

ORIGINAL**SERVICE PROVIDER AGREEMENT**

THIS SERVICE PROVIDER AGREEMENT ("Agreement") is entered into this 2nd day of April, 2019, by and between CITY OF ALAMEDA, a municipal corporation (the "City"), and NINYO & MOORE, a California corporation, whose address is 2020 Challenger Drive, Suite 103, Alameda, CA 94501 (the "Provider"), in reference to the following:

RECITALS:

- A. 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: Air Monitoring Support during Remediation for the CAT/RAMP+Gap Project. City staff reached out to the service providers on the City's bidders list and reviewed the proposals, 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. City and Provider desire to enter into an agreement for Cross Alameda Trail – Main Street to Constitution Way (aka; CAT/RAMP+Gap), upon the terms and conditions herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM:

The term of this Agreement shall commence on the 2nd day of April 2019, and shall terminate on the 2nd day of April 2020, 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. The 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 7th 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 schedule as set forth in Exhibit B and incorporated herein by this reference. Extra work must be approved in writing by the City Manager or his/her designee prior to performance and shall be paid on a Time and Material basis as set forth in Exhibit B. Payment

will be made in the same manner that claims of a like character are paid by the City, with checks drawn on the treasury of said City, to be taken from CIP #91402.

b. Total compensation for identified scope of work is \$122,230.00, with an approximate five percent contingency in the amount of \$6,000 for a total not to exceed amount of \$128,230.00. 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 City agree that time is of the essence regarding the performance of this Agreement.

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.

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 City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave are available from 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 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 City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Provider agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Provider or Provider's employee on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Provider agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS:**

a. Provider shall indemnify, defend, and hold harmless the City, its City Council, boards, commissions, officials, employees, and volunteers ("**Indemnitees**") from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees ("**Claims**"), arising from or in any manner connected to Provider's negligent act or omission, whether alleged or actual, regarding performance of services or work conducted or performed pursuant to this Agreement. If Claims are filed against Indemnitees which allege negligence on behalf of the Provider, Provider shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence is not found on the part of Provider. However, Provider shall not be obligated to indemnify Indemnitees from Claims arising from the sole negligence or willful misconduct of Indemnitees.

b. **Indemnification for Claims for Professional Liability Only:** 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.

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 subsections 10A, B, C and D. 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 ten (10) days' advance written notice to the City of Alameda. Attention: Risk Manager."

b. It is agreed that 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 that is acceptable to City and licensed to do insurance business in the State of California. Endorsements naming the City, its City Council, boards, commissions, officials, employees, and volunteers as additional insured shall be submitted with the insurance certificates.

A. **COVERAGE:**

Provider shall maintain the following insurance coverage:

(1) **Workers' Compensation:**

Statutory coverage as required by the State of California.

(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 aggregate limits in the amounts of \$2,000,000 will be considered equivalent to the required minimum limits shown above.

(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: \$2,000,000 each occurrence

(4) Professional Liability:

Professional liability insurance which includes coverage for the professional acts, errors and omissions of Provider in the following minimum limits:

\$1,000,000 each occurrence

B. SUBROGATION WAIVER:

Provider agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Provider shall look solely to its insurance for recovery. Provider hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Provider or City with respect to the services of Provider herein, a waiver of any right to subrogation which any such insurer of said Provider may acquire against City by virtue of the payment of any loss under such insurance.

C. FAILURE TO SECURE:

If Provider at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Provider's name or as an agent of the Provider and shall be compensated by the 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.

D. ADDITIONAL INSURED:

City, its City Council, boards, commissions, officials, employees, and volunteers, and Alameda County Transportation Commission (ACTC), its officers, employees and consultants, shall be named as an additional insured under all insurance coverages, except worker's

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.

E. SUFFICIENCY OF INSURANCE:

The insurance limits required by 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.

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 requires 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. Provider 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. Provider shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager may consent or reject such request in his/her 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 of Provider, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Provider is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Provider, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of the corporation.

