provided.

ARTICLE IX. APPRENTICES. The Contractor agrees to comply with Chapter 1, Part 7, Division 2, Sections 1777.5 and 1777.6 of the California Labor Code, which are hereby incorporated and made a part hereof. These sections require that contractors and subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for each five hours of work performed by a journeyman (unless an exemption is granted in accordance with Section 1777.5) and that contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public works solely on the ground of sex, race, religious creed, national origin, ancestry or color. Only apprentices as defined in Labor Code Section 3077, who are in training under apprenticeship standards and who have signed written apprentice agreements, will be employed on public works in apprenticeable occupations. The responsibility for compliance with these provisions is fixed with the Contractor for all apprenticeable occupations.

ARTICLE X. DSA OVERSIGHT PROCESS. The Contractor must comply with the applicable requirements of the Division of State Architect ("DSA") Construction Oversight Process ("DSA Oversight Process"), including but not limited to (a) notifying the Owner's Inspector of Record/Project Inspector ("IOR") upon commencement and completion of each aspect of the Work as required under DSA Form 156; (b) coordinating the Work with the IOR's inspection duties and requirements; (c) submitting verified reports under DSA Form 6-C; and (d) coordinating with the Owner, Owner's Architect, any Construction Manager, any laboratories, and the IOR to meet the DSA Oversight Process requirements without delay or added costs to the Work or Project.

Contractor shall be responsible for any additional DSA fees related to review of proposed changes to the DSA-approved construction documents, to the extent the proposed changes were caused by Contractor's wrongful act or omissions. If inspected Work is found to be in non-compliance with the DSA-approved construction documents or the DSA-approved testing and inspection program, then it must be removed and corrected. Any construction that covers unapproved or uninspected Work is subject to removal and correction, at Contractor's expense, in order to permit inspection and approval of the covered work in accordance with the DSA Oversight Process.

ARTICLE XI. INDEMNIFICATION AND INSURANCE. The Contractor will defend, indemnify and hold harmless the Owner, its governing board, officers, agents, trustees, employees and others as provided in the General Conditions.

By this statement the Contractor represents that it has secured the payment of Workers' Compensation in compliance with the provisions of the Labor Code of the State of California and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. The Contractor shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in

effect and providing that the Owner will receive thirty (30) days' notice of cancellation.

Contractor shall provide the insurance set forth in the General Conditions. The amount of general liability insurance shall be One Million \$1,000,000 per occurrence for bodily injury, personal injury and property damage and the amount of automobile liability insurance shall be Two Million \$2,000,000 per accident for bodily injury and property damage combined single limit.

ARTICLE XII. ENTIRE AGREEMENT. The Contract constitutes the entire agreement between the parties relating to the Work, and supersedes any prior or contemporaneous agreement between the parties, oral or written, including the Owner's award of the Contract to Contractor, unless such agreement is expressly incorporated herein. The Owner makes no representations or warranties, express or implied, not specified in the Contract. The Contract is intended as the complete and exclusive statement of the parties' agreement pursuant to Code of Civil Procedure section 1856.

ARTICLE XIII. EXECUTION OF OTHER DOCUMENTS. The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of the Contract.

ARTICLE XIV. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.


ARTICLE XV. BINDING EFFECT. Contractor, by execution of this Agreement, acknowledges that Contractor has read this Agreement and the other Contract Documents, understands them, and agrees to be bound by their terms and conditions. The Contract shall inure to the benefit of and shall be binding upon the Contractor and the Owner and their respective successors and assigns.

ARTICLE XVI. SEVERABILITY; GOVERNING LAW; CHOICE OF FORUM. If any provision of the Contract shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The Contract shall be governed by the laws of the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Alameda, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by Owner.

ARTICLE XVII. AMENDMENTS. The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement, which includes change orders signed by the parties and approved or ratified by the Governing Board.


ARTICLE XIX. WRITTEN NOTICE. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who gives the notice.

OAKLAND UNIFIED SCHOOL DISTRICT



Shanthi Gonzales, President, Board of Education

6/17/2021
Date



Kyla Johnson-Trammell, Superintendent,
Secretary, Board of Education

6/17/2021
Date



Tadashi Nakadegawa, Deputy,
Facilities Planning & Management

5/24/21
Date

CONTRACTOR



Signature

YONG KAY

Print Name

president

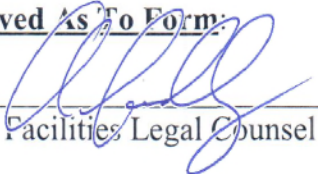
Title: Chairman, Pres., or Vice-Pres.

Signature

Print Name

Title: Secretary, Asst. Secretary, CFO, or Asst. Treasurer

Approved As To Form:



OUSD Facilities Legal Counsel

5/21/21

Date

593411

CALIFORNIA CONTRACTOR'S
LICENSE NO.

LICENSE EXPIRATION DATE


NOTE: Contractor must give the full business address of the Contractor and sign with Contractor's usual signature. Partnerships must furnish the full name of all partners and the Agreement must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Corporations must sign with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.

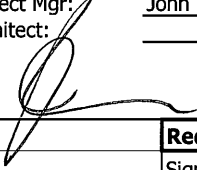
Oakland Unified School District
Division of Facilities Planning and Management

BID OPENING TABULATION SHEET

School: Frick ISS Middle School
 Project: Fence
 Project #: 15105
 Estimate: \$140,000

Date: Thursday, April 29, 2021
 Time: 2:00 P.M.
 Project Mgr: John Esposito
 Architect: _____

Signature of Witness to Bid 

Signature of Bid Opener 

Company:	Bay Construction	Base Bid:	\$130,000.00	Required Day of Bid:	
Address:	4026 Martin Luther King Jr Way	Allowance:	\$30,000.00	Signed Bid Form	X
City/State:	Oakland, CA	TOTAL:	\$160,000.00	Addendum Acknow.	X
Phone:	510-658-7225	Alternates:		Bid Bond	X
Fax:				Non-Collusion	X
				Iran Contracting Certification	X
		<u>Time Submitted</u>	<u>Date Submitted</u>	Site Visit Certification	X
		1:56 P.M.	4/29/2021	Contractor's Sub List	X
				Debarment Suspension & Schd Z	X
				Local Business Participation Form	X
		<u>Time Opened</u>	<u>Date Opened</u>	DVBE Forms	X
		2:15 P.M.	4/29/2021		
Company: Agbayani Construction					
Address:	88 Dixon Court	Base Bid:	\$390,354.00	Required Day of Bid:	
City/State:	Daly City, CA	Allowance:	\$30,000.00	Signed Bid Form	X
Phone:	650-994-9380	TOTAL:	\$420,354.00	Addendum Acknow.	X
Fax:		Alternates:		Bid Bond	X
				Non-Collusion	X
				Iran Contracting Certification	X
		<u>Time Submitted</u>	<u>Date Submitted</u>	Site Visit Certification	X
		12:54 P.M.	4/29/2021	Contractor's Sub List	X
				Debarment Suspension & Schd Z	
				Local Business Participation Form	X
		<u>Time Opened</u>	<u>Date Opened</u>	DVBE Forms	X
		2:15 P.M.	4/29/2021		
Company:					
Address:		Base Bid:		Required Day of Bid:	
City/State:		Allowance:	\$30,000.00	Signed Bid Form	
Phone:		TOTAL:		Addendum Acknow.	
Fax:		Alternates:		Bid Bond	
				Non-Collusion	
				Iran Contracting Certification	
		<u>Time Submitted</u>	<u>Date Submitted</u>	Site Visit Certification	
			4/29/2021	Contractor's Sub List	
				Debarment Suspension & Schd Z	
				Local Business Participation Form	
		<u>Time Opened</u>	<u>Date Opened</u>	DVBE Forms	
			4/29/2021		
Company:					
Address:		Base Bid:		Required Day of Bid:	
City/State:		Allowance:	\$30,000.00	Signed Bid Form	
Phone:		TOTAL:		Addendum Acknow.	
Fax:		Alternates:		Bid Bond	
				Non-Collusion	
				Iran Contracting Certification	
		<u>Time Submitted</u>	<u>Date Submitted</u>	Site Visit Certification	
			4/29/2021	Contractor's Sub List	
				Debarment Suspension & Schd Z	
				Local Business Participation Form	
		<u>Time Opened</u>	<u>Date Opened</u>	DVBE Forms	
			4/29/2021		



LOCAL BUSINESS PARTICIPATION WORKSHEET

PRIME: Bay Construction

Project: Frick ISS Fence Installation
 Project #: 15105
 Estimate: \$140,000

Bid Opening Date: Thursday, April 29, 2021
 Time:
 Project Mgr: John Esposito
 Architect: N/A

Base Bid: \$130,000
 Verified Local Business Participation Discount: 5% \$6,500.00
 Base Bid W/LBP Discount: \$123,500

Based on Policy Calculation:

	Total Dollar Amount of Work	LBE %	SLBE%	SLBR%	Comments
PRIME Company: Bay Construction Address: 4026 Martin Luther King Jr Way City/State: Oakland, CA 94612 Phone: 510-658-7225 Fax:	\$70,000.00		54%		Provided documentation of most recent SLBE certification. Expired 4/30/21 Verified 5/5/21
Company: Mosto Construction Address: 3073 22nd Ave City/State: Oakland, Ca 94602 Phone: 510-452-09391	\$60,000.00		46.0%		Provided documentation of most recent SLBE certification. Expired 11/30/21 Verified 5/5/21
Company: Address: City/State: Phone:					
Company: Address: City/State: Phone:					
Company: Address: City/State: Phone:					
TOTAL PARTICIPATION		0.0%	99.9%	0.0%	100.0%

Philip Lang 5/5/201
 APPROVAL- LBU Compliance Officer
 L. Luster and Associates



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Department of Facilities Planning and Management

MEMORANDUM

Date: May 5, 2021
To: Juanita Hunter
From: Philip Lang, LBU Consultant
Subject: LBU Review
Frick ISS Fence Installation
Project No. 15105

SUMMARY:

The LBU Compliance Team has conducted a review of the Local Business Participation Worksheet for the Frick Intensive Support Site Fence Installation Project submitted by Bay Construction.

- Bay Construction achieved 50% LBU (0% LBE and 100% SLBE/SLRBE).

RECOMMENDATION:

Based on the LBU Participation Worksheet, the Compliance Team finds Bay Construction to be responsive and eligible for contract award.

Cc: Kenya Chapman

Local Business Utilization Program Consultants





OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Department of Facilities Planning and Management

MEMORANDUM

Date: May 5, 2021
To: Juanita Hunter
From: Philip Lang, LBU Consultant
Subject: LBU Review
Frick ISS Fence Installation
Project No. 15105

SUMMARY:

The LBU Compliance Team has conducted a review of the Local Business Participation Worksheet for the Frick Intensive Support Site Fence Installation Project submitted by Agbayani Construction.

