

## **SERVICE PROVIDER AGREEMENT**

This SERVICE PROVIDER AGREEMENT (“**Agreement**”) is entered into this 14<sup>th</sup> day of February 2024 (“**Effective Date**”), by and between the CITY OF ALAMEDA, a municipal corporation (“**the City**”), and CircleUp Education, a California corporation, whose address is 401 Roland Way Suite 250, Oakland, CA 94621 (“**Provider**”), in reference to the following facts and circumstances:

### **RECITALS**

- A. The City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The City is in need of the following services: City-wide Diversity Equity and Inclusion (DEI) training. City staff reached out to service providers, interviewed qualified firms and selected the service provider that best meets the City’s needs.
- C. Provider possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- D. The City and Provider desire to enter into an agreement for a City-wide DEI training, upon the terms and conditions herein.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the forgoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Provider agree as follows:

1. **TERM:**

The term of this Agreement shall retroactively commence on the 14<sup>th</sup> day of February 2024, and shall terminate on the 31st day of December 2024, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED:**

Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested. Provider acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Provider to perform all tasks included therein.

3. **COMPENSATION TO PROVIDER:**

a. By the 7<sup>th</sup> day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be according to the fee as set forth in Exhibit B and incorporated herein by this reference. Extra

work must be approved in writing by the City Manager or their designee prior to performance and shall be paid on a Time and Material basis as set forth in Exhibit A.

b. Compensation for work done under this Agreement shall not exceed **\$19,760**. Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City.

4. **TIME IS OF THE ESSENCE:**

Provider and the City agree that time is of the essence regarding the performance of this Agreement. Notwithstanding, in the event Provider incurs delays or additional costs as a result of an act or omission of the City, including but not limited to the City's failure to provide information or access to the City's facilities, the City agrees that Provider may add reasonable charges to the amounts invoiced to the City and adjust the delivery schedule.

For scheduled services that are canceled or rescheduled by the City with fewer than fourteen (14) business days' prior written notice, the City shall be charged and pay for (a) 1/2 of the amount of the canceled or rescheduled service and any travel expenses that cannot be canceled or refunded, and (b) the time for which Provider is unable to reassign the personnel to another project for the canceled/rescheduled services. Provider shall not be responsible for delays due to the lack of access, facilities, cooperation or information requested by Provider or changes to the approach or services described in this Agreement. A normal business day is any eight (8) hour period between the hours of 8 a.m. and 6 p.m., Monday through Friday local time, excluding Public Holidays. For scheduled services that are canceled or rescheduled by the City with fewer than 5 (five) business days' prior written notice, the City shall be charged and pay for the full amount of services scheduled for such day(s) canceled or rescheduled. The City is responsible for coordinating their staff/employees to arrive to the services. Provider is not responsible for small class sizes or the inability of the City to coordinate with their staff/employees to ensure they can attend services. Any additional cost that is added to this contract due to a cancellation or rescheduling that incurs a cancellation/rescheduling fee will be done using a change order. Please review section 3 above regarding change orders and approval by both parties.

5. **STANDARD OF CARE:**

Provider agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

Except as to the warranties set forth herein, provider and its agents, officers, directors, employees, successors, assigns, and affiliates provide the services and deliverables "as is, with all faults," and make no representations or warranties of kind, express or implied, and disclaim all warranties deriving from, related to, or arising out of title, merchantability, and fitness for the particular purpose specified under this agreement.

6. **INDEPENDENT PARTIES:**

Provider hereby declares that Provider is engaged as an independent business and Provider agrees to perform the services as an independent contractor. The manner and means of conducting the services and tasks are under the control of Provider except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Provider's services. None of the benefits provided by the City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave, are available from the City to Provider, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any compensation due to Provider. Payments of the above items, if required, are the responsibility of Provider.

7. **IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Provider assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Provider shall indemnify, defend, and hold the City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Provider.

8. **NON-DISCRIMINATION:**

Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Provider and its employees, contractors, and agents shall not harass or discriminate against any job applicant, City employee, or any other person on the basis of any kind of any statutorily (federal, state or local) protected class, including but not limited to: race, religious creed, color, national origin, ancestry, disability (both mental and physical) including HIV and AIDS, medical condition (e.g. cancer), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, pregnancy, political affiliation, military and veteran status or legitimate union activities. Provider agrees that any violation of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS AND FORCE MAJEURE:**

a. To the fullest extent permitted by law, Provider shall indemnify, defend (with counsel acceptable to the City) and hold harmless the City, its City Council, boards, commissions, officials, employees, agents and volunteers ("Indemnitees") from and against any and all loss, damages, liability, obligations, claims, suits, judgments, costs and expenses whatsoever, including reasonable attorney's fees and costs of litigation ("Claims"), arising from or in any manner connected to Provider's performance of its obligations under this Agreement or out of the operations conducted by Provider even if the City is found to have been negligent. If the Claims filed against Indemnitees allege negligence, recklessness or willful misconduct on the part of Provider, Provider shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence, recklessness or willful misconduct is not found on the part of Provider. Provider shall not have any obligations to indemnify Indemnitees if the loss or damage is found to have resulted solely from the negligence or the willful misconduct of the City. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

b. As to Claims for professional liability only, Provider's obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8.

c. Provider's obligation to indemnify, defend and hold harmless Indemnities shall expressly survive the expiration or early termination of this Agreement.

d. Neither party to this Agreement shall be responsible for any delays or failure to perform any provision of this Agreement (other than payment obligations) due to acts of God, strikes or other disturbances, pandemics, war, insurrection, embargoes, governmental restrictions, acts of governments or governmental authorities, or other causes beyond the control of such party.

