City of Sacramento
City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: **3/22/2011** **Report Type:** Consent

Title: Florin Road Site Assessment Project

Report ID: 2011-00270

Location: Districts 5 and 8

Recommendation: Adopt a Resolution authorizing City Manager to execute an agreement with Nichols Consulting Engineers to conduct a Phase II environmental site assessment for the former auto dealer properties on Florin Road.

Contact: Desmond Parrington, Program Specialist, (916) 808-5044 Community Development Department

Presenter: None

Department: Community Development Dept
Division: New Growth
Dept ID: 21001223

Attachments:

1-Description/Analysis
2-Background
3-Resolution
4-Contract

City Attorney Review
Approved as to Form
Sheryl N. Patterson
3/9/2011 8:37:32 AM

City Treasurer Review
Prior Council Financial Policy Approval or Outside City Treasurer Scope
Janelle Gray
3/4/2011 6:30:51 PM

Approvals/Acknowledgements

Department Director or Designee: David Kwong - 3/8/2011 2:41:33 PM

Assistant City Manager: Cassandra Jennings - 3/8/2011 4:57:44 PM

Back to Table of Contents

Description/Analysis

Issue: This staff report allocates $230,880 in order for Nichols Consulting Engineers to conduct a Phase II Environmental Site Assessment (ESA) for the former auto dealer sites on Florin Road west of Franklin Road. These sites include the former Senator Ford, Senator Imports (Subaru, Mazda, and Hyundai), Capitol City Chevrolet, Florin Road Toyota, and Florin Road Kia dealership sites. Funding for the work comes from an U.S. EPA Brownfield Communitywide Assessment Grant ($125,000 from the hazardous materials portion and $35,496 from the petroleum portion of the grant). Additional funding comes from Shovel-Ready Sites Program funds ($28,000) allocated for the Florin Road Corridor in Resolutions 2008-424 and 2009-629. The remaining funding comes from contributions ($42,384) from the property owners.

The attached resolution would authorize the City Manager to execute an agreement with NCE for $230,880 to begin the Phase II work. This work will help advance the City's goal of transforming the Florin Road Corridor from an auto-oriented commercial corridor into a new mixed-use corridor as identified in the City's 2030 General Plan and the Florin Road Corridor Plan.

Policy Considerations: The action recommended in this report is consistent with previously approved policies to assist commercial projects and promote infill development and advances the goals of the City's 2030 General Plan for the Florin Road Corridor.

Environmental Considerations: The proposed action to collect information regarding potential contamination is exempt from environmental review under the California Environmental Quality Act (CEQA) Guidelines Section 15306 and under NEPA per 24CFR Part 58.34 (a)(4).

Sustainability: The Phase II work is part of the City's efforts to eventually transform Florin Road from an auto-oriented corridor dominated by commercial strip centers into a multi-modal, mixed-use corridor that provides opportunities for people to live and work in the corridor, thereby reducing vehicle miles traveled and related greenhouse gases.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: NCE was selected to perform the Florin Road Phase II environmental site assessment work based on the submittal of cost proposals pursuant to an RFP process. The work is funded primarily with EPA grants with matching funds paid for by the property owners benefitting from this study and some City shovel-ready funds previously allocated for the Florin area.

Financial Considerations: The total cost for the Phase II ESA work is $230,880 of which $160,496 will be funded from the EPA grant; $28,000 will be provided by the City through funds previously allocated in Resolution 2009-629 for master planning of the Florin auto dealer sites; and $42,384 in matching funds will be paid by the four participating property owners.

Emerging Small Business Development (ESBD): Not applicable.

Back to Table of Contents

Background

The City's 2030 General Plan identified Florin Road as one of the opportunity areas for future growth, particularly as a center for the community and as a mixed-use corridor. In order to lay the foundation for growth and revitalization of the entire corridor, City Council directed staff in late 2007 to partner with the County in a joint planning effort for the entire corridor. The resulting effort, called the Florin Road Corridor Plan, consists of a number of coordinated planning studies and actions designed to foster well-designed infill and redevelopment along the corridor. This effort has taken on greater urgency as the economic recession has had a negative impact on the corridor resulting in high vacancy rates and the closure of almost all the auto dealerships that have operated there since the 1970s.