- Agbayani Construction did not achieve 50% LBU (0% LBE and 0% SLBE/SLRBE).

RECOMMENDATION:

Based on the LBU Participation Worksheet, the Compliance Team finds Agbayani Construction to be nonresponsive and ineligible for contract award.

Cc: Kenya Chapman

Local Business Utilization Program Consultants



BID FORM
DOCUMENT 00 31 01

OAKLAND UNIFIED SCHOOL DISTRICT
Facilities Planning & Management
955 High Street,
Oakland, CA. 94601

Dear Board Members:

The undersigned, doing business under the firm name of Bay Construction Co. ("Bidder"), hereby proposes and agrees to enter into a contract, with the Oakland Unified School District ("Owner"), to furnish any and all labor, materials, applicable taxes, equipment and services for the completion of Work as described hereinafter and in the Contract Documents as **Frick Intensive Support Site Fence Installation Project, 2845 64TH Avenue, Oakland, CA 94603 (the "Contract"), Project No. 15105**

The Contract Documents were prepared by OUSD.

The undersigned proposes to furnish such labor, materials, applicable taxes, equipment and services for the amount of:

<u>One hundred thirty thousand.</u>	<i>Dollars</i>	<u>\$ 130,000.00</u>
<i>Base Bid Amount</i>		
<u>Thirty Thousand</u>	<i>Dollars</i>	<u>\$30,000.00</u>
<i>Contingency Allowance</i>		
<u>One hundred sixty thousand.</u>	<i>Dollars</i>	<u>\$ 160,000.00</u>
<i>Total Bid Amount</i>		
 <i>Bidder acknowledges and agrees that the Total Bid accounts for any and all Allowances and contingencies in the Contract Document.</i>		

OAKLAND UNIFIED SCHOOL DISTRICT	BID FORM
Frick Intensive Support Site Fence Installation Project Project No. 15105 March 1, 2021	DOCUMENT 00 31 01 -1

LOCAL BUSINESS PARTICIPATION WORKSHEET

PRIME: Bay Construction Co.
 Project: Frick Intensive Support Site Fence Installation
 Project #: 1505
 Estimate: 140,000.00

Bid Opening Date: 04/29/21
 Time: 2:00 pm
 Project Mgr:
 Architect:

Base Bid Dollar Amount	\$	Note: Please complete dollar amounts for sub/prime work; local business percentages; base bid			
	Total Dollar Amount of Work	LBE %	SLB%*	SLBR%	City of Oakland Certification No.
PRIME Company: Bay Construction Co. Address: 4016 Martin Luther King Jr. Way City/State: Oakland, CA Phone: (910) 658-7225	70,000		53.85		2170
Company: Mosto Construction Address: 3073 22nd Avenue City/State: Oakland, CA Phone:	60,000		46.15		
Company: Address: City/State: Phone:	\$				
Company: Address: City/State: Phone:	\$				
Company: Address: City/State: Phone:	\$				
TOTAL PARTICIPATION	\$0.00	0.0%	100% 53.85%	0.0%	0.00% 100%

APPROVAL- LBU Compliance Officer

Note: Local Business Participation documentation must be included with bid from at the time of bid opening

This amount includes all allowances identified in the Agreement form (see Article IV), including but not limited to a contingency allowance of: **Thirty Thousand dollars (\$30,000.00)**

Miscellaneous:

The low bid shall be determined as described in the Notice to Bidders.

The undersigned certifies to the best of its knowledge and belief that it and its officials 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/portal/public/SAM>

If written notice of the Award of Contract is mailed, faxed, or delivered to the undersigned at any time before this bid is withdrawn, the undersigned shall, within ten (10) days after the date of such mailing, faxing, or delivering of such notice, execute and deliver an agreement in the form of agreement present in these Contract Documents and give Performance and Payment Bonds in accordance with the specifications and bid as accepted.

The undersigned declares that Bidder has read and understands the Contract Documents, including but not limited to the Notice to Bidders, the Instructions to Bidders, the Agreement, the General Conditions, the Drawings, the Specifications, and any Special Conditions.

The undersigned hereby designates as the office to which such Notice of Award of Contract may be mailed, faxed, or delivered:

4026 Martin Luther King Jr. Way,
Oakland, CA 94609

Our Public Liability and Property Damage Insurance is placed with:

USI insurance. Service National in

Our Workers' Compensation Insurance is placed with:

Global. Pro Insurance Corp as insurance agent.

{SR526394}2

OAKLAND UNIFIED SCHOOL DISTRICT	BID FORM
Frick Intensive Support Site Fence Installation Project Project No. 15105 March 1, 2021	DOCUMENT 00 31 01 -2

Circular letters, bulletins, addenda, etc., bound with the specifications or issued during the time of bidding are included in the bid, and, in Completing the Contract, they are to become a part thereof.

The receipt of the following addenda to the specifications is acknowledged:

Addendum No. 1 Date 4/13/21 Addendum No. Date
 Addendum No. Date Addendum No. Date
 Addendum No. Date Addendum No. Date

This bid may be withdrawn at any time prior to the scheduled time for the opening of bids or any authorized postponement thereof.

A bidder shall not submit a bid unless the bidder's California contractor's license number appears clearly on the bid, the license expiration date and class are stated, and the bid contains a statement that the representations made therein are made under penalty of perjury. Any bid submitted by a contractor who is not licensed pursuant to Business and Professions Code section 7028.15 shall be considered nonresponsive and shall be rejected. Any bid not containing the above information may be considered nonresponsive and may be rejected.

Proof of Bidder's registration per Labor Code §1725.5 must be submitted with this bid form.


NOTE: Each bid must give the full business address of the bidder and be signed by bidder with bidder's usual signature. Bids by partnerships must furnish the full name of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Bids by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officers signing on behalf of a corporation shall be furnished with the bid.

The undersigned declares under penalty of perjury under the laws of the State of California that the representations made in this bid are true and correct.

{SR526394}3

OAKLAND UNIFIED SCHOOL DISTRICT	BID FORM
Frick Intensive Support Site Fence Installation Project Project No. 15105 March 1, 2021	DOCUMENT 00 31 01 -3

Print or Type Name: Yong Kay

Title: President. 

Name of Company as Licensed in California: Mark Lee & Yong Kay Inc dba, Bay Constructi
co.

Business Address: 4026 Martin Luther King Dr. Way, Oakland, CA 94609

Telephone Number: (510) 658-7225

California Contractor License No.: 593411

Class and Expiration Date: A, B, C-27, C-33

Public Works Contractor Registration No.: 1000000066

State of Incorporation, if Applicable: California.

{SR526394}4

OAKLAND UNIFIED SCHOOL DISTRICT	BID FORM
Frick Intensive Support Site Fence Installation Project Project No. 15105 March 1, 2021	DOCUMENT 00 31 01 -4

BID FORM
DOCUMENT 00 31 01

OAKLAND UNIFIED SCHOOL DISTRICT
Facilities Planning & Management
955 High Street,
Oakland, CA. 94601

Dear Board Members:

The undersigned, doing business under the firm name of Agbayani Construction Corporation (“Bidder”), hereby proposes and agrees to enter into a contract, with the Oakland Unified School District (“Owner”), to furnish any and all labor, materials, applicable taxes, equipment and services for the completion of Work as described hereinafter and in the Contract Documents as **Frick Intensive Support Site Fence Installation Project, 2845 64TH Avenue, Oakland, CA 94603 (the “Contract”), Project No. 15105**

The Contract Documents were prepared by OUSD.

The undersigned proposes to furnish such labor, materials, applicable taxes, equipment and services for the amount of:

Three Hundred Ninety Thousand, Three Hundred Fifty Four Dollars and Zero Cent Dollars	\$ 390,354.00	
<i>Base Bid Amount</i>		
<i>Thirty Thousand</i>	<i>Dollars</i>	<i>\$30,000.00</i>
<i>Contingency Allowance</i>		
Four Hundred Twenty Thousand, Three Hundred Fifty Four dollars and Zero Cent Dollars	\$ 420,354.00	
<i>Total Bid Amount</i>		

Bidder acknowledges and agrees that the Total Bid accounts for any and all Allowances and contingencies in the Contract Document.

OAKLAND UNIFIED SCHOOL DISTRICT	BID FORM
Frick Intensive Support Site Fence Installation Project Project No. 15105 March 1, 2021	DOCUMENT 00 31 01 -1

LOCAL BUSINESS PARTICIPATION WORKSHEET

PRIME: **Agbayani Construction Corporation**
 Project: **Frick Intensive Support Site Fencing Project**
 Project #: **15105**
 Estimate: **\$420,354.00**

Bid Opening Date: **04/29/2021**
 Time: **2:00 PM**
 Project Mgr:
 Architect:

Base Bid Dollar Amount	\$ 420,354.00	Note: Please complete dollar amounts for sub/prime work; local business percentages; base bid			
	Total Dollar Amount of Work	LBE %	SLB%	SLBR%	City of Oakland Certification No.
PRIME Company: Agbayani Construction Corporation Address: 88 Dixon, City/State: Daly City , CA Phone: (650) 994-9380	\$ 420,354.00				
Company: Address: City/State: Phone:	\$				
Company: Address: City/State: Phone:	\$				
Company: Address: City/State: Phone:	\$				
Company: Address: City/State: Phone:	\$				
TOTAL PARTICIPATION	\$420,354.00	0.0%	0.0%	0.0%	0.0%

APPROVAL- LBU Compliance Officer

Note: Local Business Participation documentation must be included with bid from at the time of bid opening

LOCAL BUSINESS PARTICIPATION WORKSHEET (TRUCKING) FOR BIDS ONLY

PRIME: **Agbayani Construction Corporation**
 Project: **Frick Intensive Support Site FencingnProject**
 Project #: **15105**
 Estimate: **\$420,354.00**

Bid Opening Dal **04/29/2021**
 Time: **2:00 PM**
 Project Mgr:
 Architect:

Trucking Base Bid	Total Dollar Amount of Work	LBE %	SLB%	SLBR%	City of Oakland Certification No.
TRUCKING Address: 88 Dixon Court City/State: Daly City, CA Phone: 650-994-9380	\$ 420,354.00				
Company: Address: City/State: Phone:	\$				
Company: Address: City/State: Phone:	\$				
Company: Address: City/State: Phone:	\$				
TOTAL PARTICIPATION	\$420,354.00	0.0%	0.0%	0.0%	0.0%

Note: Please complete dollar amounts for sub and prime work; local business percentages; base bid

APPROVAL- LBU Compliance Officer

Note: Local Business Participation documentation must be included with bid from at the time of bid opening

This amount includes all allowances identified in the Agreement form (see Article IV), including but not limited to a contingency allowance of: **Thirty Thousand dollars (\$30,000.00)**

Miscellaneous:

The low bid shall be determined as described in the Notice to Bidders.

