

Board Office Use: Legislative File Info.	
File ID Number	18-0990
Introduction Date	5-9-2018
Enactment Number	18-0779
Enactment Date	5/9/18 lf



OAKLAND UNIFIED  
SCHOOL DISTRICT  
Community Schools. Thriving Students.

# Memo

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent and Secretary, Board of Education  
Timothy White, Deputy Chief, Facilities Planning and Management

**Board Meeting Date** May 9, 2018

**Subject** Independent Consultant Agreement Greater than \$90,200 - Ninyo & Moore - Foster Educational Leadership Complex Project

**Action Requested** Approval by the Board of Education of an Independent Consultant Agreement greater than \$90,200 between the District and Ninyo & Moore, Oakland, CA, for the latter to provide special inspection services including preparation of daily field reports documentation items inspected; review concrete mix designs and welding procedure submittals; perform reinforcing steel placement inspection to verify compliance with the approved project structural drawings for proper materials, number of bars, size, spacing, clearance, grade, splices, cleanliness, location, including ties, stirrups and bar supports; perform visual inspection during structural concrete placement and other services (see attached proposal), in conjunction with the Foster Educational Leadership Complex Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing May 10, 2018 and concluding no later than October 31, 2019, in an amount not-to exceed \$130,204.80.

**Discussion** Services required to provide field and laboratory data and information in order to assess compliance with project plans and specifications.

**LBP** (Local Business Participation Percentage) 75.00%

**Recommendation** Approval by the Board of Education of an Independent Consultant Agreement greater than \$90,200 between the District and Ninyo & Moore, Oakland, CA, for the latter to provide special inspection services including preparation of daily field reports documentation items inspected; review concrete mix designs and welding procedure submittals; perform reinforcing steel placement inspection to verify compliance with the approved project structural drawings for proper materials, number of bars, size, spacing, clearance, grade, splices, cleanliness, location, including ties, stirrups and bar supports; perform visual inspection during structural concrete placement and other services (see attached proposal), in conjunction with the Foster Educational Leadership Complex Project, more specifically delineated in the Scope of Services in Exhibit "A", incorporated herein by reference as though fully set forth, commencing May 10, 2018 and concluding no later than October 31, 2019, in an amount not-to exceed \$130,204.80.

## **Fiscal Impact**

Fund 21, Measure J

## **Attachments**

- Independent Consultant Agreement including scope of work
- Consultant Proposal
- Certificate of Insurance



**CONTRACT JUSTIFICATION FORM**  
**This Form Shall Be Submitted to the Board Office**  
**With Every Consent Agenda Contract.**

Legislative File ID No. 18-0990

Department: Facilities Planning and Management

Vendor Name: Ninyo & Moore

Project Name: Foster Educational Leadership Complex Project No.: 15124

Contract Term: Intended Start: 4/9/2018 Intended End: ~~10/1/2019~~ 10/31/2019

Annual (if annual contract) or Total (if multi-year agreement) Cost: \$130,204.80

Approved by: Tadashi Nakadegawa

Is Vendor a local Oakland Business or have they meet the requirements of the

Local Business Policy? ☒ Yes (No if Unchecked)

How was this Vendor selected?

RFP went out

Summarize the services this Vendor will be providing.

Ninyo & Moore will provide special inspection services including:  
1) Preparation of daily field reports documentation items inspected.  
2) Review concrete mix designs and welding procedure submittals.  
3) Perform reinforcing steel placement inspection to verify compliance with the approved project structural drawings for proper materials, number of bars, size, spacing, clearance, grade, splices, cleanliness, location, including ties, stirrups and bar supports.  
4) Perform visual inspection during structural concrete placement and other services (See attached proposal)

An Owner's contingency of 20% (\$21,700.80) has been added.

Was this contract competitively bid? ☒ Yes (No if Unchecked)

If No, please answer the following:

1) How did you determine the price is competitive?

Vendor was selected from RFP pool



2) Please check the competitive bid exception relied upon:

- ☐ **Educational Materials**
- ☐ **Special Services** contracts for financial, economic, accounting, legal or administrative services
- ☐ **CUPCCAA Exception** (Uniform Public Construction Cost Accounting Act)
- ☒ **Professional Service Agreements** of less than \$90,200 (increases a small amount on January 1 of each year)
- ☐ **Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- ☐ **Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternative energy supply sources)
- ☐ **Emergency** contracts
- ☐ **Technology** contracts
  - ☐ electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
  - ☐ contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
  - ☐ Western States Contracting Alliance Contracts (WSCA)
  - ☐ California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- ☐ **Piggyback" Contracts** with other governmental entities
- ☐ **Perishable Food**
- ☐ **Sole Source**
- ☐ **Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- ☒ **Other, please provide specific exception**

3) ☐ **Not Applicable - no exception - Project was competitively bid**

**INDEPENDENT CONSULTANT**  
**Greater Than \$90,200**

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the **25th day of April 2018**, by and between the **Oakland Unified School District** ("District") and **Ninyo & Moore**

**WHEREAS**, the District is authorized to contract with and employ any persons for the furnishing of special and professional services and advice if those persons are specially trained and experienced and competent to perform the services required;

**WHEREAS**, the District is in need of such services and advice and the Consultant warrants that it is specially trained, licensed and experienced and competent to perform the services required by the District;

**WHEREAS**, the Consultant agrees to perform the services described in this Agreement in accordance with the standards of its profession, to District's satisfaction, and in accordance with this Agreement.

**NOW, THEREFORE**, the Parties agree as follows:

1. **Services.** Consultant shall furnish to the District the following services, as more fully described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services"):

Scope of Services to provide special inspection services including preparation of daily field reports documentation items inspected; review concrete mix designs and welding procedure submittals; perform reinforcing steel placement inspection to verify compliance with the approved project structural drawings for proper materials number of bars, size, spacing, clearance, grade, splices, cleanliness, location including ties, stirrups and bar supports; perform visual inspection during structural concrete placement and other services (see attached proposal)

2. **Term.** Consultant shall commence providing Services under this Agreement on **May 10, 2018**, and will diligently perform as required and complete performance by **October 31, 2019**, unless this Agreement is terminated and/or otherwise cancelled prior to that time. This Agreement may be extended upon mutual approval of both parties in writing on an annual basis to the extent permissible under applicable law.

3. **Submittal of Documents.** The Consultant shall not commence the Services under this Contract until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

<input checked="" type="checkbox"/> Signed Agreement	<input checked="" type="checkbox"/> W-9 Form
<input checked="" type="checkbox"/> Insurance Certificates & Endorsements	<input checked="" type="checkbox"/> Workers' Compensation Certificate
<input checked="" type="checkbox"/> Debarment Certification	Other: _____
<input checked="" type="checkbox"/> Fingerprinting/Criminal Background Investigation Certification	

4. **Compensation.** District agrees to pay Consultant for Services satisfactorily rendered pursuant to this Agreement, a fixed fee of **ONE HUNDRED THIRTY THOUSAND TWO HUNDRED FOUR and 80/100 Dollars (\$130,204.80)**, includes a 20% owner's contingency of \$21,700.80, paid monthly in proportion to Services performed.

- 4.1. District shall pay Consultant for all undisputed amounts in installment payments within thirty (30) days after the Consultant submits an invoice to the District for Services actually



completed and after the District's written approval of the Services, or the portion of the Services for which payment is to be made (such approval not to be unreasonably withheld or delayed).

- 4.2. Any disputed invoiced amount which cannot be resolved in good faith between the Parties within fifteen (15) business days shall be resolved in accordance with Section 25 below.
5. **Expenses.** Expenses will not be charged for Consultant's performance of these Services.
6. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement.
7. **Local, Small Local and Small Local Resident Business Enterprise (L/SL/SLRBE) Program:** Consultant shall comply with the requirements of District's L/SL/SLRBE Program, as applicable, which may require a fifty percent (50%) mandatory minimum local participation requirement in the performance of this Agreement. A copy of the District's Local Business Participation Policy can be obtained on the District's website, at [www.ousd.k12.ca.us](http://www.ousd.k12.ca.us), under District Services, Facilities Planning & Management Department, Bids and Requests for Proposals.
8. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the Services herein contemplated, Consultant shall have the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
9. **Performance of Services / Standard of Care.**
  - 9.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Consultant's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
    - 9.1.1. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
    - 9.1.2. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.
    - 9.1.3. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State



of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.