Over the past three years, City staff has worked closely with the former auto dealer property owners along Florin Road (i.e., Senator Ford and Senator Imports [Mazda, Subaru and Hyundai]; Florin Road Toyota and Florin Road Kia; Winter Volvo/Lincoln-Mercury; and Capitol City Chevrolet) to plan for the redevelopment of this area. In order to achieve this objective, the City entered into a Memorandum of Understanding (MOU) with the property owners in January 2009 to ensure that the owners worked together and with the City to plan for the eventual reuse of the properties in keeping with the goals established in the Florin Road Corridor Plan and in the South Area Community Plan chapter of the City's 2030 General Plan. Several studies have already been completed including land use; design; economic and market studies; transportation and access; infrastructure; and environmental studies.

An Environmental Site Assessment (ESA) Phase I was conducted by NCE for all the former auto dealer sites in late 2008, which concluded that there was the potential for contamination and recommended a further ESA Phase II to identify if there is contamination and if so where that contamination is located. This is the last part of our master planning effort for the 43-acre area and it is a critical piece necessary to prepare for the redevelopment of the area. The properties to be covered by the Phase II include the following:

- 3655 Florin Road (Assessor Parcel Number [APN] 041-0112-018);
- 3800 Florin Road (APN 049-0010-090);
- 3801 Florin Road (APN #s: 041-0112-016; 041-0120-013; 041-0112-021);
- 3810 Florin Road (APN 049-0370-001);
- 3815 Florin Road (APN 041-0120-022); and
- 7150 Franklin Boulevard (APN 041-0120-004).

Given the results of the initial ESA Phase I for the auto dealers' sites, City staff prepared a Request for Proposals (RFP) in 2009 for an ESA Phase II to conduct

boring and sampling to identify if any of the areas identified in the ESA Phase I contained hazardous materials and were contaminated. The City received over 20 proposals and based on staff's review and scoring, five proposals were selected and additional interviews of those teams were conducted by an interview committee composed of City staff, SHRA staff, staff from Sacramento County Environmental Management Department, and a representative of the property owners. Based on the interviews and the ranking, the committee selected Nichols Consulting Engineers (NCE) to proceed with a complete scope of services and contract for the work.

In October 2009, the City was awarded a Community-wide Assessment Grant (Assessment Grant) from the U.S. Environmental Protection Agency (EPA) to assist with completing Environmental Site Assessment (ESA) Phase I and II's within the South Sacramento Area. Since the Florin Road project falls within the boundaries, some of this funding will be used to assist with the completion of this Phase II.

Back to Table of Contents

RESOLUTION 2010- ___

Adopted by the Sacramento City Council

APPROVING AGREEMENT WITH NICHOLS CONSULTING ENGINEERS FOR THE FLORIN ROAD PHASE II ENVIRONMENTAL SITE ASSESSMENT PROJECT

BACKGROUND

A. The City's 2030 General Plan identified Florin Road as one of the opportunity areas for future growth, particularly as a center for the community and as a mixed-use corridor.

B. Since 2008, City staff has worked closely with the former auto dealer property owners along Florin Road (i.e., Senator Ford and Senator Imports [Mazda, Subaru and Hyundai]; Winter Volvo/Lincoln-Mercury; Florin Road Toyota and Florin Road Kia; and Capitol City Chevrolet) to plan for the redevelopment of this area.

C. In late 2008, an Environmental Site Assessment (ESA) Phase I was conducted for all of the seven sites, which concluded that there was the potential for contamination and recommended a further ESA Phase II to determine if there is evidence of any soil contamination at the locations identified in the Phase I ESA.

D. In October 2009, the City Council accepted a Community-wide Brownfield Assessment (CWBA) Grant award from the U.S. Environmental Protection Agency (EPA) to assist with completing Environmental Site Assessment (ESA) Phase I and II's within the South Sacramento Area.

E. In 2009, a Request for Proposals (RFP) was issued for an ESA Phase II to conduct boring and soil sampling to identify if any of the areas identified in the ESA Phase I contained hazardous materials or petroleum.