13. APPROVAL OF SUB-PROVIDERS:

a. Only those persons and/or businesses whose names and resumes 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 his/her 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 the Provider. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement.

c. The requirements in this Section 13 shall not apply to persons who are merely providing materials, supplies, data or information which the 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. REPORTS:

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Provider pursuant to or in connection with this Agreement shall be the exclusive property of City.

b. No report, information or other data given to or prepared or assembled by Provider pursuant to this Agreement shall be made available to any individual or organization by Provider without prior approval of the City Manager or his/her designee.

c. Provider shall, at such time and in such form as City Manager or his/her designee may require, furnish reports concerning the status of services and tasks required under this Agreement.

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 the 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 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 City or its designees during regular business hours upon reasonable prior 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 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 City shall be addressed to City at:

City of Alameda
Public Works Department
950 West Mall Square, Room 110
Alameda, CA 94501-7575
ATTENTION: Jack Dybas – Project Manager II
Ph: (510) 747-7948
Email: jdybas@alamedaca.gov

With a copy to:
Transportation Planning Division
2263 Santa Clara Avenue
Alameda, CA 94501-4417
ATTENTION: Rochelle Wheeler, Senior Transportation Coordinator
Ph: (510) 747-6814
E-mail: rwheeler@alamedaca.gov

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

Ninyo & Moore
2020 Challenger Drive, Suite 103
Alameda, CA 94501
ATTENTION: Kris Larson

18. SAFETY:

a. The 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. The 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. The 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. The 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 Provider fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Provider 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 Provider from City of written notice of default, specifying the nature of such default and the steps necessary to cure such default; City may thereafter immediately terminate the Agreement forthwith by giving to the Provider written notice thereof.

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

c. Upon termination of this Agreement either for cause or for convenience, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination. The obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

20. ATTORNEY'S FEES:

In the event of the bringing of any action or suit by a party hereto against the other party by reason of any breach of any covenants, conditions, obligation or provision arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses of the action or suit, including reasonable attorneys' fees,

experts' fees, all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For the purposes of this Agreement, reasonable fees of attorneys of the Alameda City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the Alameda City Attorney's services were rendered who practice in Alameda County in law firms with approximately the same number of attorneys as employed by the Alameda City Attorney's Office.

21. 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 the 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 City.

22. 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.

23. WAIVER:

A waiver by 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.

24. INTEGRATED CONTRACT:

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 City and Provider.


25. 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.

Signatures on next page

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed on the day and year first above written.

NINYO & MOORE
A California corporation


Avram Ninyo
President

CITY OF ALAMEDA
A Municipal Corporation


Amy Woolridge
Interim City Manager
Asst.


Tammy Ricards
Chief Financial Officer

RECOMMENDED FOR APPROVAL


Liam Garland
Public Works Director

APPROVED AS TO FORM:
City Attorney

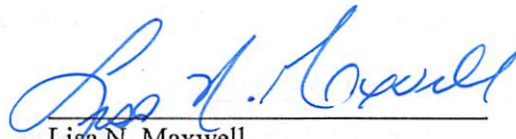

Lisa N. Maxwell
Assistant City Attorney

EXHIBIT A-SCOPE OF WORK

Task 1 – Work Plan Preparation

Ninyo & Moore will prepare a Work Plan that will be submitted to the Alameda County Department of Environmental Health (DEH) for approval prior to construction activities commencing. The Work Plan will provide site background information, planned use of the site, and details on our equipment and scope for continuous dust monitoring. The Work Plan will also discuss the four phases of construction and the contaminants (e.g. lead, arsenic and polycyclic aromatic hydrocarbons or PAHs) that will be monitored due to their potential health risk to off-site receptors (e.g. residential occupants). Ninyo & Moore's Certified Industrial Hygienist (CIH) will develop a conversion factor based on the site contaminant concentrations for lead, arsenic and PAHs in soil and related dust particulates that will be compared to residential United States Environmental Protection Agency (US EPA) Regional Screening Levels (RSLs). Trigger levels will also be developed based on the RSLs for each chemical, and the lower trigger levels will be used to for corrective actions to be implemented by the contractor (e.g. more effective dust control measures). In addition a figure will be prepared which will identify the locations of the monitoring stations and weather station for each of the four stages of construction. We understand that one draft Work Plan will be submitted to the City and Alameda County Department of Environmental Health (ACEH) for review and four final hard copies will be prepared for the contractor (1), City (1), ACEH (1), and field trailer (1) pending receipt of comments by the City and ACEH.