10. **INSURANCE:**

a. On or before the commencement of the terms of this Agreement, Provider shall furnish the City's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with Sections 10.b. (1) through (4). The Certificate Holder should be The City of Alameda, 2263 Santa Clara, Ave., Alameda, CA 94501. Such certificates, which do not limit Provider's indemnification, shall also contain substantially the following statement:

"Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda. Attention: Risk Manager."

Provider shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company licensed to offer insurance business in the State of California with a current A.M. Best's rating of no less than A:VII or Standard & Poor's Rating (if rated) of at least BBB unless otherwise acceptable to the City. Provider shall deliver updated insurance certificates to the City at the address described in Section 17.f. prior to the expiration of the existing insurance certificate for the duration of the term of Agreement. Endorsements naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers as additional insured shall be submitted with the insurance certificates.

\_\_\_\_\_  
Provider Initials

b. **COVERAGE REQUIREMENTS:**

Provider shall maintain insurance coverage and limits at least as broad as:

(1) **Workers' Compensation:**

Statutory coverage as required by the State of California, as well as a Waiver of Subrogation (Rights of Recovery) endorsement.

(2) **Liability:**

Commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence \$2,000,000 aggregate - all other
Property Damage:	\$1,000,000 each occurrence \$2,000,000 aggregate

If submitted, combined single limit policy with per occurrence limits in the amounts of \$2,000,000 and aggregate limits in the amounts of \$4,000,000 will be considered equivalent to the required minimum limits shown above. Provider shall also submit declarations and policy endorsements pages. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required. The Additional Insured Endorsement shall include primary and non-contributory coverage at least as broad as the CG 2010.

(3) Automotive:

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury:	\$1,000,000 each occurrence
Property Damage:	\$1,000,000 each occurrence

or

Combined Single Limit:	\$1,000,000 each occurrence
------------------------	-----------------------------

Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

(4) Professional Liability:

Professional liability insurance which includes coverage appropriate for the professional acts, errors and omissions of Provider's profession and work hereunder, including, but not limited to, technology professional liability errors and omissions if the services being provided are technology-based, in the following minimum limits:

\$1,000,000 each claim

Technology professional liability errors and omissions shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City in the care, custody, or control of Provider. If not covered under Provider's liability policy, such "property" coverage of the City may be endorsed onto Provider's Cyber Liability Policy as covered property as follows: cyber liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City that will be in the care, custody, or control of Provider.

As to commercial general liability and automobile liability insurance, such insurance will provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom claim is made or suit is brought. Such insurance is not additional to or contributing with any other insurance carried by or for the benefit of the City.

c. SUBROGATION WAIVER:

Provider hereby agrees to waive rights of subrogation that any insurer of Provider may acquire from Provider by virtue of the payment of any loss. Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Provider, its employees, agents and subcontractors.

d. FAILURE TO SECURE:

If Provider at any time during the term hereof should fail to secure or maintain the foregoing insurance, the City shall be permitted to obtain such insurance in Provider's name or as an agent of Provider and shall be compensated by Provider for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

e. ADDITIONAL INSUREDS:

The City, its City Council, boards, commissions, officials, employees, agents, and volunteers shall be named as additional insured(s) under all insurance coverages, except workers' compensation and professional liability insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy. Additional Insured coverage under Provider's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance. Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured(s).

f. SUFFICIENCY OF INSURANCE:

The insurance limits required by the City are not represented as being sufficient to protect Provider. Provider is advised to consult Provider's insurance broker to determine adequate coverage for Provider. The coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of the coverage carried by or available to Provider; whichever is greater.

g. EXCESS OR UMBRELLA LIABILITY:

If any Excess or Umbrella Liability policies are used to meet the limits of liability required by this Agreement, then said policies shall be true "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance

requirements stated in this Agreement, including but not limited to, the additional insured, SIR, and primary insurance requirements stated therein. No insurance policies maintained by the indemnified parties or Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until all the primary and excess liability policies carried by or available to the Provider are exhausted.

**11. CONFLICT OF INTEREST:**

Provider warrants that it is not a conflict of interest for Provider to perform the services required by this Agreement. Provider may be required to fill out a conflict of interest form if the services provided under this Agreement require Provider to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

**12. PROHIBITION AGAINST TRANSFERS:**

a. Each party shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. The assigning party shall submit a written request for consent to transfer to the other party at least thirty (30) days in advance of the desired transfer. The other party or their designee may consent or reject such request in their sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Provider to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock, membership interest, partnership interest, or the equivalent, which shall result in changing the control of a party, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of that party.

**13. APPROVAL OF SUB-PROVIDERS:**

a. Only those persons and/or businesses whose names and resumés are attached to this Agreement shall be used in the performance of this Agreement. However, if after the start of this Agreement, Provider wishes to use sub-providers, at no additional costs to the City, then Provider shall submit a written request for consent to add sub-providers including the names of the sub-providers and the reasons for the request to the City Manager at least five (5) days in advance. The City Manager may consent or reject such requests in their sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance (as applicable) in reasonable conformity to the insurance carried by Provider.

c. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement. Provider shall include the following language in their

agreement with any sub-provider: "Sub-providers hired by Provider agree to be bound to Provider and the City in the same manner and to the same extent as Provider is bound to the City."

d. The requirements in this Section 13 shall not apply to persons who are merely providing materials, supplies, data or information that Provider then analyzes and incorporates into its work product.