The undersigned certifies to the best of its knowledge and belief that it and its officials 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/portal/public/SAM>

If written notice of the Award of Contract is mailed, faxed, or delivered to the undersigned at any time before this bid is withdrawn, the undersigned shall, within ten (10) days after the date of such mailing, faxing, or delivering of such notice, execute and deliver an agreement in the form of agreement present in these Contract Documents and give Performance and Payment Bonds in accordance with the specifications and bid as accepted.

The undersigned declares that Bidder has read and understands the Contract Documents, including but not limited to the Notice to Bidders, the Instructions to Bidders, the Agreement, the General Conditions, the Drawings, the Specifications, and any Special Conditions.

The undersigned hereby designates as the office to which such Notice of Award of Contract may be mailed, faxed, or delivered:
88 Dixon Court, Daly City CA 94014

Our Public Liability and Property Damage Insurance is placed with:
Old Republic General Insurance Company

Our Workers' Compensation Insurance is placed with:
Old Republic General Insurance Company

{SR526394}2

OAKLAND UNIFIED SCHOOL DISTRICT	BID FORM
Frick Intensive Support Site Fence Installation Project Project No. 15105 March 1, 2021	DOCUMENT 00 31 01 -2

Circular letters, bulletins, addenda, etc., bound with the specifications or issued during the time of bidding are included in the bid, and, in Completing the Contract, they are to become a part thereof.

The receipt of the following addenda to the specifications is acknowledged:

Addendum No. 1 Date 4/13/21 Addendum No. _____ Date _____
 Addendum No. _____ Date _____ Addendum No. _____ Date _____
 Addendum No. _____ Date _____ Addendum No. _____ Date _____

This bid may be withdrawn at any time prior to the scheduled time for the opening of bids or any authorized postponement thereof.

A bidder shall not submit a bid unless the bidder's California contractor's license number appears clearly on the bid, the license expiration date and class are stated, and the bid contains a statement that the representations made therein are made under penalty of perjury. Any bid submitted by a contractor who is not licensed pursuant to Business and Professions Code section 7028.15 shall be considered nonresponsive and shall be rejected. Any bid not containing the above information may be considered nonresponsive and may be rejected.

Proof of Bidder's registration per Labor Code §1725.5 must be submitted with this bid form.

NOTE: Each bid must give the full business address of the bidder and be signed by bidder with bidder's usual signature. Bids by partnerships must furnish the full name of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Bids by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officers signing on behalf of a corporation shall be furnished with the bid.

The undersigned declares under penalty of perjury under the laws of the State of California that the representations made in this bid are true and correct.

{SR526394}3

OAKLAND UNIFIED SCHOOL DISTRICT	BID FORM
Frick Intensive Support Site Fence Installation Project Project No. 15105 March 1, 2021	DOCUMENT 00 31 01 -3

PERFORMANCE BOND
DOCUMENT 00 61 00

Bond Number: 070212598

Mark Lee and Yong Kay, Inc.
dba Bay Construction Co.

KNOW ALL MEN BY THESE PRESENTS that we, The Ohio Casualty Insurance Company, as Principal, and Mark Lee and Yong Kay, Inc. dba Bay Construction Co., as Surety, are held and firmly bound unto the Oakland Unified School District, in the County of Contra Costa, State of California, hereinafter called the "Owner," in the sum of **ONE HUNDRED SIXTY THOUSAND DOLLARS NO/100 (\$160,000.00)** for the payment of which sum well and truly made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, to the Owner for the full performance of a certain contract with the Owner, the terms of which are incorporated herein by reference, dated **July 1, 2021**, for construction of

the Frick Middle School Intensive Support Site – Fence Project, located at 2845 64th Avenue, Oakland, California

*Installation of 464 feet by 10 feet high and a pair of gates of Regis II fencing. Fencing is on site
Demo of existing 10 foot chain link fencing. Five foot deep reinforced footings for posts.
Temporary construction fencing. Patch existing asphalt. Minimum number of concrete pours.
Get rebar and concrete tested by CEL. Footing to be poured low and asphalt topping with sona tube.*

The condition of this obligation is such that, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Owner, with or without notice to the Surety, and for the period of time specified in the Contract after completion for correction of faulty or improper materials and workmanship and during the life of any guaranty or warranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of any and all duly authorized modifications of said Contract that may hereafter be made, then this obligation is to be void, otherwise to remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work, or to the specifications.

OAKLAND UNIFIED SCHOOL
DISTRICT
Frick Middle School ISS
Fence Installation
PROJECT NO. 15105
April 29, 2021

No further agreement between Surety and Owner shall be required as a prerequisite to the Surety performing its obligations under this bond. In the event that the Surety elects to complete the Work of the Contract after termination of the Contract by Owner, the Surety may not hire Principal, or any of Principal's owners, employees, or subcontractors, to perform the Work without the written consent of Owner, and the Owner may grant or withhold such consent within its sole discretion.


IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this 17th day of May, 2021, hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(To be signed by)
(Principal and Surety,)
(and acknowledged and)
(Notarial Seal attached)

(Affix Corporate Seal)

(Individual Principal)

4026 MLK Jr Way OAK CA 94609
(Business Address)

Mark Lee and Yong Kay, Inc. dba
Bay Construction Co. 

(Corporate Principal)

4026 Martin Luther King Jr. Way

Oakland, CA 94609

(Business Address)

The Ohio Casualty Insurance Company

(Corporate Surety)

1340 Treat Blvd., #400, Walnut Creek, CA 94597

(Business Address)

(Affix Corporate Seal)

(Affix Corporate Seal)

By: 

Anthony F. Angelicola, Attorney-in-Fact

The rate of premium on this bond is ^{\$25.00 for the 1st \$100,000.00 of contract} and \$15.00 thereafter per thousand.

The total amount of premium charged is \$3,400.00.

The above must be filled in by Corporate Surety.





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8205232-969091

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Anthony F. Angelicola; Terrence T. Casey

all of the city of San Francisco state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 8th day of April, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 8th day of April, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 17th day of April, 2021.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Francisco }

On 5/17/2021, before me, Carla M. Wilkins, Notary Public,
personally appeared Anthony F. Angelicola

who proved to me on the basis of satisfactory evidence to be the person(x) whose name(x) is/~~xxx~~
subscribed to the within instrument and acknowledged to me that he/~~xxxxxx~~ executed the same
in his/~~xxxxxx~~ authorized capacity(x), and that by his/~~xxxxxx~~ signature(x) on the instrument
the person(x), or the entity upon behalf of which the person(x) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing
paragraph is true and correct.



PLACE NOTARY SEAL ABOVE

WITNESS my hand and official seal.

SIGNATURE

SIGNATURE OF NOTARY PUBLIC

Carla M. Wilkins

Though the information below is not required by law, it may prove valuable to persons relying on the document
and could prevent fraudulent removal and reattachment of this form to another document.

Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____

PAYMENT BOND
DOCUMENT 00 61 01
(Labor and Material)

Bond Number: 070212598

Premium: Included in Performance portion

KNOW ALL MEN BY THESE PRESENTS:

That WHEREAS, the Oakland Unified School District (the "Owner" of the public works contract described below) and Mark Lee and Yong Kay, Inc. dba Bay Construction Co., hereinafter designated as the "Principal," have entered into a Contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to construct

**the ("Contract") Frick Middle School Fence Installation Project, at 2845 64th
Avenue, Oakland, California**

which consists of Installation of 464 feet by 10 feet high and a pair of gates of Regis II fencing. Fencing is on site Demo of existing 10 foot chain link fencing. Five foot deep reinforced footings for posts. Temporary construction fencing. Patch existing asphalt. Minimum number of concrete pours. Get rebar and concrete tested by CEL. Footing to be poured low and asphalt topping with sona tube.

which said agreement dated **July 1, 2021**, and all of the Contract Documents are hereby referred to and made a part hereof;

and

WHEREAS, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by whom the Contract is awarded to secure the claims arising under said agreement.

NOW, THEREFORE, THESE PRESENTS WITNESSETH:

That the said Principal and the undersigned The Ohio Casualty Insurance Company ("Surety") are held and firmly bound unto all laborers, material men, and other persons, and bound for all amounts due, referred to in Civil Code section 9554, subdivision (b), in the sum of ONE HUNDRED SIXTY THOUSAND DOLLARS NO/100 (\$160,000.00) which sum well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the said Principal or any of its subcontractors, or the heirs, executors, administrators, successors, or assigns of any, all, or either of them, shall fail to pay any of the persons named in Civil Code section 9100, or any of the amounts due, as specified in Civil Code section 9554, subdivision (b), that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay costs and reasonable attorney's fees to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

And the said Surety, for value received, thereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of said contract or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety this 17th day of May, 2021.

(To be signed by)
(Principal and Surety,)
(and acknowledged and)
(Notarial Seal attached)

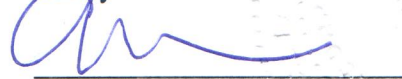
Mark Lee and Yong Kay, Inc. dba
Bay Construction Co.

Principal



The Ohio Casualty Insurance Company

Surety



By: _____

Anthony F. Angelicola, Attorney-in-Fact

The above bond is accepted and approved this _____ day of _____.



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8205232-969091

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Anthony F. Angelicola; Terrence T. Casey

all of the city of San Francisco state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 8th day of April, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY

On this 8th day of April, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 17th day of April, 2021.



By: Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Francisco }

On 5/17/2021, before me, Carla M. Wilkins, Notary Public,
personally appeared Anthony F. Angelicola

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is~~xxx~~
subscribed to the within instrument and acknowledged to me that he~~/xxxxxx~~ executed the same
in his~~/xxxxxx~~ authorized capacity~~(ies)~~, and that by his~~/xxxxxx~~ signature~~(s)~~ on the instrument
the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing
paragraph is true and correct.



WITNESS my hand and official seal.

SIGNATURE Carla M. Wilkins
SIGNATURE OF NOTARY PUBLIC

PLACE NOTARY SEAL ABOVE

Though the information below is not required by law, it may prove valuable to persons relying on the document
and could prevent fraudulent removal and reattachment of this form to another document.

Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
<p>Only those parties required to be named as an Additional Insured in a written contract with the Named Insured under this policy, entered into prior to loss or "occurrence".</p>	<p>ALL</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

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.

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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEN0099 01 14

**DESIGNATED CONSTRUCTION PROJECT(S)
GENERAL AGGREGATE LIMIT WITH CAP**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE

SCHEDULE

Designated Construction Projects

ALL PROJECTS WHERE REQUIRED BY A WRITTEN CONTRACT EXECUTED PRIOR TO LOSS OR "OCCURRENCE".