9.1.4. Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall use professional efforts in identifying any errors, inconsistencies, or omissions.

9.1.5. Any representations, recommendations, opinions or conclusions relating to the Services provided by Consultant must be made in writing by duly authorized representatives of Consultant.

9.2. **Meetings.** Consultant and District agree to participate in regular meetings to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.

9.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.

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

11. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District (specifically excluding any underlying pre-existing intellectual property). District may, with Consultant's prior written consent, use Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

## 12. Termination.

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

12.2. **For Convenience by Consultant.** Consultant may, upon sixty (60) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

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



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

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

- 12.4. Upon termination, Consultant shall provide the District with all documents produced maintained or collected by Consultant pursuant to this Agreement, whether or not such documents are final or draft documents.

**13. Indemnification.** To the furthest extent permitted by California law, Consultant shall indemnify, and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims, arising out of, pertaining to or relating to the negligence, recklessness, errors or omissions, or willful misconduct of Consultant. Consultant shall, to the fullest extent permitted by California law, defend the Indemnified Parties at Consultant's own expense, including attorneys' fees and costs, from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

**14. Insurance.**

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

- 14.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that insure against all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from Consultant's performance of any portion of the Services. (Form CG 0001 and CA 0001)

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



protected must be obtained before any of those employee(s) commence performing any portion of the Services.

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

Type of Coverage	Minimum Requirement
<b>Commercial General Liability Insurance</b> , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
<b>Automobile Liability Insurance - Any Auto</b>	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
<b>Professional Liability</b>	\$ 1,000,000
<b>Workers Compensation</b>	Statutory Limits
<b>Employer's Liability</b>	\$ 1,000,000

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

- 14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
- 14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
- 14.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.
- 14.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance shall be written on an occurrence form.

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

15. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.

16. **Compliance with Laws.** Consultant shall observe and comply with all applicable rules and regulations of the governing board of the District and all applicable federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant

**Contract #11: Independent Consultant Greater than \$90,200 - Ninyo & Moore - Foster Educational Leadership Complex - \$130,204.80**



observes that any of the Services required by this Agreement are at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant knowingly performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

17. **Certificates/Permits/Licenses/Registration.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this agreement.
18. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of this Agreement. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
19. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
20. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).
21. **Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services. Although District has determined that fingerprinting is not applicable to this Agreement, Consultant expressly acknowledges that the following conditions shall apply to any work performed by Consultant and/or Consultant's employees on a school site:
  - 21.1. All site visits shall be arranged through the District;
  - 21.2. Consultant and Consultant's employees shall inform District of their proposed activities and location at the school site, allowing District time to arrange site visits without a disruption to the educational process;
  - 21.3. Consultant and/or Consultant's employees shall check in with the school office each day immediately upon arriving at the school site;
  - 21.4. Once at such location, Consultant and Consultant's employees shall not change locations without contacting the District;
  - 21.5. Consultant and Consultant's employees shall not use student restroom facilities; and
  - 21.6. If Consultant and Consultant's employees find themselves alone with a student, Consultant and Consultant's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.



22. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any manner which is permissible under the law. The District's evaluation may include, without limitation:
- 24.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
- 24.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
26. **Disputes:** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.
27. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of



performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

28. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

Oakland Unified School District  
955 High Street  
Oakland, CA 94601  
Tel: 510-535-7038; Fax: 510-535-7082  
ATTN: Cesar Monterrosa

Ninyo & Moore  
1956 Webster Street, Suite 400  
Oakland, CA 94612  
ATTN: Ruchil Shah  
TEL: 408-435-9000

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

29. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
30. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administration offices are located.
31. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
32. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
33. **Incorporation of Recitals and Exhibit.** The Recitals and exhibit attached hereto are hereby incorporated herein by reference.
34. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
35. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
36. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.



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

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

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

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

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** The District 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>

 53.18  
~~Cesar Montarrosa~~ TIM WHITE  
Director of Facilities Planning & Management  
DEPUTY CHIEF

[SIGNATURES ON NEXT PAGE]

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

**OAKLAND UNIFIED SCHOOL DISTRICT**

Almee Eng 5/10/18

Almee Eng, President, Board of Education Date

[Signature] 5/10/18

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

[Signature] 5.3.18  
Timothy White, Deputy Chief, Facilities Planning and Management Date

**APPROVED AS TO FORM:**

[Signature] 5/4/18  
OUSD Facilities Legal Counsel Date

**CONSULTANT**

Ninyo & Moore  
[Signature] April 26, 2018  
Date

**Information regarding Consultant:**

Consultant: Ninyo & Moore

License No.: A697063

Address: 2020 Challenger Drive, Suite 103  
Alameda, CA 94501

Telephone: 510-343-3000

Facsimile: 510-343-3001

E-Mail: \_\_\_\_\_

Type of Business Entity:

☐ Individual  
☐ Sole Proprietorship  
☐ Partnership  
☐ Limited Partnership  
☒ Corporation, State: California  
☐ Limited Liability Company  
☐ Other: \_\_\_\_\_

33-0269828 :  
Employer Identification and/or  
Social Security Number

**NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.**



### WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 In relevant part provides:

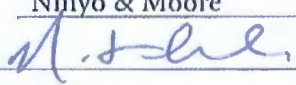
Every employer except the State shall secure the payment of compensation in one or more of the following ways:

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

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

Date: April 26, 2018

Proper Name of Consultant: Ninyo & Moore

Signature: 

Print Name: Mark J. Hahle

Title: Director of Construction Services

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND  
VOLUNTARY EXCLUSION**

The undersigned is aware of and hereby certify that neither Ninyo & Moore ("Consultant") nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Further, the undersigned agrees to include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts.

Where the Consultant or any lower participant is unable to certify to this statement, it shall attach an explanation hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named Consultant on the 26th day of April 2018 for the purposes of submission of this Agreement.

By:   
Signature  
Mark J. Halhe  
Typed or Printed Name  
Director of Construction Services  
Title



**FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION**

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

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

Date: \_\_\_\_\_

District Representative's Name and Title: \_\_\_\_\_

District Representative's Signature: \_\_\_\_\_

- ☐ The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant's services under this Agreement and Consultant certifies its compliance with these provisions as follows: *"Consultant certifies that the Consultant has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Consultant's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*

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

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

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

☐ Surveillance of Employees by District personnel.

Date: \_\_\_\_\_

District Representative's Name and Title: \_\_\_\_\_

District Representative's Signature: \_\_\_\_\_

I am a representative of the Consultant entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

Date: April 26, 2018

Name of Consultant: Ninyo & Moore

Signature: 

Print Name and Title: Mark J. Hahle, Director of Construction Services

**EXHIBIT "A"**  
**DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT**

**BASIC SCOPE OF SERVICES**

See Attached sheet



August 23, 2017

CERTIFICATE OF THE ASSISTANT SECRETARY

TO WHOM IT MAY CONCERN:

I hereby certify that I am the duly qualified and acting Assistant Secretary of Ninyo & Moore, a California Corporation. The following is a true excerpt from the Minutes of the Ninyo & Moore Board of Directors meeting held on June 24, 1999:

15. Empowerment of Executive Officers:

Many clients have requested letters of authorization prior to accepting the signatures of Principals on contractual documents. To clarify this situation, we hereby incorporate the following statement into the bylaws of the Corporation:

"RESOLVED, that the Corporation recognizes those employees appointed as Principals (including Division Managers) as Executive Officers of the Corporation, and empowers them to represent the Corporation in this legal capacity."