14. **PERMITS AND LICENSES:**

Provider, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City business license that may be required in connection with the performance of the services and tasks hereunder.

15. **CONFIDENTIALITY AND INTELLECTUAL PROPERTY:**

a. Each party agrees not to disclose any of the other party's confidential information without the other party's prior written consent. Each party (including its employees and agents) will use no less than the same standard of care to protect any confidential information disclosed during the performance of this Agreement that it uses to protect its own confidential information, but in no event less than a reasonable standard of care. Each party will use confidential information disclosed by the other party only as required for the performance of this Agreement and for no other purpose. Notwithstanding the foregoing, confidential information shall not include any such information (i) that was known to the receiving party prior to disclosure by the disclosing party, (ii) which is in the public domain through no breach of this Agreement, (iii) which is learned by either party from a third party who to either party's knowledge after due inquiry does not possess such information unlawfully, (iv) that is independently created or developed by the receiving party without reference to or knowledge of the confidential information, or (v) is required to be disclosed by law or a court of competent jurisdiction.

b. All products of the Provider provided under this Agreement shall remain the property of the Provider.

c. Provider's Intellectual Property. As between Provider and the City, all rights, title, and interest in and to all intellectual property rights in Provider IPR is owned exclusively by Provider notwithstanding any other provision in this Agreement. Except as expressly provided in this Agreement, Provider reserves all rights in Provider IPR and does not grant the City any rights, express or implied or by estoppel.

d. Provider is in the business of providing consulting services drawing upon the knowledge, understanding and expertise Provider has gained in the course of working with many other customers. Nothing in this Agreement shall assign rights in or limit Provider's use of any know-how or knowledge pertaining to the Provider intellectual property rights or technology.

e. Provider shall have a fully-paid, royalty-free, worldwide, non-exclusive, transferable, sub-licensable, irrevocable, perpetual right to use any suggestions, enhancements, recommendations or other feedback provided by the City and its users relating to the Provider's product or services.



f. "Provider IPR" means: (a) the Content, (b) the Training Materials (c) documentation, templates, manuals, materials, ideas, processes, methodologies, formulas, techniques, works of authorship, trade secrets, copyrights, tradenames, masks works, patents, design rights, trade dress, know-how (whether patentable or not), owned, created, or discovered prior to or separately from the work performed under this Agreement by Provider or otherwise arising (in any form or format) out of the performance of the services provided under this Agreement; (d) updates, improvements, configurations, extensions, and derivative works of the foregoing and related technical or end user documentation or manuals; and (e) intellectual property anywhere in the world relating to the foregoing.

g. "Training Materials" means the information provided by Provider to accompany a course provided as part of the services in hard copy or electronic form.

h. Restrictions. The City shall not (and shall not permit others to) do the following with respect to the Provider IPR: (i) license, sub-license, sell, re-sell, rent, lease, transfer, distribute or time share or otherwise make any of it available for access by third parties except as otherwise expressly provided in this Agreement; (ii) access it for the purpose of developing or operating products or services intended to be offered to third parties in competition with Provider; (iii) disassemble, reverse engineer or decompile it; (iv) copy, create derivative works based on or otherwise modify it except as permitted in this Agreement; (v) remove or modify a copyright or other proprietary rights notice in it; (vi) use it to reproduce, distribute, display, transmit or use material protected by copyright or other intellectual property right (including the rights of publicity or privacy) without first obtaining the permission of the owner. Unless otherwise specified, copying or modifying any Content, Training Materials or using Content for any purpose other than the City's personal, internal business use of the services, including use of any such Content on any other website or networked computer environment, is strictly prohibited. All rights not expressly granted by Provider in this Agreement are reserved.

i. The City acknowledges and agrees that it may not record the Content, Online Class or Service. Recording audio or video of any service related to this contract will result in a breach of intellectual property.

16. **RECORDS:**

a. Provider shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of Provider's performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by the City that relate to the performance of the services and tasks under this Agreement (collectively the "Records").

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Provider shall provide free access to the Records to the representatives of the City or its designees during regular business hours upon reasonable prior notice but no less than fourteen (14) days' advance written notice. The City has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all proceedings and activities

related to this Agreement. Such Records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained by Provider for a period of three (3) years after receipt of final payment.

c. If supplemental examination or audit of the Records is necessary due to concerns raised by the City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of this Agreement or failure to act in good faith, then Provider shall reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

17. **NOTICES:**

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Provider to the City shall be addressed to the City at:

City of Alameda  
City Manager's Office  
2263 Santa Clara Ave, Rm. 320  
Alameda, CA 94501  
ATTENTION: Executive Assistant  
Ph: (510) 747-4715

e. All notices, demands, requests, or approvals from the City to Provider shall be addressed to Provider at:

CircleUp Education  
401 Roland Way Ste 250  
Oakland, California 94621  
ATTENTION: Tyrone Botelho  
510-470-5290

f. All updated insurance certificates from Provider to the City shall be addressed to the City at:

City of Alameda  
City Manager's Office  
2263 Santa Clara Ave, Rm. 320  
Alameda, CA 94501  
ATTENTION: Jodi Owens, Executive Assistant  
(510) 747-4715 / [jowens@alamedaca.gov](mailto:jowens@alamedaca.gov)

**18. SAFETY:**

a. Provider will be solely and completely responsible for conditions of all vehicles owned or operated by Provider, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Provider will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. Provider's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. Provider will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. Provider will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Provider's employee(s) involved in the incident; (iii) name and address of Provider's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

**19. TERMINATION:**

a. In the event a party fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, that party shall be deemed in default in the performance of this Agreement. If such default is not cured within two (2) business days after receipt by that party from the other party of written notice of default, specifying the nature of such default and the steps necessary to cure such default, the non-defaulting party may thereafter immediately terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

b. The foregoing notwithstanding, either party shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to the other party as provided herein.

c. Upon termination of this Agreement either for cause or for convenience, the City shall pay Provider for all services that were rendered prior to the date of termination of this agreement. The City shall not be obligated to pay for services that have not been rendered.. The

obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

d. Provider shall have a right to immediately suspend the services in the event of: (i) non-payment; (ii) any material breach by the City; or (iii) if required to avoid harm to Provider or any third party. Such suspension will only apply to those parts of the services to the extent and duration necessary to address the breach or threat and in case of non-payment, until payment is received in full.