F. Over 20 proposals were received and five proposals were selected as finalists based on the scoring criteria. An expert panel made up of City staff, a property owner representative and Brownfield specialists interviewed the finalists. Based on the interviews and the ranking, the committee selected Nichols Consulting Engineers (NCE) as the most qualified to perform the work and NCE was directed to proceed with preparing a Sampling and Analysis Plan as required by EPA to use the Brownfield Grant funds for this Phase II ESA work.

G. The total cost for the Phase II ESA work is $230,880 of which $160,496 will be funded from the CWBA EPA grant and the EPA Brownfield Petroleum Grant, $28,000 will be provided by the City through funds previously

allocated in Resolution 2009-629 for master planning of the Florin auto dealer sites and $42,384 in matching funds will be paid by the four participating property owners.

H. This is the last part of the City's master planning effort for the 43-acre area and it is a critical piece necessary to prepare for the redevelopment of the area.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Manager or his designee is authorized to execute an Agreement with Nichols Consulting Engineers (NCE) in the amount of $230,880 for the Florin Road Phase II Environmental Site Assessment services.

Section 2. That $160,496 in U.S. EPA Community-wide Brownfield Assessment Grant funds (G18000200) shall be transferred into the Shovel-Ready Sites Program (D21001300).

Section 3. Approval of the Agreement with NCE is contingent on the receipt by NCE from each property owner of their grant match contribution ($7,064 per site totaling $42,384 for all sites) before work at that site is included in the contract.

City of Sacramento

Back to Table of Contents

Tax ID # if applicable:

Requires Council Ap. ☐ No ☒ YES **Meeting:**

☐ Real Estate ☐ Other Party Signature Needed ☐ Recording Requested

General Information

Type: Select Contract Type **PO Type: Select PO Type** **$ Not to Exceed:** $ 230,880	**Attachment: Original No.:** **Original Doc Number:**
Other Party: Nichols Consulting Engineers, Chtd.	**Certified Copies of Document::**
Project Name: Florin Road Site Assessment Project	**Deed:** ☒None ☐ Included ☐Separate
Project Number: M11-004 Bid Transaction #:	E/SBE-DBE-M/WBE:

Department Information

Department: Community Development Division: Planning

Project Mgr: Desmond Parrington Supervisor: Scot Mende

Contract Services: Marge Innocenti Date:3/3/11 Division Mgr: David Kwong

Phone Number: 808-5044 Org Number: 21001223

Comment:

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:	DLP	3/3/2011
Accounting:	TPC	3/3/2011
Contract Services:	MI	3/7/11
Supervisor:	NC	3/3/11
Division Manager:	NC	3/3/11

City Attorney	Signature or Initial	Date
City Attorney:		

☒ Send Interoffice Mail ☐ Notify for Pick Up

Authorization	Signature or Initial	Date
Choose Director Max Fernandez		3/3/11
City Mgr: yes ☒ No ☐		

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, is not part of the contract. (01-01-09)

For City Clerk Processing

Finalized:
Initial:
Date:

Imaged:
Initial:
Date:

Received:
(City Clerk Stamp Here)

PROJECT #: M11-004
PROJECT NAME: Florin Road Site Assessment Project
DEPARTMENT: Community Development Department
DIVISION: New Growth

CITY OF SACRAMENTO

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

TO BE USED FOR DESIGN PROFESSIONAL SERVICES PERFORMED BY LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS OR PROFESSIONAL LAND SURVEYORS OR REGISTERED PROFESSIONAL ENGINEERS

THIS AGREEMENT is made at Sacramento, California, as of _____, by and between the **CITY OF SACRAMENTO,** a municipal corporation ("CITY"), and

Nichols Consulting Engineers, Chtd.
8795 Folsom Blvd., Suite 250
Sacramento, CA 95826
Phone (916) 388-5655 / Fax (916) 388-5676

("CONTRACTOR"), who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, CONTRACTOR shall provide to CITY the services described in Exhibit A. CONTRACTOR shall provide said services at the time, place, and in the manner specified in Exhibit A. CONTRACTOR shall not be compensated for services outside the scope of Exhibit A unless prior to the commencement of such services: (a) CONTRACTOR notifies CITY and CITY agrees that such services are outside the scope of Exhibit A; (b) CONTRACTOR estimates the additional compensation required for these additional services; and (c) CITY, after notice, approves in writing a Supplemental Agreement specifying the additional services and amount of compensation therefor. CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement, unless and until this Agreement or any Supplemental Agreement is approved by the Sacramento City Manager or the City Manager's authorized designee, or by the Sacramento City Council, as required by the Sacramento City Code.