The resolution is in conformity with the Articles of Incorporation and bylaws of the Corporation, has never been modified or repealed, and is now in full force and effect.

Under this resolution, **Terence Wang, Principal Engineer of our Oakland, California office,** is empowered to bind the Corporation.

**NINYO & MOORE**



Elaine O. Autus  
Assistant Secretary



Geotechnical & Environmental Sciences Consultants

## EXHIBIT A

April 5, 2018  
Proposal No. 08SJO02-00640- Revised

Mr. Colland Jang  
Oakland Unified School District  
955 High Street  
Oakland, California 94601

Subject: Proposal for Materials Testing and Special Inspection Services  
Paul Robeson Building Early Seismic Package  
1025 Second Avenue  
Oakland, California

Dear Mr. Jang:

In accordance with your request, we are pleased to submit this cost proposal for materials testing and special inspection services for the Paul Robeson Building Early Seismic Package Project in Oakland, California. This proposal includes cost estimates based on our review of the project plans and our previous experience with similar projects of this nature.

The purpose of our services will be to provide you with field and laboratory data and information in order to assess compliance with the project plans and specifications. Included in this proposal is a discussion of our understanding of the project, the scope of services we can provide, and associated fees.

### PROPOSED SCOPE OF SERVICES

Based on our understanding of the proposed construction, and our experience with similar projects, we propose to provide the following scope of services:

- Provide project management to include client liaison, work scheduling, quality review, and semi-monthly distribution of test data and daily field inspection reports.
- Preparation of daily field reports documenting items inspected.
- Review concrete mix designs and welding procedure submittals.
- Perform reinforcing steel placement inspection to verify compliance with the approved project structural drawings for proper materials, number of bars, size, spacing, clearance, grade, splices, cleanliness, location, including ties, stirrups and bar supports.
- Perform visual inspection during structural concrete placement.



- Perform concrete sampling and testing including measuring and recording of slump, temperature, and batch times. One set of five cylinders will be cast for every 150 cubic yards of concrete placed or fraction thereof, per day.
- Perform visual inspection of shotcrete placement for pre-production panels.
- Perform coring of pre-production panels and transportation of samples to laboratory for nozzlemen qualification.
- Perform grading and compressive strength tests of cores taken from shotcrete pre-construction panels and provide review letter for nozzlemen qualification.
- Perform visual inspection of shotcrete placement and production panels during construction. One panel will be cast for every 50 cubic yards of concrete placed or fraction thereof, per shift.
- Transport shotcrete panels to our laboratory, perform coring of specimens, and perform laboratory testing to evaluate compressive strength of shotcrete cores (3 cores per panel) from production panel.
- Perform visual inspection during the installation of epoxy dowels and post installed anchors.
- Perform proof load and torque testing of post-installed anchors and epoxy dowels.
- Perform structural steel welding inspection in the shop and field.
- Perform non-destructive testing including ultrasonic testing (UT) or magnetic particle testing (MT) in the shop and field.
- Perform field inspection during surface preparation, mixing, application, casing and epoxy of Fiber Reinforced Polymer (FRP).
- Perform coring and one adhesion testing per 1,000 square feet based on ASTM D7522 and/or ASTM D7234.
- Record lot number of fabric and epoxy resin used, and location of installation and sample two 12" by 12" samples of cured composite FRP samples per ASTM D3039.
- Perform tensile test on fifteen-percent of all 12"x12" sample panels for ultimate tensile strength, tensile modulus and percentage elongation as per ASTM D3039 in the longitudinal fiber direction.
- Perform visual inspection for shear wall nailing, bolting, wood diaphragm & hold-downs.
- Perform concrete scanning using rebar locator for slab, wall and spandrel before coring.
- Perform coring of existing slab, wall and spandrel and extract 6 cores total for compression testing.
- Perform coring to remove two rebar coupons and test them to evaluate tensile and yield strength.
- Compile, review, and distribute progress report including field and laboratory test data.

- Provide interim and final verified reports at the project's closeout.

## ASSUMPTIONS

- Our services will be scheduled and coordinated by the District's Project Inspector.
- The contractor and subcontractors will maintain a 40-hour work week during normal daytime work hours. Weekend and overtime work has not been included in this cost proposal.
- Our services are subject to California prevailing wage law.
- Field Technician and special inspector rates are based on a 4-hour minimum for the first 4 hours and an 8-hour minimum for hours exceeding 4 hours. Show up time will be charged as 2-hour minimum. Field personnel are charged portal to portal from our Oakland office.
- Geotechnical observation and testing, masonry placement inspection and testing, fireproofing, shoring and waterproofing observation and testing services to be provided by others or not part of this project are not included in the cost estimate.
- Services that are not included will be provided upon the District's written request based on the attached fee schedule.

## FEE ESTIMATE

We propose to perform the scope of services described above, subject to the listed assumptions, on a time-and-materials basis in accordance with the attached Schedule of Fees. A summary of our estimated fee per task is presented below:

Summary of Estimated Fees		
Task No.	Services	Estimated Fees
1	Special Inspection & Testing Services	\$84,180
2	Existing Materials Testing	\$8,200
3	Laboratory Testing	\$8,840
4	Project Management	\$7,284
Total Estimated Fee		\$108,504

Our proposed time-and-materials fee estimate for the scope of services described is **\$108,504 (One Hundred and Eight Thousand Five Hundred and Four Dollars)**. Detailed estimate of fees is attached under Table 1. Should the construction schedule require a lesser or greater amount of services than that estimated herein, the cost will vary accordingly. The actual cost of our services will depend largely on the requested site visits for our services, as well as impact of weather and work stoppages, all of which are beyond our control. When possible, we will combine inspection and testing services to reduce the cost of our services.



We will provide services on an as-needed basis and will require 24 hours' notice for scheduling inspection and testing visits. We sincerely appreciate the opportunity to submit this proposal, and look forward to working with you on this project.

Respectfully submitted,  
**NINYO & MOORE**



Ruchil Shah  
Senior Project Manager



Mark J. Hahle  
Director of Construction Services

RS/MJH/slt

Attachments:      Schedule of Fees  
                         Table 1 - Breakdown of Estimated Fee

## Schedule of Fees

### Hourly Charges for Personnel

Principal Engineer/Geologist/Environmental Scientist	\$ 155
Senior Engineer/Geologist/Environmental Scientist	\$ 150
Senior Project Engineer/Geologist/Environmental Scientist	\$ 140
Project Engineer/Geologist/Environmental Scientist	\$ 133
Senior Staff Engineer/Geologist/Environmental Scientist	\$ 120
Staff Engineer/Geologist/Environmental Scientist	\$ 110
GIS Analyst	\$ 105
Field Operations Manager	\$ 105
Supervisory Technician	\$ 100
Nondestructive Examination Technician, UT, MT, LP	\$ 95
ACI Concrete Technician	\$ 85
Concrete/Asphalt Batch Plant Inspector	\$ 85
Special Inspector (Concrete, Masonry, Steel, Welding, and Fireproofing)	\$ 85
Senior Field/Laboratory Technician	\$ 85
Field/Laboratory Technician	\$ 85
Technical Illustrator/CAD Operator	\$ 80
Information Specialist	\$ 80
Data Processing, Technical Editing, or Reproduction	\$ 85

### Other Charges

Concrete Coring Equipment (includes one technician)	\$ 175/hr
PID/FID Usage	\$ 120/day
Anchor load test equipment (includes technician)	\$ 89/hr
Hand Auger Equipment	\$ 55/day
Inclinometer Usage	\$ 32/hr
Vapor Emission Kits	\$ 30/kit
Level D Personal Protective Equipment (per person per day)	\$ 25/p/d
Rebar Locator (Pachometer)	\$ 22/hr
Nuclear Density Gauge Usage	\$ 12/hr
Field Vehicle Usage	\$ 10/hr
Direct Project Expenses	Cost plus 15 %
Laboratory testing, geophysical equipment, and other special equipment provided upon request.	