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. For all sums which the insured becomes legally obligated to pay damages caused by "occurrences" under **COVERAGE A (SECTION 1)**, which can be attributed only to ongoing operations at a single designated construction project shown in the schedule above:

1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.

However, the most we will pay under the Designated Construction Project General Aggregate Limit for all projects combined is **\$5,000,000**

2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A**, except damages because of "bodily injury" or "property damage" included in the "products- completed operations hazards", regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
3. Any payments made under **COVERAGE A** for damage shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

COMMERCIAL GENERAL LIABILITY

- B. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE C (SECTION I)**, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
 - 1. Any payments made under **COVERAGE A** for damages shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable: and
 - 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit or the Designated Construction Project General Aggregate Limit.
- D. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E. The provisions of **Limits of Insurance (SECTION III)** not otherwise modified by this endorsement shall continue to apply as stipulated.

All other terms, conditions and exclusions under the policy apply to this endorsement and remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEN0215 01 14

PRIMARY AND NON-CONTRIBUTING INSURANCE

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM**

The following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Paragraph 4:**

Section IV: Commercial General Liability Conditions

4. Other Insurance:

- d.** Notwithstanding the provisions of sub-paragraphs a, b, and c of this paragraph 4, with respect to the Third Party as defined below, it is understood and agreed that in the event of a claim or "suit" caused in whole or in part by the Named Insured's negligence, this insurance shall be primary and any other insurance maintained by the additional insured named as the Third Party below shall be excess and non-contributory.

The Third Party to whom this endorsement applies is:

Absence of a specifically named Third Party above means this endorsement applies only to those third parties required to be named as an Additional Insured as Primary and Non-Contributory coverage specified in a written contract with the Named Insured under this policy, entered into prior to the "loss" or "occurrence".

All other terms, conditions and exclusions under this policy are applicable to this Endorsement and remain unchanged.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

Only such Person or Organization where required in a written contract with the Named Insured under this policy, entered into prior to the loss or "occurrence".

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

ENDORSEMENT AGREEMENT



WAIVER OF SUBROGATION
BLANKET BASIS

REP 31
9073528-20
RENEWAL
NF
2-25-17-30
PAGE 1 OF 1

HOME OFFICE
SAN FRANCISCO

EFFECTIVE OCTOBER 1, 2020 AT 12.01 A.M.
AND EXPIRING OCTOBER 1, 2021 AT 12.01 A.M.

ALL EFFECTIVE DATES ARE
AT 12:01 AM PACIFIC
STANDARD TIME OR THE
TIME INDICATED AT
PACIFIC STANDARD TIME

BAY CONSTRUCTION CO
4026 MARTIN LUTHER KING JR WAY
OAKLAND, CA 94609

WE HAVE THE RIGHT TO RECOVER OUR PAYMENTS FROM ANYONE
LIABLE FOR AN INJURY COVERED BY THIS POLICY. WE WILL
NOT ENFORCE OUR RIGHT AGAINST THE PERSON OR
ORGANIZATION NAMED IN THE SCHEDULE.

THIS AGREEMENT APPLIES ONLY TO THE EXTENT THAT YOU
PERFORM WORK UNDER A WRITTEN CONTRACT THAT REQUIRES YOU
TO OBTAIN THIS AGREEMENT FROM US.

THE ADDITIONAL PREMIUM FOR THIS ENDORSEMENT SHALL BE
2.00% OF THE TOTAL POLICY PREMIUM.

SCHEDULE

<u>PERSON OR ORGANIZATION</u>	<u>JOB DESCRIPTION</u>
ANY PERSON OR ORGANIZATION FOR WHOM THE NAMED INSURED HAS AGREED BY WRITTEN CONTRACT TO FURNISH THIS WAIVER	BLANKET WAIVER OF SUBROGATION

NOTHING IN THIS ENDORSEMENT SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND
ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS POLICY
OTHER THAN AS ABOVE STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE
HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR
LIMITATIONS IN THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO:

SEPTEMBER 30, 2020

AUTHORIZED REPRESENTATIVE

PRESIDENT AND CEO

Print or Type Name: Vincent D. Agbayani

Title: President

Name of Company as Licensed in California: Agbayani Construction Corporation

Business Address: 88 Dixon Court, Daly City CA 94014

Telephone Number: (650) 994-9380

California Contractor License No.: 650472

Class and Expiration Date: 07/31/2022

Public Works Contractor Registration No.: 1000012612

State of Incorporation, if Applicable: CA

{SR526394}4

OAKLAND UNIFIED SCHOOL DISTRICT	BID FORM
Frick Intensive Support Site Fence Installation Project Project No. 15105 March 1, 2021	DOCUMENT 00 31 01 -4



Harborside Financial Center
 Harborside 5
 185 Hudson Street, Suite 2600
 Jersey City, NJ 07311
 Tel: 201 743 7700
 Fax: 201 743 7701
 www.starstone.com

NO FLAT CANCELLATION

STARSTONE SPECIALTY INSURANCE COMPANY

Commercial Excess Liability Policy Declarations

POLICY NO: 88721A200ALI

RENEWAL OF: New

ITEM 1. Named Insured and Address:

Mark Lee & Yong Kay, Inc
 dba Bay Construction Company
 4026 Martin Luther Way
 Oakland, CA 94609

Program Administrator:

ALTA RISK
 13220 Metcalf Ave., Suite 250
 Overland Park, KS 66213

ITEM 2. Policy Period From: 12/01/2020 To: 12/01/2021

At 12:01 am Standard Time at your mailing address shown above

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

ITEM 3. Limits of Insurance

Each Occurrence Limit: \$3,000,000

Aggregate Limit: \$3,000,000

Self-Insured Retention: N/A

ITEM 4. Excess Policy Premium

Minimum and Deposit Premium: \$13,500
Terrorism Premium (if applicable): \$Excluded
Total Premium (subject to audit): \$13,500

Carrier Fee	\$250.00
Broker Fee	\$250.00
Stamping Fee	\$34.38
State Tax	\$412.50
Total	\$14,446.88

Minimum Earned Premium of 25% applies.



Harborside Financial Center
Harborside 5
185 Hudson Street, Suite 2600
Jersey City, NJ 07311
Tel: 201 743 7700
Fax: 201 743 7701
www.starstone.com

ITEM 5. AUDIT BASIS: Annual Semi Annual Quarterly Monthly X Flat Charge
If auditable, audit basis:

ITEM 6. ENDORSEMENTS ATTACHED TO THE POLICY: See Schedule of Forms and Endorsements

Authorized Representative

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

SCHEDULE OF FORMS AND ENDORSEMENTS

This Endorsement changes the Policy. Please read it carefully.

It is agreed that:

The forms and endorsements in the Schedule below are made part of this policy:

SSS ALT 0101 06 20	Commercial Excess Liability Declarations
SSS ALT 0102 06 20	Schedule of Forms and Endorsements
SSS ALT 0104 06 20	Schedule of Controlling Underlying Insurance
SSS ALT CN 1302 06 20	Claims Notice
SSS ALT 0107 06 20	Common Policy Conditions
SSS ALT 0108 06 20	Minimum Earned Premium Endorsement
SSS ALT 0109 06 20	Service of Suit Clause
SSS ALT SIG 01 06 20	Signature Page
SSS ALT 0113 06 20	OFAC Endorsement
SSS ALT 0116 06 20	Exclusion of Certified Acts of Terrorism & Other Acts of Terrorism Committed Outside the U
SSS ALT 0118 06 20	Auto Coverage - Exclusion of Terrorism
CX 00 01 04 13	Commercial Excess Follow Form Base Coverage Form
SSS ALT 0201 06 20	Abuse or Molestation Exclusion
SSS ALT 0202 06 20	Access or Disclosure of Confidential or Personal Information Exclusion
SSS ALT 0207 06 20	Aircraft Liability Exclusion
SSS ALT 0209 06 20	Aircraft Products and Grounding Exclusion
SSS ALT 0212 06 20	Asbestos Exclusion
SSS ALT 0239 06 20	Communicable Disease Exclusion
SSS ALT 0242 06 20	Contractors Limitation
SSS ALT 0247 06 20	Cross Suits Exclusion
SSS ALT 0273 06 20	E.R.I.S.A. Exclusion
SSS ALT 0279 06 20	Employee Benefits Liability - Follow Form
SSS ALT 0284 06 20	Employment Related Practices Exclusion
SSS ALT 0287 06 20	Exterior Insulation and Finish Systems Exclusion
SSS ALT 0300 06 20	Fungi or Bacteria Exclusion
SSS ALT 0326 06 20	Lead Exclusion
SSS ALT 0330 06 20	Limited Coverage Territory
SSS ALT 0341 06 20	Movement of Land Earth or Soil Exclusion
SSS ALT 0349 06 20	Nuclear Energy Liability Exclusion
SSS ALT 0351 06 20	NY-Employee Injury Exclusion-Absolute
SSS ALT 0374 06 20	Pollution Exclusion - Total
SSS ALT 0375 06 20	Pre-Existing Injury or Damage Exclusion
SSS ALT 0381 06 20	Professional Services Exclusion
SSS ALT 0403 06 20	Recording and Distribution of Material or Info in Violation of Law Exclusion
SSS ALT 0410 06 20	Residential Construction Defect Exclusion - Total
SSS ALT 0421 06 20	Silica or Silica-Related Dust Exclusion
SSS ALT 0442 06 20	Unimpaired Underlying Aggregate Limits Endorsement
SSS ALT 0443 06 20	Unmanned Aircraft Exclusion
SSS ALT 0450 06 20	War Exclusion
SSS ALT SLN CA 06 20	CA Surplus Lines NOTICE

ENDORSEMENT

ADDITIONAL FORMS

This endorsement does not change any other provision of the Policy. The title and any headings in this endorsement are solely for convenience and do not affect its meaning.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