2. **Payment.** CITY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to CONTRACTOR for the services rendered pursuant to this Agreement unless pursuant to Section 1, above, CITY approves additional compensation for additional services. CONTRACTOR shall submit all billings for said services to CITY in the manner specified in Exhibit B, or, if not specified in Exhibit B, according to the usual and customary procedures and practices that CONTRACTOR uses for billing clients similar to CITY.

3. **Facilities and Equipment.** Except as set forth in Exhibit C, CONTRACTOR shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. CITY shall furnish to CONTRACTOR only the facilities and equipment listed in Exhibit C according to any terms and conditions set forth in Exhibit C.

4. **General Provisions.** The General Provisions set forth in Exhibit D, that include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of this Agreement, including without limitation any document

relating to the scope of services or payment therefor, the General Provisions shall control over said terms or conditions.

5. **Non-Discrimination in Employee Benefits.** This Agreement is subject to the provisions of Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. The requirements of Sacramento City Code Chapter 3.54 are summarized in Exhibit E. CONTRACTOR is required to sign the attached Declaration of Compliance (Equal Benefits Ordinance), to assure compliance with these requirements.

6. **Authority.** The person signing this Agreement for CONTRACTOR hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to the performance of its obligations hereunder.

7. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

Executed as of the day and year first above stated.

CITY OF SACRAMENTO
A Municipal Corporation

By:_____

Print name:_____

Title:_____

For: Gustavo F. Vina, Interim City Manager

APPROVED TO AS FORM:

_____
City Attorney

ATTEST:

_____
City Clerk

Attachments

Exhibit A - Scope of Service
Exhibit B - Fee Schedule/Manner of Payment
Exhibit C - Facilities/Equipment Provided
Exhibit D - General Provisions
Exhibit E - Non-Discrimination in Employee Benefits

CONTRACTOR:

Nichols Consulting Engineers, Chtd.
NAME OF FIRM
88-0254126
Federal I.D. No.

_____
State I.D. No.

137491
City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY *(check one)*:

_____ Individual/Sole Proprietor
_____ Partnership
__X__ Corporation *(may require 2 signatures)*
_____ Limited Liability Company
_____ Other (*please specify:* _____)

_____
Signature of Authorized Person

Greg Fasiano, Principal Division Manager
Print Name and Title

_____
Additional Signature *(if required)*

Michael Leacox, Principal Division Manager
Print Name and Title

DECLARATION OF COMPLIANCE

Equal Benefits Ordinance

Name of Contractor: Nichols Consulting Engineers, Chtd.

Address: 8795 Folsom Blvd., Suite 250, Sacramento, CA 95826

The above named Contractor ("Contractor") hereby declares and agrees as follows:

1. Contractor has read and understands the Requirements of the Non-Discrimination In Employee Benefits Code (the "Requirements") attached hereto as Exhibit E.

2. As a condition of receiving this Agreement, Contractor agrees to fully comply with the Requirements, as well as any additional requirements that may be specified in the City of Sacramento's Non-Discrimination In Employee Benefits Code codified at Chapter 3.54 of the Sacramento City Code (the "Ordinance").

3. Contractor understands, to the extent that such benefits are not preempted or prohibited by federal or state law, employee benefits covered by the Ordinance are any of the following:

   a. Bereavement Leave
   b. Disability, life, and other types of insurance
   c. Family medical leave
   d. Health benefits
   e. Membership or membership discounts
   f. Moving expenses
   g. Pension and retirement benefits
   h. Vacation
   i. Travel benefits
   j. Any other benefit offered to employees

   Contractor agrees that if Contractor offers any of the above-listed employee benefits, Contractor will offer those benefits, without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouses and domestic partners of such employees.