### Notes

For field and laboratory technicians and special inspectors, regular hourly rates are charged during normal weekday construction hours. Overtime rates at 1.5 times the regular rates will be charged for work performed outside normal construction hours and all day on Saturdays. Rates at twice the regular rates will be charged for all work in excess of 12 hours in one day or on Sundays and holidays. Lead time for any requested service is 24 hours. Field Technician rates are based on a 4-hour minimum. Special inspection rates are based on a 4-hour minimum for the first 4 hours and an 8-hour minimum for hours exceeding 4 hours. Field personnel are charged portal to portal.

Invoices will be submitted monthly and are due upon receipt. A service charge of 1.0 percent per month may be charged on accounts not paid within 30 days.

The terms and conditions of providing our consulting services include our limitation of liability and indemnities as presented in Ninyo & Moore's Work Authorization and Agreement.



## Schedule of Fees for Laboratory Testing

### Laboratory Test, Test Designation, and Price Per Test

#### SOILS

Atterberg Limits, D 4318, CT 204	\$ 180
California Bearing Ratio (CBR), D 1883	\$ 440
Chloride and Sulfate Content, CT 417 & CT 422	\$ 135
Consolidation, D 2435, CT 219	\$ 275
Consolidation - Time Rate, D 2435, CT 219	\$ 70
Direct Shear - Remolded, D 3080	\$ 290
Direct Shear - Undisturbed, D 3080	\$ 250
Durability Index, CT 229	\$ 150
Expansion Index, D 4829, UBC 18-2	\$ 240
Expansion Potential (Method A), D 4546	\$ 180
Expansive Pressure (Method C), D 4546	\$ 180
Geofabric Tensile and Elongation Test, D 4632	\$ 165
Hydraulic Conductivity, D 5084	\$ 300
Hydrometer Analysis, D 422, CT 203	\$ 190
Moisture, Ash, & Organic Matter of Peat/Organic Soils	\$ 110
Moisture Only, D 2216, CT 226	\$ 30
Moisture and Density, D 2937	\$ 50
Permeability, CH, D 2434, CT 220	\$ 290
pH and Resistivity, CT 643	\$ 160
Proctor Density D 1557, D 698, CT 216, & AASHTO T-180 (Rock corrections add \$80)	\$ 260
R-value, D 2844, CT 301	\$ 425
Sand Equivalent, D 2419, CT 217	\$ 110
Sieve Analysis, D 422, CT 202	\$ 110
Sieve Analysis, 200 Wash, D 1140, CT 202	\$ 90
Specific Gravity, D 854	\$ 200
Triaxial Shear, C.D., D 4767, T 297	\$ 390
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt.	\$ 330
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt.	\$ 190
Triaxial Shear, U.U., D 2850	\$ 140
Unconfined Compression, D 2166, T 208	\$ 100
Wax Density, D 1188	\$ 90

#### ROOFING

Built-up Roofing, cut-out samples, D 2829	\$ 165
Roofing Materials Analysis, D 2829	\$ 500
Roofing Tile Absorption, (set of 5), UBC 15-5	\$ 190
Roofing Tile Strength Test, (set of 5), UBC 15-5	\$ 190

#### MASONRY

Brick Absorption, 24-hour submersion, C 67	\$ 45
Brick Absorption, 5-hour boiling, C 67	\$ 55
Brick Absorption, 7-day, C 67	\$ 60
Brick Compression Test, C 67	\$ 45
Brick Efflorescence, C 67	\$ 45
Brick Modulus of Rupture, C 67	\$ 40
Brick Moisture as received, C 67	\$ 35
Brick Saturation Coefficient, C 67	\$ 50
Concrete Block Compression Test, 8x8x16, C 140	\$ 60
Concrete Block Conformance Package, C 90	\$ 1100
Concrete Block Linear Shrinkage, C 426	\$ 120
Concrete Block Unit Weight and Absorption, C 140	\$ 55
Cores, Compression or Shear Bond, CA Code	\$ 85
Masonry Grout, 3x3x6 prism compression, UBC 21-18	\$ 30
Masonry Mortar, 2x4 cylinder compression, UBC 21-16	\$ 30
Masonry Prism, half size, compression, UBC 21-17	\$ 180

#### CONCRETE

Cement Analysis Chemical and Physical, C 109	\$ 1,650
Compression Tests, 6x12 Cylinder, C 39	\$ 30
Concrete Mix Design Review, Job Spec.	\$ 140
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI	\$ 750
Concrete Cores, Compression (excludes sampling), C 42	\$ 55
Drying Shrinkage, C 157	\$ 250
Flexural Test, C 78	\$ 100
Flexural Test, C 293	\$ 55
Flexural Test, CT 523	\$ 100
Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI	\$ 250
Jobsite Testing Laboratory	Quote
Lightweight Concrete Fill, Compression, C 495	\$ 55
Petrographic Analysis, C 856	\$ 1,100
Splitting Tensile Strength, C 496	\$ 80

#### REINFORCING AND STRUCTURAL STEEL

Fireproofing Density Test, UBC 7-6	\$ 70
Hardness Test, Rockwell, A-370	\$ 80
High Strength Bolt, Nut & Washer Conformance, set, A-32	\$ 205
Mechanically Spliced Reinforcing Tensile Test, ACI	\$ 95
Pre-Stress Strand (7 wire), A 416	\$ 140
Chemical Analysis, A-36, A-615	\$ 120
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706	
No. 8 Rebar	\$ 55
No. 11 Rebar	\$ 75
No. 18 Rebar	\$ 150
Structural Steel Tensile Test: Up to 200,000 lbs. (machining extra), A 370	\$ 105
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI	\$ 80
Tensile Test for Fiberwrap (ASTM D-3039)	\$ 675

#### ASPHALT CONCRETE

Asphalt Mix Design, Caltrans	\$ 2,200
Asphalt Mix Design Review, Job Spec.	\$ 150
Extraction, % Asphalt, including Gradation, D 2172, CT 310	\$ 215
Film Stripping, CT 302	\$ 100
Hveem Stability and Unit Weight CTM or ASTM, CT 366	\$ 195
Marshall Stability, Flow and Unit Weight, T-245	\$ 215
Maximum Theoretical Unit Weight, D 2041	\$ 120
Swell, CT 305	\$ 165
Unit Weight sample or core, D 2726, CT 308	\$ 90

#### AGGREGATES

Absorption, Coarse, C 127	\$ 35
Absorption, Fine, C 128	\$ 35
Clay Lumps and Friable Particles, C 142	\$ 100
Cleanliness Value, CT 227	\$ 160
Crushed Particles, CT 205	\$ 140
Durability, Coarse, CT 229	\$ 165
Durability, Fine, CT 229	\$ 165
Los Angeles Abrasion, C 131 or C 535	\$ 180
Mortar making properties of fine aggregate, C 87	\$ 275
Organic Impurities, C 40	\$ 55
Potential Reactivity of Aggregate (Chemical Method), C 289	\$ 390
Sand Equivalent, CT 217	\$ 90
Sieve Analysis, Coarse Aggregate, C 136	\$ 125
Sieve Analysis, Fine Aggregate (including wash), C 136	\$ 125
Sodium Sulfate Soundness (per size fraction), C 88	\$ 160
Specific Gravity, Coarse, C 127	\$ 75
Specific Gravity, Fine, C 128	\$ 110

Special preparation of standard test specimens will be charged at the technician's hourly rate.  
Ninyo & Moore is accredited to perform the AASHTO equivalent of many ASTM test procedures.