SCHEDULE OF CONTROLLING UNDERLYING INSURANCE

Commercial Automobile Liability	Company: California Automobile Insurance Company	
	Policy Number: BA04000049322	Policy Period: 11/01/2020 to 11/01/2021
	Limits of Insurance	
	Each Accident: \$1,000,000	
Garage Aggregate Limit For Other Than Autos (if applicable): \$		
Commercial General Liability	Basis of Coverage: <input checked="" type="checkbox"/> Occurrence <input type="checkbox"/> Claims-Made Retroactive Date:	
	Company: Houston Specialty Insurance Company	
	Policy Number: TEN-25983	Policy Period: 12/01/2020 to 12/01/2021
	Limits of Insurance	
	Each Occurrence:	\$1,000,000
	Personal and Advertising Injury:	\$1,000,000 Any one person or organization
Products-Completed Operations Aggregate:	\$2,000,000	
General Aggregate:	\$2,000,000	
Employers Liability	Company: State Compensation Ins Fund	
	Policy Number: 9073528-2020	Policy Period: 10/01/2020 to 10/01/2021
	Limits of Insurance:	
	Bodily Injury By Accident, Each Accident:	\$1,000,000
Bodily Injury By Disease Policy Limit:	\$1,000,000	
Bodily Injury By Disease Each Employee:	\$1,000,000	
Employee Benefits Liability	Basis of Coverage: <input type="checkbox"/> Occurrence <input checked="" type="checkbox"/> Claims-Made Retroactive Date: 12/01/2014	
	Company: Houston Specialty Insurance Company	
	Policy Number: TEN-25983	Policy Period: 12/01/2020 to 12/01/2021
	Limits of Insurance:	
Each Occurrence:	\$1,000,000	
General Aggregate:	\$1,000,000	
	Basis of Coverage: <input type="checkbox"/> Occurrence <input type="checkbox"/> Claims-Made Retroactive Date:	
	Company:	
	Policy Number:	Policy Period: to
	Limits of Insurance:	

CLAIM REPORTING PROCEDURES

All liability claims for the **Starstone National Insurance Company**, regardless of severity or location, should be reported to your insurance agent or contact the company at the following email address:

Email: claims@starstone.com
CC: **Your Agent/Broker email**
Subject: **New Claim**

To expedite the handling of your new claim, the following information must be provided in your cover email when reporting a claim:

1. Name of insured, contact person, phone and email
2. Policy number
3. Date of Accident
4. Claimant name, address, phone and email
5. Accident Location
6. Description of accident
7. Attach relevant correspondence

The Claims Department will review all claims notices upon receipt. A claim acknowledgement will then be transmitted to the designated individuals advising of the claim number and the adjuster assigned to the claim.

OR CALL TO REPORT CLAIMS:

Please call Starstone Specialty Insurance Company main phone (201) 743-7700 and follow the prompts to report a claim to our call center.

Starstone Specialty Insurance
Company Harborside Financial
Center
Harborside 5
185 Hudson Street, Suite 2600
Jersey City, NJ 07311

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

COMMON POLICY CONDITIONS ENDORSEMENT

This Endorsement changes the Policy. Please read it carefully.

It is agreed that:

In consideration of the premium charged, and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that all coverage parts included in this Policy are subject to the following conditions:

A. CANCELLATION

The *named insured* may cancel this Policy by mailing to the Company written notice stating when thereafter such cancellation shall become effective. The Company may cancel this Policy by mailing to the *named insured*, at the mailing address specified the Declarations, written notice stating when not less than thirty (30) days thereafter such cancellation shall become effective, except in the event of the *named insured's* nonpayment of premium, not less than ten (10) days advance notice of cancellation shall be given. The mailing of notice as aforesaid shall be sufficient proof of either party's intent to cancel. The effective date of cancellation specified in such notice shall terminate this *policy period*. Delivery of such notice shall be equivalent to mailing.

If the *named insured* cancels, the earned premium shall be computed in accordance with the customary short rate table. If the Company cancels, the earned premium shall be computed pro rata. The Company will tender any return premium subject to retaining a minimum earned premium equal to 25% of the amount specified in the Declarations.

Premium adjustment may be made either at the time cancellation is effective or as soon as practicable thereafter, but tender of the unearned premium or return of this policy, shall not be conditions precedent to cancellation hereunder.

B. CHANGES

No provision of this Policy may be amended, waived or otherwise changed, except by endorsement hereto.

C. EXAMINATION OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this Policy at any time during the *policy period* and up to three (3) years afterward.

ENDORSEMENT

D. INSPECTIONS AND SURVEYS

We have the right, but are not obliged to:

1. Make inspections and surveys at any time; and
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. We do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service, engineering firm or similar organization which makes insurance inspections, surveys, reports or recommendations.

E. NAMED INSURED AS AGENT

The *named insured* specified in the Declarations shall be deemed agent of each *insured* with respect to all matters involving this Policy, however, the Company shall have the right to seek indemnification from any *insured* or any other person who may be legally liable for the debts of the *named insured*.

F. PREMIUMS

The first *Named Insured* shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay; and
3. Is responsible for the payment of all deductibles amounts under this Policy.

G. ADDITIONAL PREMIUMS

If, during this *policy period*, an increase in the risk or hazards covered hereunder occurs, the Company shall have the right to charge the appropriate additional premium.

H. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual *named insured*. If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

ENDORSEMENT

I. BANKRUPTCY

Subject to the satisfaction of any applicable deductible, bankruptcy or insolvency of the *insured* or of the *insured's* estate will not relieve the Company of its obligations under this Coverage Part.

This endorsement does not change any other provision of the Policy. The title and any headings in this endorsement are solely for convenience and do not affect its meaning.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

MINIMUM EARNED PREMIUM ENDORSEMENT

This Endorsement changes the Policy. Please read it carefully.

It is agreed that:

If this Policy is cancelled at the request of the *insured*, the total premium retained by the Company shall not be less than 25% of the premium shown in the Declarations.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

SERVICE OF SUIT CLAUSE

This Endorsement changes the Policy. Please read it carefully.

It is agreed that:

In the event of the failure of the Company to pay any amount claimed to be due under this Policy, the Company at the request of the Insured (or reinsured), will submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give the Court jurisdiction. All matters which arise will be determined in accordance with the law and practice of the Court. In a suit instituted against any one of them under this contract, the Company agrees to abide by the final decision of the Court or of any Appellate Court in the event of an appeal.

Pursuant to any statute of any state, territory or district of the United States of America which makes a provision, the Company will designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the Insured (or reinsured) or any beneficiary arising out of this contract of insurance (or reinsurance).

The officer named below is authorized and directed to accept service of process on behalf of the Company:

Alta Risk, LLC

Having accepted service of process on behalf of the Company, the officer is authorized to mail the process or a true copy to:

13220 Metcalf Ave, Suite 250
Overland Park, KS 66213

This endorsement does not change any other provision of the Policy. The title and any headings in this endorsement are solely for convenience and do not affect its meaning.

SIGNATURE ENDORSEMENT

THESE DECLARATIONS TOGETHER WITH THE POLICY FORMS ATTACHED HERETO AND THE COMPLETED AND SIGNED APPLICATION CONSTITUTE THE POLICY.

STARSTONE SPECIALTY INSURANCE COMPANY

Harborside Financial Center
Harborside 5
185 Hudson Street, Suite 2600
Jersey City, NJ 07311

We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy. If required by state law, this policy shall not be valid unless countersigned by our authorized representative.



Secretary

POLICYHOLDER NOTICE

U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC")

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents,
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

EXCLUSION OF CERTIFIED ACTS OF TERRORISM AND EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE THE UNITED STATES

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

Any endorsement addressing acts of terrorism (however defined) in any "controlling underlying insurance" does not apply to this excess insurance. The following provisions addressing acts of terrorism apply with respect to this insurance:

A. The following exclusion is added:

This insurance does not apply to:

TERRORISM

"Injury or damage" arising, directly or indirectly, out of a "certified act of terrorism", or out of an "other act of terrorism" that is committed outside of the United States (including its territories and possessions and Puerto Rico), but within the coverage territory. However, with respect to an "other act of terrorism", this exclusion applies only when one or more of the following are attributed to such act:

1. The total of insured damage to all types of property exceeds \$25,000,000 (valued in US dollars). In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
2. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ; or
3. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
4. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

With respect to this exclusion, Paragraphs **1.** and **2.** describe the thresholds used to measure the magnitude of an incident of an "other act of terrorism" and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that incident.

ENDORSEMENT

B. The following definitions are added:

1. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:
 - a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act
 - b. The act resulted in damage:
 - (1) Within the United States (including its territories and possessions and Puerto Rico); or
 - (2) Outside of the United States in the case of:
 - (a) An air carrier (as defined in Section 40102 of title 49, United States Code) or United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or
 - (b) The premises of any United States mission; and
 - c. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
 2. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a "certified act of terrorism".

Multiple incidents of an "other act of terrorism" which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.
- C.** The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for "injury or damage" that is otherwise excluded under this Coverage Part.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

AUTO EXCLUSION OF TERRORISM COVERAGE

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

A. The provisions of this endorsement:

1. Apply only to "bodily injury" or "property damage" arising out of the ownership, maintenance or use of any "auto" that is a "covered auto" under this Coverage Part; and
2. Supersede the provisions of any other endorsement addressing terrorism attached to this Coverage Part only with respect to "bodily injury" or "property damage" arising out of the ownership, maintenance or use of any "auto" that is a "covered auto".

B. The following definitions are added and apply under this endorsement wherever the term terrorism, or the phrase any injury or damage, are enclosed in quotation marks:

1. "Terrorism" means activities against persons, organizations or property of any nature:
 - a. That involve the following or preparation for the following:
 - (1) Use or threat of force or violence; or
 - (2) Commission or threat of a dangerous act; or
 - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
 - b. When one or both of the following applies:
 - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.
2. "Any injury or damage" means any injury or damage covered under any Coverage Part or underlying insurance to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part or underlying insurance.

C. The following exclusion is added:

EXCLUSION OF TERRORISM

We will not pay for "any injury or damage" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any injury or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage. **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**

ENDORSEMENT

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraphs **C.5.** or **C.6.** are exceeded.

With respect to this Exclusion, Paragraphs **C.5.** and **C.6.** describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Part.

In the event of any incident of "terrorism" that is not subject to this Exclusion, coverage does not apply to "any injury or damage" that is otherwise excluded under this Coverage Part.

COMMERCIAL EXCESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance. The word "insured" means any person or organization qualifying as such under the "controlling underlying insurance".

Other words and phrases that appear in quotation marks in this Coverage Part have special meaning. Refer to Section IV – Definitions. Other words and phrases that are not defined under this Coverage Part but defined in the "controlling underlying insurance" will have the meaning described in the policy of "controlling underlying insurance".

The insurance provided under this Coverage Part will follow the same provisions, exclusions and limitations that are contained in the applicable "controlling underlying insurance", unless otherwise directed by this insurance. To the extent such provisions differ or conflict, the provisions of this Coverage Part will apply. However, the coverage provided under this Coverage Part will not be broader than that provided by the applicable "controlling underlying insurance".

There may be more than one "controlling underlying insurance" listed in the Declarations and provisions in those policies conflict, and which are not superseded by the provisions of this Coverage Part. In such a case, the provisions, exclusions and limitations of the "controlling underlying insurance" applicable to the particular "event" for which a claim is made or suit is brought will apply.

SECTION I –

COVERAGES 1. Insuring

Agreement

- a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "retained limit" because of "injury or damage" to which insurance provided under this Coverage Part applies.

We will have the right and duty to defend the insured against any suit seeking damages for such "injury or damage" when the applicable limits of "controlling underlying insurance" have been exhausted in accordance with the provisions of such "controlling underlying insurance".