**20. ATTORNEYS' FEES:**

In the event of any litigation, including administrative proceedings, relating to this Agreement, including but not limited to any action or suit by any party, assignee or beneficiary against any other party, beneficiary or assignee, to enforce, interpret or seek relief from any provision or obligation arising out of this Agreement, the parties and litigants shall bear their own attorney's fees and costs. No party or litigant shall be entitled to recover any attorneys' fees or costs from any other party or litigant, regardless of which party or litigant might prevail.

**21. HEALTH AND SAFETY REQUIREMENTS.**

Provider acknowledges that the City shall have the right to impose, at the City's sole discretion, requirements that it deems are necessary to protect the health and safety of the City employees, residents, and visitors. Provider agrees to comply with all such requirements, including, but not limited to, mandatory vaccinations, the use of personal protective equipment (e.g. masks), physical distancing, and health screenings. Provider also agrees to make available to the City, at the City's request, records to demonstrate Provider's compliance with this Section.

**22. COMPLIANCE WITH ALL APPLICABLE LAWS:**

During the term of this Agreement, Provider shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the manner in which the services or tasks are to be performed by Provider, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Provider shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by the City.

**23. CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

**24. WAIVER:**

A waiver by the City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

**25. INTEGRATED CONTRACT:**

Subject to the language of Section 30, the Recitals and exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both the City and Provider.

**26. CAPTIONS:**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

**27. COUNTERPARTS:**

This Agreement may be executed in any number of counterparts (including by fax, PDF, DocuSign, or other electronic means), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**28. SIGNATORY:**

By signing this Agreement, signatory warrants and represents that they executed this Agreement in their authorized capacity and that by their signature on this Agreement, they or the entity upon behalf of which they acted, executed this Agreement.

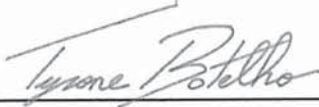
**29. CONTROLLING AGREEMENT:**

In the event of a conflict between the terms and conditions of this Agreement (as amended, supplemented, restated or otherwise modified from time to time) and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

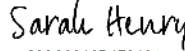
CircleUp Education  
a California corporation



Tyrone Botelho  
President

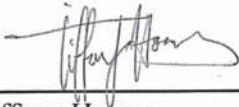
CITY OF ALAMEDA  
a municipal corporation

DocuSigned by:



283C0218B479481...

Sarah Henry  
Communications and Legislative Affairs  
Officer



Tiffany Hoang  
Secretary

APPROVED AS TO FORM:  
City Attorney

DocuSigned by:



B07A4C0B42C24DE...

Michael Roush  
Special Counsel









Exhibit A

CircleUp Education

Scope of Work - City of Alameda - City-wide DEI Support  
(2024) - Phase 1

Prepared for:  
**Sarah Henry**  
City of Alameda  
shenry@alamedaca.gov

Created by:  
**Tiffany Hoang**  
CircleUp Education  
tiffany@circleuped.org  
510-470-5290  
[www.circleuped.org](http://www.circleuped.org)

# Scope of Work - Phase 1

Name	Price	QTY	Subtotal
<p data-bbox="164 390 797 506"><b>Service Planning &amp; Preparation Meeting - DEIB Working Group, E-Team and service preparation - ONLINE</b></p> <p data-bbox="164 562 889 774">This is a meeting with key stakeholders in your organization to prepare for upcoming meetings, process the impact of past meetings, or review any important information that is related to the planning or delivery of services by CircleUp's Team. This service may include a request from you to have the CircleUp team review critical media in preparation for upcoming services.</p> <p data-bbox="164 827 272 850"><b>Logistics</b></p> <ul data-bbox="204 863 886 1110" style="list-style-type: none"><li>• This meeting or session is 50 minutes long</li><li>• If this service is a meeting, no more than 10 people will be in attendance.</li><li>• Includes - 2-3 Meetings to help build a plan for roll-out of services</li><li>• Includes - 2-3 Meetings to discuss training topics, planning, and problem solving.</li></ul>	\$595.00	10	\$5,950.00