**Table 1 - Breakdown of Estimated Fee****Task 1 - Special Inspection & Testing Services**

Special Inspector	Reinforcing Steel Placement Inspection	60 hours @ \$ 85 /hour	\$ 5,100
Special Inspector	Reinforced Concrete Placement Inspection including Concrete Sampling & Testing	40 hours @ \$ 85 /hour	\$ 3,400
Field Technician	Concrete Sampling & Testing	40 hours @ \$ 85 /hour	\$ 3,400
Coring Technician with Equipment	Coring of Preconstruction Panels for Nozzlemen Qualification	8 hours @ \$ 175 /hour	\$ 1,400
Special Inspector	Reinforced Shotcrete Rebar Inspection and Shotcrete Placement Observation	60 hours @ \$ 85 /hour	\$ 5,100
Special Inspector	Epoxy Dowels and Expansion Anchors Installation Inspection	120 hours @ \$ 85 /hour	\$ 10,200
Field Technician with Equipment	Load Testing of Post Installed Anchor and Epoxy Dowels (Pull / Torque Testing)	80 hours @ \$ 89 /hour	\$ 7,120
Special Inspector	Structural Steel Welding Inspection (Shop & Field)	40 hours @ \$ 85 /hour	\$ 3,400
Special Inspector	FRP Installation Inspection, Sampling and Pull-off Adhesion Testing - 8 Weeks	320 hours @ \$ 85 /hour	\$ 27,200
Field Technician with Equipment	Coring and Pull-off Adhesion Testing	80 hours @ \$ 115 /hour	\$ 9,200
Special Inspector with Equipment	Nondestructive Testing Inspector with Equipment	16 hours @ \$ 95 /hour	\$ 1,520
Special Inspector	Shear Wall Nailing, Bolting, Wood Diaphragms, Hold-Downs	60 hours @ \$ 85 /hour	\$ 5,100
Field Technician	Sample Pick Up (Concrete, Shotcrete & FRP)	24 hours @ \$ 85 /hour	\$ 2,040
<b>Subtotal</b>			<b>\$ 84,180</b>

**Task 2 - Existing Materials Testing (Section F on Plan Sheet S0.1)**

Field Technician with Equipment	Coring of Six Concrete Cores	16 hours @ \$ 175 /hour	\$ 2,800
Field Technician with Equipment	Rebar Coupon Removal	8 hours @ \$ 175 /hour	\$ 1,400
Field Technician with Equipment	GPR Scanning of Reinforcement Spacing	16 hours @ \$ 250 /hour	\$ 4,000
<b>Subtotal</b>			<b>\$ 8,200</b>

**Task 3 - Laboratory Testing**

Concrete Cylinders	Compression Tests, 4"x8" Cylinders (5 Cylinders/150 CYs)	60 tests @ \$ 30 /test	\$ 1,800
Shotcrete Panel	Compression Tests, 3 Cores per panel	8 tests @ \$ 250 /test	\$ 2,000
FRP Panel Testing	Tensile & Elongation Test (15% of Total Samples)	6 tests @ \$ 675 /test	\$ 4,050
Concrete Cores	Compression Tests	6 tests @ \$ 55 /test	\$ 330
Rebar Coupons	Yield and Tensile Strength Tests	6 tests @ \$ 110 /test	\$ 660
<b>Subtotal</b>			<b>\$ 8,840</b>

**Task 4 - Project Management**

Principal Engineer	Consultation & Project Oversight	12 hours @ \$ 155 /hour	\$ 1,860
Project Manager	Meetings, Submittal Review, Report Preparation & Project Co-ordination	28 hours @ \$ 133 /hour	\$ 3,724
Project Assistant	Data Compilation and Review, Progress Report Preparation	20 hours @ \$ 85 /hour	\$ 1,700
<b>Subtotal</b>			<b>\$ 7,284</b>

**TOTAL ESTIMATED FEE FOR MATERIALS TESTING & SPECIAL INSPECTION SERVICES****\$ 108,504**



LBU DESIGN EVALUATION FOR OUSD VARIOUS SITES  
MATERIAL TESTING AND SPECIAL INSPECTION SERVICES  
February 2015

FIRM/TEAM	LBE/SLBE/SLRBE Firms Names	RESPONSIVE Y/N	PERCENTAGE	Preference Points	NOTES
Smith-Emery		N	0%	0pt	No LBP Information Received
Inspection Services, Inc.		N	75.0%	0pt	Did Not Meet the 25% Minimum SLBE Requirement
	Inspection Services, Inc.	LBE	75.0%		
Consolidated Engineering Laboratories		N	100.0%	0pt	Did Not Meet the 25% Minimum SLBE Requirement
	Consolidated Engineering Laboratories	LBE	100.0%		
Ninyo & Moore		Y	100%	2pt	Meets all LBU requirements
	Ninyo & Moore	LBE	75%		
	Calichi	SLBE	25%		

## Request for Taxpayer Identification Number and Certification

Give form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return)

**Ninyo & Moore Geotechnical and Environmental Sciences Consultants**

Business name, if different from above

Check appropriate box: ☐ Individual/Sole proprietor ☒ Corporation ☐ Partnership

☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ .....

☐ Other (see instructions) ▶

☐ Exempt  
payee

Address (number, street, and apt. or suite no.)

**5710 Ruffin Road**

City, state, and ZIP code

**San Diego, CA 92123**

Requester's name and address (optional)

List account number(s) here (optional)

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

or

Employer identification number

**33**

**0269828**

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign  
Here

Signature of  
U.S. person ▶

Date ▶

**March 27, 2018**

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,



**ACORD**<sup>TM</sup>**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

5/01/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>Dealey, Renton &amp; Associates</b> <b>P. O. Box 12675</b> <b>Oakland, CA 94604-2675</b> <b>510 465-3090 - Mandy Guo</b>	<b>CONTACT NAME:</b> Doris A. Chambers <b>PHONE (A/C, No, Ext):</b> 510 465-3090 <b>FAX (A/C, No):</b> 510 452-2193 <b>E-MAIL ADDRESS:</b> dchambers@dealeyrenton.com														
<b>INSURED</b> <b>Ninyo &amp; Moore Geotechnical &amp; Environmental Sciences Consultants</b> <b>1956 Webster Street, Suite 400</b> <b>Oakland, CA 94612</b>	<table border="1"> <thead> <tr> <th data-bbox="830 453 1433 485">INSURER(S) AFFORDING COVERAGE</th> <th data-bbox="1433 453 1561 485">NAIC #</th> </tr> </thead> <tbody> <tr> <td data-bbox="830 485 1433 516"><b>INSURER A:</b> Travelers Property Casualty Co</td> <td data-bbox="1433 485 1561 516"><b>25674</b></td> </tr> <tr> <td data-bbox="830 516 1433 548"><b>INSURER B:</b> American Automobile Ins. Co.</td> <td data-bbox="1433 516 1561 548"><b>21849</b></td> </tr> <tr> <td data-bbox="830 548 1433 579"><b>INSURER C:</b> Evanston Insurance Company</td> <td data-bbox="1433 548 1561 579"><b>35378</b></td> </tr> <tr> <td data-bbox="830 579 1433 611"><b>INSURER D:</b></td> <td data-bbox="1433 579 1561 611"></td> </tr> <tr> <td data-bbox="830 611 1433 642"><b>INSURER E:</b></td> <td data-bbox="1433 611 1561 642"></td> </tr> <tr> <td data-bbox="830 642 1433 659"><b>INSURER F:</b></td> <td data-bbox="1433 642 1561 659"></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	<b>INSURER A:</b> Travelers Property Casualty Co	<b>25674</b>	<b>INSURER B:</b> American Automobile Ins. Co.	<b>21849</b>	<b>INSURER C:</b> Evanston Insurance Company	<b>35378</b>	<b>INSURER D:</b>		<b>INSURER E:</b>		<b>INSURER F:</b>	
INSURER(S) AFFORDING COVERAGE	NAIC #														
<b>INSURER A:</b> Travelers Property Casualty Co	<b>25674</b>														
<b>INSURER B:</b> American Automobile Ins. Co.	<b>21849</b>														
<b>INSURER C:</b> Evanston Insurance Company	<b>35378</b>														
<b>INSURER D:</b>															
<b>INSURER E:</b>															
<b>INSURER F:</b>															

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>Contractual</b> <input checked="" type="checkbox"/> <b>OCP</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	6308986R247	10/03/2017	10/03/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y	Y	8108986R247	10/03/2017	10/03/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	Y	Y	CUP9J428527	10/03/2017	10/03/2018	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y	N/A	SCW0021231801	05/01/2018	05/01/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	<b>Professional Liab &amp; Contractor's Pollution Liab.</b>	Y		MKLV7PL0002608	04/03/2017	10/03/2018	\$5,000,000 per Claim \$5,000,000 Annl Aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

REF: Construction/ Materials Testing at 3700 Coolidge Avenue, Oakland, CA. GENERAL LIABILITY/AUTOMOBILE LIABILITY ADDITIONAL INSURED: Oakland Unified School District, District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers. Commercial General Liability is primary and non-contributory and includes severability of interests per policy form. Waiver of Subrogation applies to Commercial General Liability, Automobile Liability and Workers Compensation.