When we have no duty to defend, we will have the right to defend, or to participate in the defense of, the insured against any other suit seeking damages for "injury or damage".

However, we will have no duty to defend the insured against any suit seeking damages for which insurance under this policy does not apply.

At our discretion, we may investigate any "event" that may involve this insurance and settle any resultant claim or suit, for which we have the duty to defend.

But:

- (1) The amount we will pay for "ultimate net loss" is limited as described in Section II – Limits Of Insurance; and
 - (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under this Coverage Part. However, if the policy of "controlling underlying insurance" specifies that limits are reduced by defense expenses, our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of defense expenses, judgments or settlements under this Coverage Part.
- b. This insurance applies to "injury or damage" that is subject to an applicable "retained limit". If any other limit, such as, a sublimit, is specified in the "controlling underlying insurance", this insurance does not apply to "injury or damage" arising out of that exposure unless that limit is specified in the Declarations under the Schedule of "controlling underlying insurance".
 - c. If the "controlling underlying insurance" requires, for a particular claim, that the "injury or damage" occur during its policy period in order for that coverage to apply, then this insurance will only apply to that "injury or damage" if it occurs during the policy period of this Coverage Part. If the "controlling underlying insurance" requires that the "event" causing the particular "injury or damage" takes place during its policy period in order for that coverage to apply, then this insurance will apply to the claim only if the "event" causing that "injury or damage" takes place during the policy period of this Coverage Part.

d. Any additional insured under any policy of "controlling underlying insurance" will automatically be an additional insured under this 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 required by the contract, less any amounts payable by any "controlling underlying insurance".

Additional insured coverage provided by this insurance will not be broader than coverage provided by the "controlling underlying insurance".

2. Exclusions

The following exclusions, and any other exclusions added by endorsement, apply to this Coverage Part. In addition, the exclusions applicable to any "controlling underlying insurance" apply to this insurance unless superseded by the following exclusions, or superseded by any other exclusions added by endorsement to this Coverage Part.

Insurance provided under this Coverage Part does not apply to:

a. Medical Payments

Medical payments coverage or expenses that are provided without regard to fault, whether or not provided by the applicable "controlling underlying insurance".

b. Auto

Any loss, cost or expense payable under or resulting from any of the following auto coverages:

- (1) First-party physical damage coverage;
- (2) No-fault coverage;
- (3) Personal injury protection or auto medical payments coverage; or
- (4) Uninsured or underinsured motorists coverage.

c. Pollution

- (1) "Injury or damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time.
- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, pollutants.

This exclusion does not apply to the extent that valid "controlling underlying insurance" for the pollution liability risks described above exists or would have existed but for the exhaustion of underlying limits for "injury or damage".

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

SECTION II – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations, and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or suits brought, or number of vehicles involved;
- c. Persons or organizations making claims or bringing suits; or
- d. Limits available under any "controlling underlying insurance".

2. The Limits of Insurance of this Coverage Part will apply as follows:

- a. This insurance only applies in excess of the "retained limit".
- b. The Aggregate Limit is the most we will pay for the sum of all "ultimate net loss", for all "injury or damage" covered under this Coverage Part.

However, this Aggregate Limit only applies to "injury or damage" that is subject to an aggregate limit of insurance under the "controlling underlying insurance".

- c. Subject to Paragraph 2.b. above, the Each Occurrence Limit is the most we will pay for the sum of all "ultimate net loss" under this insurance because of all "injury or damage" arising out of any one "event".
- d. If the Limits of Insurance of the "controlling underlying insurance" are reduced by defense expenses by the terms of that policy, any payments for defense expenses we make will reduce our applicable Limits of Insurance in the same manner.

3. If any "controlling underlying insurance" has a policy period that is different from the policy period of this Coverage Part then, for the purposes of this insurance, the "retained limit" will only be reduced or exhausted by payments made for "injury or damage" covered under this insurance.

The Aggregate Limit of this Coverage Part applies separately to each consecutive annual period of this Coverage Part and to any remaining period of this Coverage Part of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION III – CONDITIONS

The following conditions apply. In addition, the conditions applicable to any "controlling underlying insurance" are also applicable to the coverage provided under this insurance unless superseded by the following conditions.

1. Appeals

If the "controlling underlying insurer" or insured elects not to appeal a judgment in excess of the amount of the "retained limit", we may do so at our own expense. We will also pay for taxable court costs, pre- and postjudgment interest and disbursements associated with such appeal. In no event will this provision increase our liability beyond the applicable Limits of Insurance described in Section II – Limits Of Insurance.

2. Bankruptcy

a. Bankruptcy Of Insured

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

b. Bankruptcy Of Controlling Underlying Insurer

Bankruptcy or insolvency of the "controlling underlying insurer" will not relieve us of our obligations under this Coverage Part.

However, insurance provided under this Coverage Part will not replace any "controlling underlying insurance" in the event of bankruptcy or insolvency of the "controlling underlying insurer". The insurance provided under this Coverage Part will apply as if the "controlling underlying insurance" were in full effect and recoverable.

3. Duties In The Event Of An Event, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "event", regardless of the amount, which may result in a claim under this insurance. To the extent possible, notice should include:
 - (1) How, when and where the "event" took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any "injury or damage" arising out of the "event".
- b. If a claim is made or suit is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or suit and the date received; and
 - (2) Notify us as soon as practicable.You must see to it that we receive written notice of the claim or suit as soon as practicable.
- c. You and any other insured involved must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or suit;
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the suit; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "injury or damage" to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

4. First Named Insured Duties

The first Named Insured is the person or organization first named in the Declarations and is responsible for the payment of all premiums. The first Named Insured will act on behalf of all other Named Insureds for giving and receiving of notice of cancellation or the receipt of any return premium that may become payable.

At our request, the first Named Insured will furnish us, as soon as practicable, with a complete copy of any "controlling underlying insurance" and any subsequently issued endorsements or policies which may in any way affect the insurance provided under this Coverage Part.

5. Cancellation

- a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

6. Changes

This Coverage Part contains all the agreements between you and us concerning the insurance afforded. The first Named Insured is authorized by all other insureds to make changes in the terms of this Coverage Part with our consent. This Coverage Part's terms can be amended or waived only by endorsement.

7. Maintenance Of/Changes To Controlling Underlying Insurance

Any "controlling underlying insurance" must be maintained in full effect without reduction of coverage or limits except for the reduction of aggregate limits in accordance with the provisions of such "controlling underlying insurance" that results from "injury or damage" to which this insurance applies.

Such exhaustion or reduction is not a failure to maintain "controlling underlying insurance". Failure to maintain "controlling underlying insurance" will not invalidate insurance provided under this Coverage Part, but insurance provided under this Coverage Part will apply as if the "controlling underlying insurance" were in full effect.

The first Named Insured must notify us in writing, as soon as practicable, if any "controlling underlying insurance" is cancelled, not renewed, replaced or otherwise terminated, or if the limits or scope of coverage of any "controlling underlying insurance" is changed.

8. Other Insurance

a. This insurance is excess over, and shall not contribute with any of the other insurance, whether primary, excess, contingent or on any other basis. This condition will not apply to insurance specifically written as excess over this Coverage Part.

When this insurance is excess, if no other insurer defends, we may undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

b. When this insurance is excess over other insurance, we will pay only our share of the "ultimate net loss" that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of the insurance provided under this Coverage Part; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

9. Premium Audit

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. If this policy is auditable, the premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premium is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

10. Loss Payable

Liability under this Coverage Part does not apply to a given claim unless and until:

- a. The insured or insured's "controlling underlying insurer" has become obligated to pay the "retained limit"; and
- b. The obligation of the insured to pay the "ultimate net loss" in excess of the "retained limit" has been determined by a final settlement or judgment or written agreement among the insured, claimant, "controlling underlying insurer" (or a representative of one or more of these) and us.

11. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a suit asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, "controlling underlying insurer" and the claimant or the claimant's legal representative.

12. Transfer Of Defense

a. Defense Transferred To Us

When the limits of "controlling underlying insurance" have been exhausted, in accordance with the provisions of "controlling underlying insurance", we may elect to have the defense transferred to us. We will cooperate in the transfer of control to us of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the "controlling underlying insurance" had the applicable limit not been exhausted.

b. Defense Transferred By Us

When our limits of insurance have been exhausted our duty to provide a defense will cease.

We will cooperate in the transfer of control of defense to any insurer specifically written as excess over this Coverage Part of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the "controlling underlying insurance" had the applicable limit not been exhausted.

In the event that there is no insurance written as excess over this Coverage Part, we will cooperate in the transfer of control to the insured and its designated representative.

13. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION IV – DEFINITIONS

The definitions applicable to any "controlling underlying insurance" also apply to this insurance. In addition, the following definitions apply.

1. "Controlling underlying insurance" means any policy of insurance or self-insurance listed in the Declarations under the Schedule of "controlling underlying insurance".
2. "Controlling underlying insurer" means any insurer who provides any policy of insurance listed in the Declarations under the Schedule of "controlling underlying insurance".
3. "Event" means an occurrence, offense, accident, act, or other event, to which the applicable "controlling underlying insurance" applies.
4. "Injury or damage" means any injury or damage, covered in the applicable "controlling underlying insurance" arising from an "event".
5. "Retained limit" means the available limits of "controlling underlying insurance" applicable to the claim.
6. "Ultimate net loss" means the total sum, after reduction for recoveries, or salvages collectible, that the insured becomes legally obligated to pay as damages by reason of:
 - a. Settlements, judgments, binding arbitration; or
 - b. Other binding alternate dispute resolution proceeding entered into with our consent."Ultimate net loss" includes defense expenses if the "controlling underlying insurance" specifies that limits are reduced by defense expenses.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

ABUSE OR MOLESTATION EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

Insurance provided under this Coverage Part does not apply to "injury or damage" arising out of:

a. The actual or threatened abuse or molestation by anyone of any person while in the care, custody or control of any insured; or

b. The negligent:

(1) Employment;

(2) Investigation;

(3) Supervision;

(4) Reporting to the proper authorities, or failure to so report; or

(5) Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by Paragraph **a.** above.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

Insurance provided under this Coverage Part does not apply to:

Access Or Disclosure Of Confidential Or Personal Information

"Injury or damage" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

However, this exclusion does not apply to coverage for "injury or damage" provided under any "controlling underlying insurance" listed in the Schedule Of Underlying Insurance.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

AIRCRAFT LIABILITY EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

Insurance provided under this Coverage Part does not apply to:

Aircraft

“Injury or damage” arising out of the ownership, maintenance, use or entrustment to others of any aircraft. Use includes operation and loading and unloading.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, even if the “event” which caused the “injury or damage” involved the ownership, maintenance, use or entrustment to others of any aircraft.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

AIRCRAFT PRODUCTS AND GROUNDING EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

Aircraft Products

"Injury or damage" arising out of "aircraft products".