Task 2 – Meetings and Air Monitoring (12 Weeks)

We understand that the project construction schedule is between 8 and 12 weeks, and that continuous 24 hour, seven day a week (24/7) air monitoring will be conducted during all construction activities. Our scope of work for this task will include mobilization and demobilization of four sets of air-monitoring equipment and remote telemetry, daily site visits for visual monitoring and equipment functionality, contractor meetings and notifications to the City and contractor if off-site air emission releases occur. The air monitoring equipment will consist of:

- Netronix Thiamis 1000 Datalogger/Modem/GPS (4);
- TSI 8533 DustTrak DRX, Desktop Aerosol Monitor (4);
- Enclosure for Dust/PID Meters wired for Netronix Telemetry (4); and
- Davis Vantage Pro2 Plus wireless weather station (1).

The air monitoring instruments will be located upwind (1) and downwind (3) and within the breathing zone where they will be pole mounted at approximately 5.5 feet above the ground surface, and the monitoring equipment will be stored in a lock box surrounded by security fencing. The weather station will be mounted on an existing utility pole at a height that will be unreachable. The air monitoring equipment will be zeroed and recalibrated every three days per the manufacturer's recommendations. The data will be continually monitored by Ninyo & Moore staff and if the dust levels exceed the trigger levels the contractor will be immediately notified so additional dust mitigation can be implemented. The data will also be included in the final data report.

The air-monitoring equipment will be removed and security fencing will be decoupled between each phase and moved to the next phase by a contractor. Ninyo & Moore will oversee all moving and equipment handling activities.

We also understand that every Tuesday a project construction meeting is scheduled at the City of Alameda Public Works office at 970 West Mall Square, Conf. Rm. 117 at 10:30 am. Ninyo and Moore will be in attendance for all meetings.

Task 3 – Data Summary Report

Subsequent to construction activities Ninyo & Moore will prepare a final air-monitoring data summary report which will include daily reports, and (if dust particulates exceeding trigger levels migrate off-site) a description of corrective actions conducted by the contractor and a summary of the ineffectiveness of the corrective action(s). In addition, information will be provided relating to which areas were exposed and the wind direction at the time of the potential exposure occurrence.

Task 4 (Optional): Risk Evaluation

If necessary, Ninyo & Moore will prepare a Risk Evaluation for off-site human receptors if dust particulates exceed residential RSLs. Our risk evaluation we will estimate the duration and amount of potential maximum exposure and compare the exposure to the risk criteria, and interpret the potential impacts.

Task 5 – (Optional): Contingency for Theft

Ninyo & Moore has budgeted a \$15,000 contingency for the theft or damage of any instruments used during the project

Cost Breakdown (by Task)

Our cost breakdown by task is included in the following table.

CROSS-ALAMEDA TRIAL DUST MONITORING AND REPORTING BREAKDOWN OF ESTIMATED FEE	
TASK 1 - WORK PLAN PREP	
	\$ 11,730.00
TASK 2 - MEETINGS AND AIR MONITORING (12 weeks)	
	\$ 68,600.00
TASK 3 - DATA SUMMARY REPORT	
	\$ 11,900.00
TASK 4 - OPTIONAL-RISK EVALUATION	
	\$ 15,000.00
TASK 5 - OPTIONAL CONTINGENCY FOR THIEVERY	
	\$ 15,000.00
TOTAL ESTIMATED FEE	\$ 122,230.00