**CERTIFICATE HOLDER****CANCELLATION**

<b>Oakland Unified School District</b> <b>Attn: Cesar Monterrosa</b> <b>955 High Street</b> <b>Oakland, CA 94601-0000</b>	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  <b>AUTHORIZED REPRESENTATIVE</b> 
--	--



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

## **ARCHITECTS, ENGINEERS AND SURVEYORS INDUSTRYEDGE<sup>SM</sup> ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**GENERAL DESCRIPTION OF COVERAGE** ■ This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |  |  |
|--|--|
| <p><b>A.</b> Broadened Named Insured</p> <p><b>B.</b> Incidental Medical Malpractice</p> <p><b>C.</b> Reasonable Force ■ Bodily Injury Or Property Damage</p> <p><b>D.</b> Non-Owned Watercraft ■ Increased To Up To 75 feet</p> <p><b>E.</b> Aircraft Chartered With Pilot</p> <p><b>F.</b> Extension Of Coverage ■ Damage To Premises Rented To You</p> <p><b>G.</b> Personal Injury ■ Assumed by Contract</p> <p><b>H.</b> Increased Supplementary Payments</p> <p><b>I.</b> Additional Insured ■ Owner, Manager Or Lessor Of Premises</p> <p><b>J.</b> Additional Insured ■ Lessor Of Leased Equipment</p> <p><b>K.</b> Additional Insured ■ State Or Political Subdivisions ■ Permits Relating To Premises</p> <p><b>L.</b> Additional Insured ■ State Or Political Subdivisions ■ Permits Relating To Operations</p> | <p><b>M.</b> Who Is An Insured ■ Newly Acquired Or Formed Organizations</p> <p><b>N.</b> Injury To Co-Employees And Co-Volunteer Workers</p> <p><b>O.</b> Medical Payments Limit</p> <p><b>P.</b> Knowledge And Notice Of Occurrence Or Offense</p> <p><b>Q.</b> Other Insurance Condition</p> <p><b>R.</b> Unintentional Omission</p> <p><b>S.</b> Waiver Of Transfer Of Rights Of Recovery Against Others To Us When Required By Contract</p> <p><b>T.</b> Amended Bodily Injury Definition</p> <p><b>U.</b> Amended Insured Contract Definition ■ Railroad Easement</p> <p><b>V.</b> Additional Definition ■ Written Contract Requiring Insurance</p> |
|--|--|

### **PROVISIONS**

#### **A. BROADENED NAMED INSURED ■ UNNAMED SUBSIDIARIES**

The Named Insured in Item 1. of the Declarations is amended as follows:

The person or organization named in Item 1. of the Declarations and any organization, other than a partnership, joint venture, limited liability company or trust, of which you are the sole owner or in which you maintain the majority ownership interest on the effective date of the policy. How-

ever, coverage for any such additional organization will cease as of the date, if any, during the policy period, that you no longer are the sole owner of, or maintain the majority ownership interest in, such organization.

#### **B. INCIDENTAL MEDICAL MALPRACTICE**

1. The following is added to the definition of "occurrence" in the **DEFINITIONS** Section:

Unless you are in the business or occupation of providing professional health care services, "occurrence" also means an act or omission



## COMMERCIAL GENERAL LIABILITY

committed by any of your "employees" who is employed by you as a registered nurse, licensed practical nurse, emergency medical technician or paramedic, in providing or failing to provide "incidental medical services" or "Good Samaritan services" to a person.

2. The following is added to the **DEFINITIONS** Section:

a. "Incidental medical services" means medical, surgical, dental, laboratory, x-ray or nursing service, treatment, advice or instruction; the related furnishing of food or beverages; the furnishing or dispensing of drugs or medical supplies or appliances; or first aid.

b. "Good Samaritan services" means those medical services rendered or provided in an emergency and for which no remuneration is demanded or received.

3. The following is added to **Paragraph 2.a.(1) of SECTION II ■ WHO IS AN INSURED**

Paragraphs (1) (a), (b), (c) and (d) above do not apply to any of your "employees" who are employed by you as a registered nurse, licensed practical nurse, emergency medical technician or paramedic but only while performing the services described in Paragraph 1. above and while acting within the scope of their employment by you. Any such "employees" rendering "incidental medical services" or "Good Samaritan services" will be deemed to be acting within the scope of their employment by you.

4. The following exclusion is added to Paragraph 2. **Exclusions of SECTION I ■ COVERAGES ■ COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

**Sale of Pharmaceuticals**

"Bodily injury" or "property damage" arising out of the willful violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by or with the knowledge or consent of the insured.

5. The following is added to Paragraph 4.b., **Excess Insurance, of SECTION IV ■ COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to you or any of your "employees"

for "bodily injury" that arises out of providing or failing to provide "incidental medical services" or "Good Samaritan services", except for insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the Declarations for this Coverage Part.

6. The following is added to Paragraph 5. of **SECTION III ■ LIMITS OF INSURANCE:**

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed by any of your "employees" in providing or failing to provide "incidental medical services" or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

**C. REASONABLE FORCE PROPERTY DAMAGE ■ EXCEPTION TO EXPECTED OR INTENDED INJURY EXCLUSION**

The following replaces Exclusion a., **Expected Or Intended Injury**, in Paragraph 2. of **SECTION I ■ COVERAGES ■ COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

a. **Expected Or Intended Injury Or Damage**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect any person or property.

**D. NON-OWNED WATERCRAFT ■ INCREASED TO UP TO 75 FEET**

1. The following replaces Paragraph (2) of Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I ■ COVERAGES ■ COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

(2) A watercraft you do not own that is:

(a) Less than 75 feet long; and

(b) Not being used to carry any person or property for a charge.

2. The following is added to **SECTION II ■ WHO IS AN INSURED:**

Any person who, with your expressed or implied consent, either uses or is responsible for the use of a nonowned watercraft that is less than 75 feet and not being used to carry person or property for a charge is included as an insured under this Coverage Part.



**E. AIRCRAFT CHARTERED WITH PILOT**

The following is added to Exclusion **g.**, **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I ■ COVERAGES ■ COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

This exclusion does not apply to an aircraft that is:

- (a) Chartered with a pilot to any insured; and
- (b) Not owned by any insured.

**F. EXTENSION OF COVERAGE ■ DAMAGE TO PREMISES RENTED TO YOU**

1. The following replaces the last paragraph of **SECTION I ■ COVERAGES ■ COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Exclusions **c.** through **n.** do not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

- a. Fire;
- b. Explosion;
- c. Lightning;
- d. Smoke resulting from such fire, explosion, or lightning; or
- e. Water.

A separate limit of insurance applies to this coverage as described in **SECTION III ■ LIMITS OF INSURANCE**

2. The insurance under this Provision **F.** does not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:
  - a. Rupture, bursting, or operation of pressure relief devices;
  - b. Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water; or
  - c. Explosion of steam boilers, steam pipes, steam engines, or steam turbines.