<p><b>Discussion Circle/Meeting Facilitation - Live In-person - With DEIB Working Group and E-Team</b></p> <p>The Discussion Circle/Meeting is designed to engage participants in activities designed to discuss, reflect, and process important topics that impact the day-to-day live of participants. This meeting will be used to discuss and clarify the DEIB Working group recommendations, identify priorities, and collaborate on creating tangible actions that reflect those priorities.</p> <p><u>Live Training Logistics</u></p> <ul style="list-style-type: none"> <li>• This session is LIVE, meaning that it will take place at your site</li> <li>• The session is <b>2 hours long</b> <ul style="list-style-type: none"> <li>• <b>There will be one short break included in the session.</b></li> </ul> </li> <li>• This session will include small group breakout sessions.</li> <li>• Our team will arrive up to 1 hour early to set up the sessions. <ul style="list-style-type: none"> <li>• Our team will stay 30 minutes after the session to pack up all of the training materials.</li> </ul> </li> <li>• Our trainers have been <b>fully vaccinated</b> with the COVID-19 Vaccine and will wear a mask during the training session that allows participants to still see their faces.</li> <li>• The cost includes setup, breakdown, and travel costs.</li> </ul> <p><u>Customizations</u></p> <ul style="list-style-type: none"> <li>• This will be a meeting the the DEIB Working Group and the Executive Team to collaborative on rolling out the city-wide training plan with CircleUp Education.</li> <li>• This meeting will include the presentation of the DEIB's recommendations and identifying priority-based actions as a team.</li> </ul>	\$3,846.00	1	\$3,846.00
--	------------	---	------------

<p><b>Unravelling Equity Training - Live In-person - City Council Members</b></p> <p><u>Description</u></p> <p>This course is designed to help staff build deeper empathy and understanding for people whose culture, experiences, perspectives, and habits are different from their own. This course helps shine a bright spotlight on the inaccurate belief that there is a uniformly accepted way of being that everyone should enact and instead guides staff toward an equitable way of viewing people that takes into consideration their race, culture, gender, and other diverse identities. This course will help staff develop equity lenses to help them assess their actions, behaviors, and policies to ensure that they are taking into consideration different starting points and perspectives when working in their community.</p> <p><u>Live Training Logistics</u></p> <ul style="list-style-type: none"> <li>• This session is LIVE, meaning that it will take place at your site</li> <li>• The session is <b>3 hours long</b>. (can be adjusted if needed) <ul style="list-style-type: none"> <li>• <b>There will be one short break included in the session.</b></li> </ul> </li> <li>• This session will include small group breakout sessions.</li> <li>• Our team will arrive up to 1 hour early to set up the sessions. <ul style="list-style-type: none"> <li>• Our team will stay 30 minutes after the session to pack up all of the training materials.</li> </ul> </li> <li>• Our trainers have been <b>fully vaccinated</b> with the COVID-19 Vaccine and will wear a mask during the training session that allows participants to still see their faces.</li> <li>• The cost includes setup, breakdown, and travel costs.</li> <li>• <b>Maximum of 40 Participants</b></li> </ul>	\$4,982.00	1	\$4,982.00
--	------------	---	------------

<p><b>Specialized DEI Training - Live In-person - EMT Deep Dive Specialized Training Session</b></p> <p>This is a highly customized DEI training that reflects the needs and starting points of your team based on results from the service planning meetings and the Discussion Meetings with the DEIB and Executive Teams. This service takes an existing DEI or Real Talk About Racism training and adds specialized modules to the training based on your needs.</p> <p><u>Live Training Logistics</u></p> <ul style="list-style-type: none"> <li>• This session is LIVE, meaning that it will take place at your site</li> <li>• The session is <b>3 hours long</b>.             <ul style="list-style-type: none"> <li>• <b>There will be one short break included in the session.</b></li> </ul> </li> <li>• This session will include small group breakout sessions.</li> <li>• Our team will arrive up to 1 hour early to set up the sessions.             <ul style="list-style-type: none"> <li>• Our team will stay 30 minutes after the session to pack up all of the training materials.</li> </ul> </li> <li>• Our trainers have been <b>fully vaccinated</b> with the COVID-19 Vaccine and will wear a mask during the training session that allows participants to still see their faces.</li> <li>• The cost includes setup, breakdown, and travel costs.</li> </ul> <p><u>Logistics</u></p> <ul style="list-style-type: none"> <li>• This includes a Deep Dive Specialized Training Session for Executive Management Team. This session is 3 hours long and has a maximum of 40 people.</li> <li>• Specific topics to be determined.</li> </ul>	<p><b>\$4,982.00</b></p>	<p><b>1</b></p>	<p><b>\$4,982.00</b></p>
--	--------------------------	-----------------	--------------------------

Tax **\$0.00**

**Total \$19,760.00**

## Summary Of Next Steps

All of the proposed support steps are included in the proposed cost above.

1. **Negotiate Services & Costs**
2. **Sign Service Agreement**
3. **Finalize Logistics & Preparation of Services**
4. **Customize Your Services**
5. **Begin Implementing Your Services**
6. **Evaluate Services and Discuss Next Steps**

## Some Of Our Satisfied Clients



City of Oakland



City of Fremont  
Human Services &  
Police Department



City of San Francisco  
Adult Probation  
Department



City of Union City



Municipal Management  
Association of  
Northern California



Fremont Unified  
School District



San Jose Unified  
School District



Hayward Unified  
School District



Jefferson Elementary  
School District



University of California  
San Francisco



City of Hayward



Oakland Metropolitan  
Chamber of  
Commerce



University of Arizona



Reading Partners



University of  
California, Berkeley



Salesforce



Capital One



Accenture



Zendrive



Grid Alternatives



AI4All



Presence Product  
Group



Trilogy Interactive



Pyatok



Elevate Security



City of Fremont



Learn. Graduate. Give Back.



Apple



Port Of Oakland



Stanford University







**Workers Compensation And Employers Liability Insurance**  
Policy Endorsement

**BLANKET WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS**

This endorsement changes the policy to which it is attached.