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/21/2019

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 Dealey, Renton & Associates P. O. Box 12675 Attn: Mandy Guo Oakland CA 94604-2675	CONTACT NAME: Doris A Chambers	
	PHONE (A/C, No, Ext): 510-465-3090	FAX (A/C, No): 510-452-2193
	E-MAIL ADDRESS: dchambers@dealeyrenton.com	
INSURED Ninyo & Moore Geotechnical & Environmental Sciences Consultants 2020 Challenger Drive, Suite 103 Alameda CA 94501	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Travelers Property Casualty Co of Ameri	
	INSURER B: American Automobile Ins. Co.	
	INSURER C: Evanston Insurance Company	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES	CERTIFICATE NUMBER: 1790975867	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 <input checked="" type="checkbox"/> Contractual Liab <input checked="" type="checkbox"/> OCP GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	6308986R247	10/3/2018	10/3/2019	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	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	8108986R247	10/3/2018	10/3/2019	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"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	Y	Y	CUP9J428527	10/3/2018	10/3/2019	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y	N/A	SCW0021231801	5/1/2018	5/1/2019	<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
C	Professional Liab & Contractor's Pollution Liab. ✓	Y		MKLV7PL0003340	10/3/2018	4/3/2020	\$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: ALAMEDA/CAT/RAMP/CROSS ALAMEDA TRAIL/CON/403268001. - Geotechnical Observation and Materials Testing Services. - GENERAL LIABILITY/AUTOMOBILE LIABILITY ADDITIONAL INSURED: Alameda CTC, its officers, employees and consultants and County Transportation Commission are named as Additional Insured as respects General Liability and Auto Liability as required per written contract or agreement. General Liability is Primary/Non-Contributory per policy form wording. Waiver of Subrogation applies to Commercial General Liability, Automobile Liability and Workers Compensation. 30 Day Notice of Cancellation.

CITY OF ALAMEDA
Risk Management

CERTIFICATE HOLDER City of Alameda Attn: Jacl Dybas 950 West Mall Square Alameda CA 94501	CANCELLATION 30 Day NOC/10 Day for NonPay of Prem 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
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARCHITECTS, ENGINEERS AND SURVEYORS INDUSTRYEDGESM 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.

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|---|---|
| <ul style="list-style-type: none"> A. Broadened Named Insured B. Incidental Medical Malpractice C. Reasonable Force ■ Bodily Injury Or Property Damage D. Non-Owned Watercraft ■ Increased To Up To 75 feet E. Aircraft Chartered With Pilot F. Extension Of Coverage ■ Damage To Premises Rented To You G. Personal Injury ■ Assumed by Contract H. Increased Supplementary Payments I. Additional Insured ■ Owner, Manager Or Lessor Of Premises J. Additional Insured ■ Lessor Of Leased Equipment K. Additional Insured ■ State Or Political Subdivisions ■ Permits Relating To Premises L. Additional Insured ■ State Or Political Subdivisions ■ Permits Relating To Operations | <ul style="list-style-type: none"> M. Who Is An Insured ■ Newly Acquired Or Formed Organizations N. Injury To Co-Employees And Co-Volunteer Workers O. Medical Payments Limit P. Knowledge And Notice Of Occurrence Or Offense Q. Other Insurance Condition R. Unintentional Omission ✓ S. Waiver Of Transfer Of Rights Of Recovery Against Others To Us When Required By Contract T. Amended Bodily Injury Definition U. Amended Insured Contract Definition ■ Railroad Easement ✓ V. Additional Definition ■ Written Contract Requiring Insurance |
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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

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Date 3-18-19
[Signature]

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.

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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**

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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-

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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.

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| <ul style="list-style-type: none"> A. BROAD FORM NAMED INSURED B. BLANKET ADDITIONAL INSURED C. EMPLOYEE HIRED AUTO D. EMPLOYEES AS INSURED E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS G. WAIVER OF DEDUCTIBLE – GLASS | <ul style="list-style-type: none"> H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT J. PERSONAL PROPERTY K. AIRBAGS L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS M. BLANKET WAIVER OF SUBROGATION N. UNINTENTIONAL ERRORS OR OMISSIONS |
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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

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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.

**Workers' Compensation and Employers' Liability Insurance Policy
Waiver of Our Right to Recover From Others Endorsement - California
WC 04 03 06**

If the following information is not complete, refer to the appropriate Schedule attached to the policy.

Insured Ninyo & Moore Geotechnical &

Policy Number SCW0021231801

Producer Dealey, Renton & Associates

Effective Date 05/01/2018

Schedule

Person or Organization

Job Description

ALL PERSONS OR ORGANIZATIONS THAT ARE PARTIE TO A CONTRACT THAT REQUIRED YOU TO OBTAIN THIS AGREEMENT, PROVIDED YOU EXECUTED THE CONTRACT BEFORE THE LOSS

Additional Premium %

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 the percentage, as shown in the Schedule applicable to this endorsement, of the California workers' compensation premium otherwise due on such remuneration.

This Form must be attached to Change Endorsement when issued after the policy is written.
One of the Fireman's Fund Insurance Companies as named in the policy

Secretary



President