3. The following replaces Paragraph 6. of **SECTION III ■ LIMITS OF INSURANCE**

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for the sum of all damages because of "property damage" to any one premises while rented to you, or temporarily occupied by you with permission

of the owner, caused by: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water. The Damage To Premises Rented To You Limit will apply to all "property damage" proximately caused by the same "occurrence", whether such damage results from: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water; or any combination of any of these causes.

The Damage To Premises Rented To You Limit will be the higher of:

- a. \$300,000; or
  - b. The amount shown for the Damage To Premises Rented To You Limit in the Declarations for this Coverage Part.
4. The following replaces Paragraph **a.** of the definition of "insured contract" in the **DEFINITIONS** Section:
    - 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 to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water is not an "insured contract";

**G. PERSONAL INJURY ■ ASSUMED BY CONTRACT**

The following replaces Exclusion **e.**, **Contractual Liability** in Paragraph 2. of **SECTION I ■ COVERAGES ■ COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**:

"Advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

**H. INCREASED SUPPLEMENTARY PAYMENTS**

1. The following replaces Paragraph 1.b. of **SUPPLEMENTARY PAYMENTS ■ COVERAGES A AND B** of **SECTION I ■ COVERAGES**:
  - b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.



## COMMERCIAL GENERAL LIABILITY

2. The following replaces Paragraph 1.d. of **SUPPLEMENTARY PAYMENTS ■ COVERAGES A AND B of SECTION I ■ COVERAGES:**

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

### I. ADDITIONAL INSURED ■ OWNER, MANAGER OR LESSOR OF PREMISES

1. The following is added to **SECTION II ■ WHO IS AN INSURED:**

Any person or organization that you have agreed in a "written contract requiring insurance" to include as an additional insured on this Coverage Part is an insured, but:

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that "written contract requiring insurance"; and
- b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, and arises out of the ownership, maintenance or use of that part of any premises leased to you under that "written contract requiring insurance".

2. The insurance provided to such additional insured under this Provision I. is subject to the following provisions:

- a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the "written contract requiring insurance", or the limits shown in the Declarations for this Coverage Part, whichever are less; and
- b. The insurance afforded to such additional insured does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you cease to be a tenant in that premises;
  - (2) Any structural alterations, new construction or demolition operations

performed by or on behalf of such additional insured; or

- (3) Any premises for which coverage is excluded by another endorsement to this Coverage Part.

3. This Provision I. does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

### J. ADDITIONAL INSURED ■ LESSOR OF LEASED EQUIPMENT

1. The following is added to **SECTION II ■ WHO IS AN INSURED:**

Any person or organization that you have agreed in a "written contract requiring insurance" to include as an additional insured on this Coverage Part is an insured, but:

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that "written contract requiring insurance"; and
- b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, in the maintenance, operation or use of equipment leased to you by such additional insured.

2. The insurance provided to such additional insured under this Provision J. is subject to the following provisions:

- a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the "written contract requiring insurance", or the limits shown in the Declarations for this Coverage Part, whichever are less; and
- b. The insurance afforded to such additional insured does not apply:
  - (1) To any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after the equipment lease expires; or
  - (2) If the equipment is leased with an operator.



3. This Provision J. does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

**K. ADDITIONAL INSURED ■ STATE OR POLITICAL SUBDIVISIONS ■ PERMITS RELATING TO PREMISES**

The following is added to **SECTION II ■ WHO IS AN INSURED**:

Any state or political subdivision that has issued a permit in connection with premises owned or occupied by, or rented or loaned to, you, is an insured, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, elevators, street banners or decorations for which that state or political subdivision has issued such permit.

**L. ADDITIONAL INSURED ■ STATE OR POLITICAL SUBDIVISIONS ■ PERMITS RELATING TO OPERATIONS**

The following is added to **SECTION II ■ WHO IS AN INSURED**:

Any state or political subdivision that has issued a permit is an insured, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed by you or on your behalf for which that state or political subdivision has issued such permit. However, no such state or political subdivision is an insured for:

1. "Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed for that state or political subdivision; or
2. "Bodily injury" or "property damage" included within the "products ■ completed operations hazard".

**M. WHO IS AN INSURED ■ NEWLY ACQUIRED OR FORMED ORGANIZATIONS**

The following replaces Paragraph 4.a. of **SECTION II ■ WHO IS AN INSURED**:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy pe-

riod, whichever is earlier. Any such newly acquired or formed organization that you report in writing to us within 180 days after you acquire or form the organization will be covered under this provision until the end of the policy period, even if there are more than 180 days remaining until the end of the policy period.

**N. INJURY TO CO-EMPLOYEES AND CO-VOLUNTEER WORKERS**

The following is added to **SECTION II ■ WHO IS AN INSURED**:

1. Your "employees" are insureds with respect to "bodily injury" to a co-"employee" in the course of the co-"employee's" employment by you, or to your "volunteer workers" while performing duties related to the conduct of your business, provided that this coverage for your "employees" does not apply to acts outside the scope of their employment by you or while performing duties unrelated to the conduct of your business.
2. Your "volunteer workers" are insureds with respect to "bodily injury" to a co-"volunteer worker" while performing duties related to the conduct of your business, or to your "employees" in the course of the "employee's" employment by you, provided that this coverage for your "volunteer workers" does not apply while performing duties unrelated to the conduct of your business.
3. Subparagraphs 2.a.(1)(a), (b) and (c) and 3.a. of **SECTION II ■ WHO IS AN INSURED** do not apply to "bodily injury" for which insurance is provided by paragraph 1. or 2. above.

**O. MEDICAL PAYMENTS LIMIT**

The following replaces paragraph 7. of **SECTION III ■ LIMITS OF INSURANCE**:

Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

- a. \$10,000; or
- b. The amount shown on the Declarations for Medical Expense Limit.

**P. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE**

The following is added to Paragraph 2. **Duties In The Event of Occurrence, Offense, Claim Or**



**Suit of SECTION IV ■ COMMERCIAL GENERAL LIABILITY CONDITIONS:**

Notice of an "occurrence" or of an offense which may result in a claim must be given as soon as practicable after knowledge of the "occurrence" or offense has been reported to you, one of your "executive officers" (if you are a corporation), one of your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice.

Knowledge by any other "employee" of an "occurrence" or offense does not imply that you also have such knowledge.

Notice of an "occurrence" or of an offense which may result in a claim will be deemed to be given as soon as practicable to us if it is given in good faith as soon as practicable to your workers' compensation, accident, or health insurer. This applies only if you subsequently give notice of the "occurrence" or offense to us as soon as practicable after you, one of your "executive officers" (if you are a corporation), one of your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice discovers that the "occurrence" or offense may involve this policy.

**Q. OTHER INSURANCE CONDITION**

1. The following replaces Paragraph 4., **Other Insurance** of **SECTION IV ■ COMMERCIAL GENERAL LIABILITY CONDITIONS:**

**4. Other Insurance**

If valid and collectible "other insurance" is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

**a. Primary Insurance**

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the "other insurance" is also primary. Then, we will share with all that "other insur-

ance" by the method described in **c.** below.

**b. Excess Insurance**

This insurance is excess over any of the "other insurance", whether primary, excess, contingent or on any other basis:

- (1) That is Fire, Extended Coverage, Builder's Risk, Installation Risk, or similar coverage for "your work";
- (2) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (3) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
- (4) If the loss arises out of the maintenance or use of aircraft, "autos", or watercraft to the extent not subject to Exclusion **g.** of Section **I ■ Coverage A ■ Bodily Injury And Property Damage Liability**; or
- (5) That is available to the insured when the insured is an additional insured under any other policy, including any umbrella or excess policy.

When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any provider of "other insurance" has a duty to defend the insured against that "suit". If no provider of "other insurance" defends, we will undertake to do so, but we will be entitled to the insured's rights against all those providers of "other insurance".