It is agreed that **Part One - Workers' Compensation Insurance G. Recovery From Others** and **Part Two - Employers' Liability Insurance H. Recovery From Others** are amended by adding the following:

We will not enforce our right to recover against persons or organizations. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

**PREMIUM CHARGE** - Refer to the Schedule of Operations

The charge will be an amount to which you and we agree that is a percentage of the total standard premium for California exposure. The amount is 2%.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: G-19160-B (11-1997)

Endorsement Effective Date:

Endorsement Expiration Date:

Endorsement No: 4; Page: 1 of 1

Underwriting Company: American Casualty Company of Reading, Pennsylvania, 151 N Franklin St,  
Chicago, IL 60606

Policy No: WC 6 25019405

Policy Effective Date: 11/08/2023

Policy Page: 36 of 51





## BLANKET ADDITIONAL INSURED AND LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM  
BUSINESSOWNERS COMMON POLICY CONDITIONS

TABLE OF CONTENTS	
<b>I.</b>	<b>Blanket Additional Insured Provisions</b>
<b>A.</b>	<b>Additional Insured – Blanket Vendors</b>
<b>B.</b>	<b>Miscellaneous Additional Insureds</b>
<b>C.</b>	<b>Additional Provisions Pertinent to Additional Insured Coverage</b>
<b>1.a.</b>	<b>Primary – Noncontributory provision</b>
<b>1.b.</b>	<b>Definition of "written contract"</b>
<b>2.</b>	<b>Additional Insured – Extended Coverage</b>
<b>II.</b>	<b>Liability Extension Coverages</b>
<b>A.</b>	<b>Bodily Injury – Expanded Definition</b>
<b>B.</b>	<b>Broad Knowledge of Occurrence</b>
<b>C.</b>	<b>Estates, Legal Representatives and Spouses</b>
<b>D.</b>	<b>Fellow Employee First Aid</b>
<b>E.</b>	<b>Legal Liability – Damage to Premises</b>
<b>F.</b>	<b>Personal and Advertising Injury – Discrimination or Humiliation</b>
<b>G.</b>	<b>Personal and Advertising Injury – Broadened Eviction</b>
<b>H.</b>	<b>Waiver of Subrogation – Blanket</b>

### I. BLANKET ADDITIONAL INSURED PROVISIONS

#### A. ADDITIONAL INSURED – BLANKET VENDORS

**Who Is An Insured** is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed under a **"written contract"** to provide insurance, but only with respect to **"bodily injury"** or **"property damage"** arising out of **"your products"** which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
  - a. **"Bodily injury"** or **"property damage"** for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - b. Any express warranty unauthorized by you;
  - c. Any physical or chemical change in the product made intentionally by the vendor;
  - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
  - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or



h. **"Bodily injury" or "property damage"** arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (1) The exceptions contained in Subparagraphs **d.** or **f.**; or
  - (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
  3. This provision **2.** does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.
  4. This provision **2.** does not apply if **"bodily injury" or "property damage"** included within the **"products-completed operations hazard"** is excluded either by the provisions of the Policy or by endorsement.

#### B. MISCELLANEOUS ADDITIONAL INSUREDS

1. **Who Is An Insured** is amended to include as an insured any person or organization (called additional insured) described in paragraphs **3.a.** through **3.j.** below whom you are required to add as an additional insured on this policy under a **"written contract."**
2. However, subject always to the terms and conditions of this policy, including the limits of insurance, we will not provide the additional insured with:
  - a. A higher limit of insurance than required by such **"written contract;"**
  - b. Coverage broader than required by such **"written contract"** and in no event greater than that described by the applicable paragraph a. through k. below; or
  - c. Coverage for **"bodily injury" or "property damage"** included within the **"products-completed operations hazard."** But this paragraph **c.** does not apply to the extent coverage for such liability is provided by paragraph **3.j.** below.

Any coverage granted by this endorsement shall apply only to the extent permitted by law.

3. Only the following persons or organizations can qualify as additional insureds under this endorsement:

##### a. **Controlling Interest**

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) such person or organization's financial control of you; or
- (2) Premises such person or organization owns, maintains or controls while you lease or occupy these premises;

provided that the coverage granted to such additional insureds does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

##### b. **Co-owner of Insured Premises**

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability for **"bodily injury," "property damage" or "personal and advertising injury"** as co-owner of such premises.

##### c. **Grantor of Franchise**

Any person or organization that has granted a franchise to you, but only with respect to such person or organization's liability for **"bodily injury," "property damage," or "personal and advertising injury"** as grantor of a franchise to you.

**d. Lessor of Equipment**

Any person or organization from whom you lease equipment, but only with respect to liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" caused in whole or in part by your maintenance, operation or use of such equipment, provided that the "**occurrence**" giving rise to such "**bodily injury**" or "**property damage**" or the offense giving rise to such "**personal and advertising injury**" takes place prior to the termination of such lease.

**e. Lessor of Land**

Any person or organization from whom you lease land, but only with respect to liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of the ownership, maintenance or use of that specific part of the land leased to you, provided that the "**occurrence**" giving rise to such "**bodily injury**" or "**property damage**" or the offense giving rise to such "**personal and advertising injury**," takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

**f. Lessor of Premises**

An owner or lessor of premises leased to you, or such owner or lessor's real estate manager, but only with respect to liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of the ownership, maintenance or use of such part of the premises leased to you, and provided that the "**occurrence**" giving rise to such "**bodily injury**" or "**property damage**" or the offense giving rise to such "**personal and advertising injury**," takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

**g. Mortgagee, Assignee or Receiver**

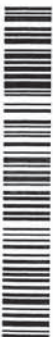
A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee, or receiver's liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of the ownership, maintenance, or use of a premises by you. This insurance does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

**h. State or Political Subdivisions**

A state or government agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such government agency or subdivision or political subdivision's liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of:

- (1) The following hazards in connection with premises you own, rent, or control and to which this insurance applies:
  - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - (b) The construction, erection, or removal of elevators; or
  - (c) The ownership, maintenance or use of any elevators covered by this insurance; or
- (2) The permitted or authorized operations performed by you or on your behalf. But the coverage granted by this paragraph does not apply to:
  - (a) "**Bodily injury**," "**property damage**" or "**personal and advertising injury**" arising out of operations performed for the state or government agency or subdivision or political subdivision; or
  - (b) "**Bodily injury**" or "**property damage**" included within the "**products-completed operations hazard**."