The following definitions are added:

"Aircraft products" means:

- a. Missiles and spacecraft, ground support or control equipment used with missiles and spacecraft, goods or products manufactured, sold, handled or distributed by any insured;
- b. Any services provided or recommended by any insured and installed in "aircraft",
- c. Any articles used in connection with "aircraft" or for spare parts for "aircraft",
- d. Ground handling tools and equipment, training aids, instruction manuals, blueprints, engineering or other data or advice;
- e. Labor relating to such blueprints, engineering or other data or advice;
- f. Labor relating to such "aircraft" or articles except products that are still in your physical possession or work that has not yet been completed or abandoned.

"Aircraft products" includes all "injury or damage" occurring away from premises you own or rent, and arising out of your product or your work including services and labor performed by you, or on your behalf in connection with the following:

1. Reliance upon any representations or warranties made with respect to "aircraft products and completed operations" or
2. Arising out of the "grounding" of any "aircraft".

"Aircraft" means a vehicle designed to be used primarily in the air and to be supported by the dynamic reaction of the air upon the vehicle's wings or rotor blades, or by the vehicle's buoyancy in the air.

"Grounding" means:

1. the withdrawal of one or more "aircraft" from flight operations; or
2. The impositions of speed, passenger or load restrictions on such "aircraft";

ENDORSEMENT

by reason of the actual, alleged or suspected existence of defect, fault or condition in such "aircraft" or any part thereof sold, handled, distributed, manufactured, assembled or processed by any person or organization according to any insured's specifications, plans, suggestions, orders or drawings or with tools, machinery or other equipment furnished to such persons or organizations by any insured.

"Grounding" will be deemed to commence on the date of an "event" which discloses such condition or on the date an "aircraft" is first withdrawn from service on account of such condition, whichever happens first.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

ASBESTOS EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

Asbestos

"Injury or damage" arising out of asbestos, asbestos fibers or products containing asbestos, provided the injury or damage is caused by or contributed to by the hazardous properties of asbestos. This includes:

- a. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above;
- b. Any obligation to share damages with or repay someone else who must pay damages because of such injury or damage; or
- c. Any cost of removing or abating asbestos, asbestos fibers or products containing asbestos including:
 1. Replacement with any other fire retardant materials; or
 2. "Injury or damage" incurred in the course of removing or abating asbestos, asbestos fibers or asbestos products.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

COMMUNICABLE DISEASE EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

Communicable Disease

"Bodily Injury", "Property Damage" or "Personal and Advertising Injury" arising out of the actual or alleged transmission of a communicable disease.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the:

- a.** Supervising, hiring, employing, training or monitoring of others that may be infected with and spread a communicable disease;
- b.** Testing for a communicable disease;
- c.** Failure to prevent the spread of the disease; or
- d.** Failure to report the disease to authorities.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

CONTRACTORS LIMITATION ENDORSEMENT

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to "Injury or damage" arising out of:

- a. Any project insured under a consolidated ("wrap-up") insurance program or similar rating plan;
- b. The rendering or failure to render any professional services by or for the insured including the preparing, approving or failure to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications, and any supervisory, inspection or engineering services;
- c. Any liability assumed by the insured under any contract or agreement;
- d. Any liability for property damage to property leased by, used by, or in the care, custody or control of the insured or as to which the insured is for any purpose is exercising physical control; or
- e. Any liability for property damage arising out of:
 - (1) Blasting or explosion other than the explosion of air or steam vessels, piping under pressure, prime movers, machinery or power transmitting equipment; or
 - (2) The collapse of or structural injury to any building or structure due to
 - (a) Grading of land, excavation, burrowing, filling or back-filling, tunneling, pile driving, cofferdam work or caisson work, or
 - (b) Moving, shoring, underpinning, raising or demolition of any building or structure or removal of rebuilding of any structural support thereof; or
 - (3) Injury to or destruction of wires, conduits, pipes, mains, sewers, tanks, tunnels, any similar property and any apparatus in connection therewith, beneath the surface of the ground or water caused by and occurring during the use of mechanical equipment for the purpose of grading land, excavating, drilling, borrowing, filling, back-filling or pile driving.

However, exclusions **c.**, **d.** and **e.** above do not apply to the extent that valid "controlling underlying insurance" for the liability risks described above exists or would have existed but for the exhaustion of underlying limits for bodily injury property damage or personal and advertising injury. To the extent this exclusion does not apply, the insurance provided under this Coverage Part for the liability risks described in **c.d.** and **e.** above will follow the same provisions, exclusions and limitations that are described in the applicable "controlling underlying insurance".

For the purposes of this exclusion, "wrap-up" means any agreement or arrangements under which all contractors working on a specified project insured under one or more policies issued by a specified insurer for liability arising out of the project.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

CROSS SUITS EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

**COMMERCIAL EXCESS LIABILITY FORM
COMMERCIAL LIABILITY UMBRELLA FORM**

This insurance does not apply to:

Any claim made or suit brought by or on behalf of any Named insured covered under this policy against any other Named insured covered under this policy because of "injury or damage".

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

E.R.I.S.A. EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

Any obligation of the insured under the Employee Retirement Income Security Act of 1974 (ERISA), and any amendments thereto or any similar federal, state or local statute.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

EMPLOYEE BENEFIT LIABILITY – FOLLOWING FORM

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to "Injury or damage" arising out of:

Any actual or alleged act, error, or omission in the "administration" of "employee benefit programs", except to the extent that such insurance is provided by a policy listed in the Schedule of Underlying Insurance, and for no broader coverage than is provided by such policy.

As used in exclusion, the following definitions are added:

"Administration" means:

- a. Providing information, interpreting and giving counsel to employees, including their dependents and beneficiaries, with respect to "employee benefit programs";
- b. Handling records in connection with the "employee benefit program"; or
- c. Effecting, continuing or terminating any employee's participation in any benefit included in the "employee benefit program", provided all such acts are authorized by you.

"Cafeteria plans" means plans authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.

"Employee benefit program" means a program providing some or all of the following benefits to employees, whether provided through a "cafeteria plan" or otherwise:

- a. Group life insurance, group accident or health insurance, dental, vision and hearing plans, and flexible spending accounts;
- b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans;
- c. Unemployment insurance, social security benefits, workers' compensation and disability benefits;
- d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies; and
- e. Any other similar benefits designated in the Schedule or added thereto by endorsement.

However, this exclusion does not apply to the extent that valid "controlling underlying insurance" exists or would have existed but for the exhaustion of underlying limits for Employee Benefit Liability. To the extent this exclusion does not apply, the insurance provided under this Coverage Part for the liability

Date of Issuance: 12/25/2020

Starstone Specialty Insurance Company

Page 1 of 2

Policy Form: Excess Liability

Endorsement Form: SSS ALT 0279 06 20

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ENDORSEMENT

risks described above will follow the same provisions, exclusions and limitations that are described in the applicable "controlling underlying insurance".

This endorsement does not change any other provision of the policy. The title and any headings in this endorsement are solely for convenience and do not affect its meaning.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to "injury or damage" to:

a. A person arising out of any:

(1) Refusal to employ that person;

(2) Termination of that person's employment; or

(3) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or

b. The spouse, child, parent, brother or sister of that person as a consequence of "injury or damage" to that person at whom any of the employment-related practices described in Paragraph **(1)**, **(2)** or **(3)** above is directed.

This exclusion applies whether the injury-causing event described in Paragraph **(1)**, **(2)** or **(3)** above occurs before employment, during employment or after employment of that person.

This exclusion applies whether the insured may be liable as an employer or in any other capacity, and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

EXTERIOR INSULATION AND FINISH SYSTEMS EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

"Injury or damage" arising out of, caused by, or attributable to, whether in whole or in part, the following:

- a.** The design, manufacture, construction, fabrication, preparation, distribution and sale, installation, application, maintenance or repair, including remodeling, service, correction or replacement, of any "exterior insulation and finish system" or any part thereof, or any substantially similar system or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulking or sealants in connection with such a system; or
- b.** Your product or your work with respect to any exterior component, fixture or feature of any structure if an "exterior insulation and finish system", or any substantially similar system, is used on the part of that structure containing that component, fixture or feature.

The following definition is added:

"Exterior insulation and finish system" means a non-load bearing exterior cladding or finish system, and all component parts therein, used on any part of any structure, and consisting of:

1. A rigid or semi-rigid insulation board made of expanded polystyrene and other materials;
2. The adhesive and/or mechanical fasteners used to attach the insulation board to the substrate;
3. A reinforced or unreinforced base coat;
4. A finish coat providing surface texture to which color may be added; and
5. Any flashing, caulking or sealant used with the system for any purpose.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

FUNGI OR BACTERIA EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

Insurance provided under this Coverage Part does not apply to:

Fungi Or Bacteria

a. "Injury or damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such "injury or damage".

b. Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

The following definition is added:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

LEAD EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

Lead

1. Actual or alleged "injury or damage" that results directly or indirectly from the ingestion, inhalation, or absorption of lead in any form;
2. Any loss, cost, or expense arising out of any request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of lead; or
3. Any loss, cost or expense arising out of any claim or suit by or on behalf of any governmental authority for damages resulting from testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of lead.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

LIMITED COVERAGE TERRITORY

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

“Injury or damage”, loss cost or expense occurring or taking place outside the following territory:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in **a.** above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in **a.** above;
 - (2) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business; or
 - (3) Personal and advertising injury offenses that take place through the Internet or similar electronic means of communication;provided the insured's responsibility to pay damages is determined in a suit on the merits, in the territory described in **a.** above or in a settlement we agree to.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

MOVEMENT OF LAND, EARTH OR SOIL EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

"Injury or damage":

- a. Caused directly or indirectly;
- b. Based on or attributable to;
- c. Arising out of;
- d. Resulting from; or
- e. In any manner related to;

the "movement of land, earth or soil", or the existence of the substance Bentonite in the soil.

This exclusion applies regardless of any other cause or event contributing concurrently or in any sequence or manner to the loss including, but not limited to the following causes:

- (1) Flood waters, surface waters, subterranean waters, percolating waters, riparian and navigable waters, waves, tidal water or tidal waves, overflow of streams or other bodies of water, spray from any of the foregoing, irrigation or other appropriated waters, all whether driven by wind or not;
- (2) Storm or sanitary sewer drain stoppage or backflow or water which backs up through sewers or drains;
- (3) Surface water or water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basements or other floors, or through doors, windows, or any other openings in such sidewalks, driveways, foundations, walls or floors;
- (4) Water leakage, overflow or other escape from plumbing, heating, ventilating, air conditioning or other systems, equipment or appliances;
- (5) Any acts, decisions, errors or omissions, including the failure to act or decide, of any person, group, organization or governmental body;
- (6) Faulty, inadequate or defective:
 - (a) Planning, zoning, development, surveying, siting;
 - (b) Designs, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction, drainage;
 - (c) Materials used in repair, construction, renovation or remodeling; or maintenance;

ENDORSEMENT

of part or all of any property wherever located.