When this insurance is excess over "other insurance", we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such "other insurance" would pay for the loss in the absence of this insurance; and



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

We will share the remaining loss, if any, with any "other insurance" that is not described in this Excess Insurance provision.

**c. Method Of Sharing**

If all of the "other insurance" permits contribution by equal shares, we will follow this method also. Under this approach each provider of insurance contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the "other insurance" does not permit contribution by equal shares, we will contribute by limits. Under this method, the share of each provider of insurance is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all providers of insurance.

**2. The following definition is added to SECTION V ■ DEFINITIONS:**

"Other insurance":

- a.** Means insurance, or the funding of losses, that is provided by, through or on behalf of:
- (1) Another insurance company;
  - (2) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit section of Paragraph 5. of **LIMITS OF INSURANCE** (Section III) or the Non cumulation of Personal and Advertising Injury limit sections of Paragraph 4. of **LIMITS OF INSURANCE** (Section III) applies;
  - (3) Any risk retention group;
  - (4) Any self-insurance method or program, other than any funded by you and over which this Coverage Part applies; or
  - (5) Any similar risk transfer or risk management method.
- b.** Does not include umbrella insurance, or excess insurance, that you bought specifically to apply in excess of the Limits of

Insurance shown on the Declarations of this Coverage Part.

**R. UNINTENTIONAL OMISSION**

1. The following is added to Paragraph 6. **Representations of SECTION IV ■ COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy shall not prejudice your rights under this insurance.

2. This Provision R. does not affect our right to collect additional premium or to exercise our right of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

**S. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US WHEN REQUIRED BY CONTRACT**

The following is added to Paragraph 8. **Transfer of Rights of Recovery Against Others to Us of SECTION IV ■ COMMERCIAL GENERAL LIABILITY CONDITIONS:**

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of:

1. Premises owned by you, temporarily occupied by you with permission of the owner, or leased or rented to you;
2. Ongoing operations performed by you, or on your behalf, under a contract or agreement with that person or organization;
3. "Your work"; or
4. "Your products".

We waive these rights only where you have agreed to do so as part of a "written contract requiring insurance" entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense or "advertising injury" offense is committed.

**T. AMENDED BODILY INJURY DEFINITION**

The following replaces the definition of "bodily injury" in the **DEFINITIONS** Section:

"Bodily injury" means bodily injury, mental anguish, mental injury, shock, fright, disability, humiliation, sickness or disease sustained by a per-



## COMMERCIAL GENERAL LIABILITY

son, including death resulting from any of these at any time.

### **U. AMENDED INSURED CONTRACT DEFINITION ■ RAILROAD EASEMENT**

1. Subparagraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section is replaced by the following:
  - c.** Any easement or license agreement;
2. Subparagraph **f.(1)** of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

### **V. ADDITIONAL DEFINITION ■ WRITTEN CONTRACT REQUIRING INSURANCE**

The following definition is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract or written agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a.** After the signing and execution of the contract or agreement by you;
- b.** While that part of the contract or agreement is in effect; and
- c.** Before the end of the policy period.

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

## **BUSINESS AUTO EXTENSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **BUSINESS AUTO COVERAGE FORM**

**GENERAL DESCRIPTION OF COVERAGE** – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- |   |   |
|---|---|
| <b>A. BROAD FORM NAMED INSURED</b>                                  | <b>H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT</b>  |
| <b>B. BLANKET ADDITIONAL INSURED</b>                                | <b>I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT</b> |
| <b>C. EMPLOYEE HIRED AUTO</b>                                       | <b>J. PERSONAL PROPERTY</b>   |
| <b>D. EMPLOYEES AS INSURED</b>                                      | <b>K. AIRBAGS</b>   |
| <b>E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS</b>                 | <b>L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS</b>                    |
| <b>F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS</b> | <b>M. BLANKET WAIVER OF SUBROGATION</b>                               |
| <b>G. WAIVER OF DEDUCTIBLE – GLASS</b>                              | <b>N. UNINTENTIONAL ERRORS OR OMISSIONS</b>                           |

### **PROVISIONS**

#### **A. BROAD FORM NAMED INSURED**

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

#### **B. BLANKET ADDITIONAL INSURED**

The following is added to Paragraph **c.** in **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

#### **C. EMPLOYEE HIRED AUTO**

1. The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph **b.** in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

- b.** For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your



## COMMERCIAL AUTO

permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

### D. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

### E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2), of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:
  - (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
2. The following replaces Paragraph A.2.a.(4), of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:
  - (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

### F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph B.7., **Policy Period, Coverage Territory**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

- (5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

- (a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

- (i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.
  - (ii) Neither you nor any other involved "insured" will make any settlement without our consent.
  - (iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".
  - (iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., **Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**.
  - (v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., **Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.
- (b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.
  - (c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.



You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

**G. WAIVER OF DEDUCTIBLE – GLASS**

The following is added to Paragraph D., **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

**H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT**

The following replaces the last sentence of Paragraph A.4.b., **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

**I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT**

The following replaces the first sentence in Paragraph A.4.a., **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

**J. PERSONAL PROPERTY**

The following is added to Paragraph A.4., **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

**Personal Property**

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

**K. AIRBAGS**

The following is added to Paragraph B.3., **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

**L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS**

The following is added to Paragraph A.2.a., of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

**M. BLANKET WAIVER OF SUBROGATION**

The following replaces Paragraph A.5., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

**5. Transfer Of Rights Of Recovery Against Others To Us**

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by



## COMMERCIAL AUTO

such contract. The waiver applies only to the person or organization designated in such contract.

### **N. UNINTENTIONAL ERRORS OR OMISSIONS**

The following is added to Paragraph **B.2., Concealment, Misrepresentation, Or Fraud**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

Insured: Ninyo & Moore Geotechnical &

Policy Number: SCW0021231801

Effective Date: 05/01/2018

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

**WAIVER OF OUR RIGHT TO RECOVER FROM  
OTHERS ENDORSEMENT - CALIFORNIA**

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.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be % of the California workers' compensation premium otherwise due on such remuneration.

**SCHEDULE**

**Person or Organization**

Oakland Unified School District  
Attn: Cesar Monterrosa  
955 High Street  
Oakland, CA 94601-0000

**Job Description**

Waiver of Subrogation in favor of:- Oakland Unified School District, District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers

Countersigned by



Authorized Representative





## DIVISION OF FACILITIES PLANNING & MANAGEMENT ROUTING FORM

### Project Information

Project Name	Foster Educational Leadership Complex Project	Site	310
--------------	---	------	-----

### Basic Directions

Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.

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

### Contractor Information

Contractor Name	Ninyo & Moore	Agency's Contact	Ruchil Shah				
OUSD Vendor ID #	V058012	Title	Project Manager				
Street Address	1956 Webster Street, Suite 400	City	Oakland	State	CA	Zip	94612
Telephone	408-435-9000	Policy Expires					
Contractor History	Previously been an OUSD contractor? X Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes X No				
OUSD Project #	15124						

### Term

Date Work Will Begin	5-10-2018	Date Work Will End By (not more than 5 years from start date)	10-31-2019
----------------------	-----------	--	------------

### Compensation

Total Contract Amount	\$ 130,204.80	Total Contract Not To Exceed	\$130,204.80
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$
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
9450	Fund 21, Measure J	3109905890	6115	\$130,204.80

### 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.	Director, Facilities Planning and Management				
	Signature		Date Approved	5/2/18	
2.	General Counsel, Department of Facilities Planning and Management				
	Signature		Date Approved	5/4/18	
3.	Deputy Chief, Facilities Planning and Management				
	Signature		Date Approved	5.3.18	
4.	Senior Business Officer, Board of Education				
	Signature		Date Approved		
5.	President, Board of Education				
	Signature		Date Approved		

RECEIVED MAY 11 2018