With respect to this provision's requirement that additional insured status must be requested under a "**written contract**," we will treat as a "**written contract**" any governmental permit that requires you to add the governmental entity as an additional insured.



**i. Trade Show Event Lessor**

With respect to your participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom you are required to include as an additional insured, but only with respect to such person or organization's liability for "**bodily injury**," "**property damage**," or "**personal and advertising injury**" caused by:

- a. Your acts or omissions; or
- b. Acts or omissions of those acting on your behalf;

in the performance of your ongoing operations at the trade show premises during the trade show event.

**j. Other Person or Organization**

Any person or organization who is not an additional insured under paragraphs a. through i. above. Such additional insured is an insured solely for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" for which such additional insured is liable because of your acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

- (1) For "**bodily injury**," "**property damage**," or "**personal and advertising injury**" arising out of the rendering or failure to render any professional services;
- (2) For "**bodily injury**" or "**property damage**" included in the "**products-completed operations hazard**." But this provision (2) does not apply to such "**bodily injury**" or "**property damage**" if:
  - (a) It is entirely due to your negligence and specifically results from your work for the additional insured which is the subject to the "**written contract**"; and
  - (b) The "**written contract**" requires you to make the person or organization an additional insured for such "**bodily injury**" or "**property damage**"; or
- (3) Who is afforded additional insured coverage under another endorsement attached to this policy.

**C. ADDITIONAL PROVISIONS PERTINENT TO ADDITIONAL INSURED COVERAGE**

- 1. With respect only to additional insured coverage provided under paragraphs A. and B. above:
  - a. The **BUSINESSOWNERS COMMON POLICY CONDITIONS** are amended to add the following to the Condition entitled **Other Insurance**:
 

This insurance is excess of all other insurance available to an additional insured whether primary, excess, contingent or on any other basis. However, if a "**written contract**" requires that this insurance be either primary or primary and noncontributing, then this insurance will be primary and non-contributory relative solely to insurance on which the additional insured is a named insured.
  - b. Under **Liability and Medical Expense Definitions**, the following definition is added:
 

"**Written contract**" means a written contract or agreement that requires you to make a person or organization an additional insured on this policy, provided the contract or agreement:

    - (1) Is currently in effect or becomes effective during the term of this policy; and
    - (2) Was executed prior to:
      - (a) The "**bodily injury**" or "**property damage**;" or
      - (b) The offense that caused the "**personal and advertising injury**";
 for which the additional insured seeks coverage.
- 2. With respect to any additional insured added by this endorsement or by any other endorsement attached to this Coverage Part, the section entitled **Who Is An Insured** is amended to make the following natural persons insureds.
 

If the additional insured is:

  - a. An individual, then his or her spouse is an insured;

- b. A partnership or joint venture, then its partners, members and their spouses are insureds;
- c. A limited liability company, then its members and managers are insureds;
- d. An organization other than a partnership, joint venture or limited liability company, then its executive officers, directors and shareholders are insureds; or
- e. Any type of entity, then its employees are insureds;

but only with respect to locations and operations covered by the additional insured endorsement's provisions, and only with respect to their respective roles within their organizations. Furthermore, employees of additional insureds are not insureds with respect to liability arising out of:

- (1) "**Bodily injury**" or "**personal and advertising injury**" to any fellow employee or to any natural person listed in paragraphs a. through d. above;
- (2) "**Property damage**" to property owned, occupied or used by their employer or by any fellow employee; or
- (3) Providing or failing to provide professional health care services.

## II. LIABILITY EXTENSION COVERAGES

It is understood and agreed that this endorsement amends the **Businessowners Liability Coverage Form**. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement to such provision do not apply.

### A. Bodily injury – Expanded Definition

Under **Liability and Medical Expenses Definitions**, the definition of "**Bodily injury**" is deleted and replaced by the following:

"**Bodily injury**" means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the physical injury, sickness or disease.

### B. Broad Knowledge of Occurrence

Under **Businessowners Liability Conditions**, the Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended to add the following:

Paragraphs a. and b. above apply to you or to any additional insured only when such "**occurrence,**" offense, claim or "**suit**" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "**executive officer**" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This paragraph applies separately to you and any additional insured.

### C. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives and spouses of any natural person insured shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives and spouses only for claims arising solely out of their capacity as such and, in the case of a spouse, where such claim seeks damages from marital common property, jointly held property, or property transferred from such natural person insured to such spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative or spouse outside the scope of such person's capacity as such, provided however that the spouse of a natural person Named Insured and the spouses of members or partners of joint venture or partnership Named Insureds are insureds with respect to such spouses' acts, errors or omissions in the conduct of the Named Insured's business.