As used in this exclusion, "movement of land, earth or soil" means earthquake, landslide, subsidence, mudflow, sinkhole, erosion, upheaval, slippage, sliding, sinking, rising, shifting, tilting, expanding or contracting of earth or soil.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

NUCLEAR ENERGY LIABILITY EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

NUCLEAR ENERGY LIABILITY

a. Under any Liability Coverage, to "injury or damage":

(1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which **(a)** any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or **(b)** the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

b. Under any Liability Coverage, to "injury or damage" resulting from "hazardous properties" of "nuclear material", if:

(1) The "nuclear material" **(a)** is at any "nuclear facility" owned by, or operated by or on behalf of, an insured or **(b)** has been discharged or dispersed therefrom;

(2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an insured; or

(3) The "injury or damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion **(3)** applies only to property damage to such "nuclear facility" and any property thereat.

c. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

ENDORSEMENT

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

(a) Any "nuclear reactor";

(b) Any equipment or device designed or used for **(1)** separating the isotopes of uranium or plutonium, **(2)** processing or utilizing "spent fuel", or **(3)** handling, processing or packaging "waste";

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Injury or damage" includes all forms of radioactive contamination of property.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

NEW YORK EMPLOYEE EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM

It is hereby agreed that solely with respect to the rendering or performing of services of any kind in New York state the following is added to **Paragraph 2. Exclusions under Section 1 – Coverages:**

e. "Bodily Injury" to:

- (1) An "employee" of any insured arising out of and in the course or employment by an insured; or
- (2) To any contractor, subcontractor, or any "employee" of any contractor or subcontractor arising out of or in the course of the rendering or performing services of any kind by such contractor, subcontractor or "employee" of such contractor or subcontractor; or
- (3) The spouse, child, parent, brother or sister of that "employee" of an insured, a contractor, or a subcontractor as a consequence of (1) and (2) above.

This exclusion applies:

- (1) Whether any insured may be liable as an employer or in other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

It is also agreed that solely with respect to the rendering or performing of services of any kind in New York state the definition of "insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for bodily injury or property damage to a third

ENDORSEMENT

person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1)** That indemnifies a railroad for bodily injury or property damage arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2)** That indemnifies an architect, engineer or surveyor for injury or damages arising out of:
 - (a)** Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications;
 - (b)** Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3)** Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insureds rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
- (4)** Indemnifies any person or organization for injury to an "employee" of an insured, a contractor or a subcontractor of any insured arising out of and in the course of employment by any insured; or
- (5)** That indemnifies the spouse, child, parent, brother, sister or other family member of an "employee" of any insured, a contractor, subcontractor or "employee" of a contractor or subcontractor as a consequence of (4) above.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

TOTAL POLLUTION EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

Pollution

- (1)** "Injury or damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time; or
- (2)** Any loss, cost or expense arising out of any:
 - (a)** Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants; or
 - (b)** Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, pollutants.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

PRE-EXISTING INJURY OR DAMAGE EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

"Injury or damage", whether known or unknown by anyone, which:

- a. First occurred prior to the effective date of this policy;
- b. Is or is alleged to be in the process of occurring as of the effective date of this policy;
- c. Is in the process of settlement, adjustment or suit as of the effective date of this policy.

This exclusion applies even if the "injury or damage" continues during the policy period of this policy.

We shall have no duty to defend or indemnify any insured against any loss, claim, suit or other proceeding alleging damages to which this exclusion applies.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

PROFESSIONAL SERVICES EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

Professional Services

"Injury or damage" due to the rendering of or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings or specifications;
- (3) Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager;
- (4) Engineering services, including related supervisory or inspection services;
- (5) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (6) Any health or therapeutic service treatment, advice or instruction;
- (7) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;
- (8) Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;
- (9) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (10) Body piercing services;
- (11) Services in the practice of pharmacy;
- (12) Law enforcement or firefighting services; and
- (13) Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "event" which caused the "injury or damage" involved the rendering of or failure to render any professional service.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

RECORDING AND DISTRIBUTION OF MATERIAL OR INFORMATION IN VIOLATION OF LAW EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

"Injury or damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

RESIDENTIAL CONSTRUCTION DEFECT EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

"Injury or damage" or any loss, cost or expense arising directly or indirectly out of or related to the liability of "Contractors" for "Residential Construction".

As used in this exclusion:

"Contractors" means all developers, general contractors, subcontractors, trade persons, organizations, or any other person or entity involved in "Residential Construction".

"Residential Construction" means all development, design, building or other construction, improvements, site selection, surface or subsurface site preparation, or any work, products or component parts thereof or services provided in relation to any of the foregoing, involving property intended in whole or in part for residential habitation including condominiums, townhomes, single or multi-family homes. "Residential Construction" does not mean your work performed on, or your products or component parts used in apartments. Apartments do not include condominiums, townhomes, single or multi-family homes that have been converted into rental units or rented to others, nor does it include apartment buildings or complexes that have been converted into condominiums or co-operatives.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

SILICA OR SILICA-RELATED DUST EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

Insurance provided under this Coverage Part does not apply to:

Silica Or Silica-related Dust

- a. "Injury or damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- b. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

The following definitions are added:

1. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

UNIMPAIRED UNDERLYING AGGREGATE LIMITS ENDORSEMENT

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

In order for coverage to apply under this policy, the Aggregate Limits in the applicable "controlling underlying insurance" policies listed in the Schedule of "controlling underlying insurance" shall be unimpaired at the effective date of this policy.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Effective Date: 12/01/2020

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

Endorsement

Number:

UNMANNED AIRCRAFT EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

Insurance provided under this Coverage Part does not apply to:

"Injury or damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and loading or unloading.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "event" which caused the "injury or damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

As used in this exclusion, loading or unloading means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an "unmanned aircraft"
 - b. While it is in or on an "unmanned aircraft" or
 - c. While it is being moved from an "unmanned aircraft" to the place where it is finally delivered;
- but loading or unloading does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the "unmanned aircraft".

As used in this exclusion, "Unmanned aircraft" means an aircraft that is not:

- a. Designed;
- b. Manufactured; or
- c. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

ENDORSEMENT

Named Insured: Mark Lee & Yong Kay, Inc

Policy Number: 88721A200ALI

Endorsement

Endorsement

Effective Date: 12/01/2020

Number:

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

WAR EXCLUSION

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

This insurance does not apply to:

War

"Injury or damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

NOTICE:

1. THE INSURANCE POLICY THAT YOU HAVE PURCHASED IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED "NONADMITTED" OR "SURPLUS LINE" INSURERS.

2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT THAT APPLY TO CALIFORNIA LICENSED INSURERS.

3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.

4. THE INSURER SHOULD BE LICENSED EITHER AS A FOREIGN INSURER IN ANOTHER STATE IN THE UNITED STATES OR AS A NON-UNITED STATES (ALIEN) INSURER. YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR "SURPLUS LINE" BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER 1-800-927-4357. ASK WHETHER OR NOT THE INSURER IS LICENSED AS A FOREIGN OR NON-UNITED STATES (ALIEN) INSURER AND FOR ADDITIONAL INFORMATION ABOUT THE INSURER. YOU MAY ALSO CONTACT THE NAIC'S INTERNET WEB SITE AT WWW.NAIC.ORG.

5. FOREIGN INSURERS SHOULD BE LICENSED BY A STATE IN THE UNITED STATES AND YOU MAY CONTACT THAT STATE'S DEPARTMENT OF INSURANCE TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.

6. FOR NON-UNITED STATES (ALIEN) INSURERS, THE INSURER SHOULD BE LICENSED BY A COUNTRY OUTSIDE OF THE UNITED STATES AND SHOULD BE ON THE NAIC'S INTERNATIONAL INSURERS DEPARTMENT (IID) LISTING OF APPROVED NONADMITTED NON-UNITED STATES INSURERS. ASK YOUR AGENT, BROKER, OR "SURPLUS LINE" BROKER TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.

7. CALIFORNIA MAINTAINS A LIST OF APPROVED SURPLUS LINE INSURERS. ASK YOUR AGENT OR BROKER IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST AT THE INTERNET WEB SITE OF THE CALIFORNIA DEPARTMENT OF INSURANCE: WWW.INSURANCE.CA.GOV.

8. IF YOU, AS THE APPLICANT, REQUIRED THAT THE INSURANCE POLICY YOU HAVE PURCHASED BE BOUND IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE WITHIN TWO BUSINESS DAYS, AND YOU DID NOT RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS POLICY WITHIN FIVE DAYS OF RECEIVING THIS DISCLOSURE. IF YOU CANCEL COVERAGE, THE

PREMIUM WILL BE PRORATED AND ANY BROKER'S FEE CHARGED FOR THIS INSURANCE WILL BE RETURNED TO YOU."



DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

Project Information

Project Name	Frick Middle School Intensive Support Site Fence Installation Project	Site	219
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Basic Directions

Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.

Attachment Checklist	<input checked="" type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input checked="" type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider
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Contractor Information

Contractor Name	Bay Construction Company.	Agency's Contact	Yong Kay		
OUSD Vendor ID #	000642	Title	President		
Street Address	4026 Martin Luther King Jr., Way	City	Oakland	State	CA
Telephone	510-658-7225	Policy Expires			
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
OUSD Project #	15105				

Term of Original/Amended Contract

Date Work Will Begin (i.e., effective date of contract)	6-17-2021	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	8-16-2021
		New Date of Contract End (If Any)	

Compensation/Revised Compensation

If New Contract, Total Contract Price (Lump Sum)	\$160,000.00	If New Contract, Total Contract Price (Not To Exceed)	\$
Pay Rate Per Hour (if Hourly)	\$	If Amendment, Change in Price	\$
Other Expenses		Requisition Number	

Budget Information

If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.

Resource #	Funding Source	Org Key	Object Code	Amount
9799/9648	Fund 21/Measure B	210-9799-0-9648-8500-6274-219-9180-9901-9999-99999	6274	\$160,000.00

Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Acting Director, Facilities Planning and Management				
	Signature	Date Approved	5/24/21		
2.	General Counsel, Department of Facilities Planning and Management				
	Signature Lozano Smith, as to form only	Date Approved	5/21/21		
3.	Deputy Chief, Facilities Planning and Management				
	Signature	Date Approved	5/24/21		
4.	Chief Financial Officer				
	Signature	Date Approved			
5.	President, Board of Education				
	Signature	Date Approved			