**D. Fellow Employee First Aid Coverage**

In the section entitled **Who Is An Insured**, paragraph **2.a.1.** is amended to add the following:

The limitations described in subparagraphs **2.a.1.(a), (b) and (c)** do not apply to your **"employees"** for **"bodily injury"** that results from providing cardiopulmonary resuscitation or other first aid services to a co-**"employee"** or **"volunteer worker"** that becomes necessary while your **"employee"** is performing duties in the conduct of your business. Your **"employees"** are hereby insureds for such services. But the insured status conferred by this provision does not apply to **"employees"** whose duties in your business are to provide professional health care services or health examinations.

**E. Legal Liability – Damage To Premises**

1. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, Exclusion **k. Damage To Property**, is replaced by the following:

**k. Damage To Property**

**"Property damage"** to:

1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
2. Premises you sell, give away or abandon, if the **"property damage"** arises out of any part of those premises;
3. Property loaned to you;
4. Personal property in the care, custody or control of the insured;
5. That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly in your behalf are performing operations, if the **"property damage"** arises out of those operations; or
6. That particular part of any property that must be restored, repaired or replaced because **"your work"** was incorrectly performed on it.

Paragraph **2** of this exclusion does not apply if the premises are **"your work"** and were never occupied, rented or held for rental by you.

Paragraphs **1, 3, and 4**, of this exclusion do not apply to **"property damage"** (other than damage by fire or explosion) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in Section D – Liability and Medical Expenses Limits of Insurance.

Paragraphs **3, 4, 5, and 6** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **6** of this exclusion does not apply to **"property damage"** included in the **"products-completed operations hazard."**

2. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, the following paragraph is added, and replaces the similar paragraph, if any, beneath paragraph **(14)** of the exclusion entitled **Personal and Advertising Injury**:

Exclusions **c, d, e, f, g, h, i, k, l, m, n, and o**, do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to this coverage as described in **Section D. Liability And Medical Expenses Limits Of Insurance.**



3. The first Paragraph under item **5. Damage To Premises Rented To You Limit** of the section entitled **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

The most we will pay under Business Liability for damages because of "**property damage**" to any one premises, while rented to you or temporarily occupied by you with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days, is the Damage to Premises Rented to You Limit. The Damage to Premises Rented to You Limit is the greater of:

- a. \$1,000,000; or
- b. The Damage to Premises Rented to You Limit shown in the Declarations.

**F. Personal and Advertising Injury – Discrimination or Humiliation**

1. Under **Liability and Medical Expenses Definitions**, the definition of "**personal and advertising injury**" is amended to add the following:

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

(1) Not done intentionally by or at the direction of:

- (a) The insured; or
- (b) Any "**executive officer**," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and

(2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or person by any insured.

2. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, the exclusion entitled **Personal and Advertising Injury** is amended to add the following additional exclusions:

**(15) Discrimination Relating to Room, Dwelling or Premises**

Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.

**(16) Employment Related Discrimination**

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any insured.

**(17) Fines or Penalties**

Fines or penalties levied or imposed by a governmental entity because of discrimination.

3. This provision (**Personal and Advertising Injury – Discrimination or Humiliation**) does not apply if **Personal and Advertising Injury** Liability is excluded either by the provisions of the Policy or by endorsement.

**G. Personal and Advertising Injury - Broadened Eviction**

Under **Liability and Medical Expenses Definitions**, the definition of "**Personal and advertising injury**" is amended to delete Paragraph c. and replace it with the following:

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room dwelling or premises that a person or organization occupies committed by or on behalf of its owner, landlord or lessor.

**H. Waiver of Subrogation – Blanket**

We waive any right of recovery we may have against:

- a. Any person or organization with whom you have a written contract that requires such a waiver.

All other terms and conditions of the Policy remain unchanged.







# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/07/2024

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 have ADDITIONAL INSURED provisions or 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).

PRODUCER <b>CS&amp;S/PROGRESSIVE ADVANTAGEAGCY INC.</b> PO BOX 958489 LAKE MARY, FL 32746-8989 Phone - 877-724-2669 Fax - 877-763-5122	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
E-MAIL ADDRESS:		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : <b>Valley Forge Insurance Company</b>		20508
INSURER B : <b>Transportation Insurance Company</b>		20494
INSURER C :		
INSURER D :		
INSURER E : <b>American Casualty Company of Reading, Pennsylvania</b>		20427
INSURER F :		

**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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER	Y	Y	6025019386	11/08/2023	11/08/2024	EACH OCCURRENCE	\$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 2,000,000
							GENERAL AGGREGATE	\$ 4,000,000
							PRODUCTS - COMP/OP AGG	\$ 4,000,000
								\$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	N	N	7038428237	06/23/2023	06/23/2024	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
	UMBRELLA LIAB      OCCUR EXCESS LIAB        CLAIMS-MADE DED      RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
E	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N	N	6025019405	11/08/2023	11/08/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
A	Miscellaneous Professional Liability	Y	Y	6025019386	11/08/2023	11/08/2024	Limit	\$1,000,000
							Retention	\$2,500

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

**The City of Alameda, its city council, boards and commissions, Officers, employees and volunteers are added as an additional insured for work done on their behalf by the Named Insured as provided in the blanket additional insured endorsement as it pertains to work being performed by the named insured under written contract. Waiver of Subrogation in favor of Certificate holder for General Liability and Workers Compensation. 30Day Notice of Cancellation except 10 days nonpayment.**

<b>CERTIFICATE HOLDER</b> The City of Alameda 2263 Santa Clara Ave Alameda, CA 94501	<b>CANCELLATION</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.
	AUTHORIZED REPRESENTATIVE 