4. Contractor understands that Contractor will not be considered to be discriminating in the provision or application of employee benefits under the following conditions or circumstances:

   a. If the actual cost of providing a benefit to a domestic partner or spouse exceeds the cost of providing the same benefit to a spouse or domestic partner of an employee, Contractor will not be required to provide the benefit, nor shall it be deemed discriminatory, if Contractor requires the employee to pay the monetary difference in order to provide the benefit to the domestic partner or to the spouse.

   b. If Contractor is unable to provide a certain benefit, despite taking reasonable measures to do so, if Contractor provides the employee with a cash equivalent Contractor will not be deemed to be discriminating in the application of that benefit.

   c. If Contractor provides employee benefits neither to employee's spouses nor to employee's domestic partners.

   d. If Contractor provides employee benefits to employees on a basis unrelated to marital or domestic partner status.

   e. If Contractor submits written evidence of making reasonable efforts to end discrimination in employee benefits by implementing policies that will be enacted before the first effective date

after the first open enrollment process following the date this Agreement is executed by the City of Sacramento ("City"). Contractor understands that any delay in the implementation of such policies may not exceed one (1) year from the date this Agreement is executed by the City, and applies only to those employee benefits for which an open enrollment process is applicable.

f. Until administrative steps can be taken to incorporate nondiscrimination in employee benefits. The time allotted for these administrative steps will apply only to those employee benefits for which administrative steps are necessary and may not exceed three (3) months from the date this Agreement is executed by the City.

g. Until the expiration of a current collective bargaining agreement(s) if employee benefits are governed by such collective bargaining agreement(s).

h. Contractor takes all reasonable measures to end discrimination in employee benefits by either requesting that the union(s) involved agree to reopen the agreement(s) in order for Contractor to take whatever steps are necessary to end discrimination in employee benefits or by ending discrimination in employee benefits without reopening the collective bargaining agreement(s).

i. In the event Contractor cannot end discrimination in employee benefits despite taking all reasonable measures to do so, Contractor provides a cash equivalent to eligible employees for whom employee benefits are not available. Unless otherwise authorized in writing by the City Manager, Contractor understands this cash equivalent must begin at the time the union(s) refuse to allow the collective bargaining agreement(s) to be reopened or not longer than three (3) months after the date this Agreement is executed by the City.

5. Contractor understands that failure to comply with the provisions of Section 4(a) through 4(i), above, will subject Contractor to possible suspension and/or termination of this Agreement for cause; repayment of any or all of the Agreement amount disbursed by the City; debarment for future agreements until all penalties and restitution have been paid in full and/or for up to two (2) years; and/or the imposition of a penalty, payable to the City, in the sum of $50.00 for each employee, for each calendar day during which the employee was discriminated against in violation of the provisions of the Ordinance.

6. Contractor understands and agrees to provide notice to each current employee and, within ten (10) days of hire, to each new employee, of their rights under the Ordinance. Contractor further agrees to maintain a copy of each such letter provided, in an appropriate file for inspection by authorized representatives of the City. Contractor also agrees to prominently display a poster informing each employee of these rights.

7. Contractor understands that Contractor has the right to request a waiver of, or exemption from, the provisions of the Ordinance by submitting a written request to the City's Procurement Services Division prior to Agreement award, which request shall identify the provision(s) of the Ordinance authorizing such waiver or exemption and the factual basis for such waiver or exemption. The City shall determine in its sole discretion whether to approve any such request.

8. Contractor agrees to defend, indemnify and hold harmless, the City, its officers and employees, against any claims, actions, damages, costs (including reasonable attorney fees), or other liabilities of any kind arising from any violation of the Requirements or of the Ordinance by Contractor.

The undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that he or she is authorized to bind the Contractor to the provisions of this Declaration.

Signature of Authorized Representative

3-4-11
Date

Greg Fasiano
Print Name

Principal, Division Manager
Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

Desmond Parrington, Infill Coordinator
Community Development Department
300 Richards Blvd., 3rd Floor, Sacramento, CA 95811
Phone (916) 808-5044/E-mail dparrington@cityofsacramento.org

All CONTRACTOR questions pertaining to this Agreement shall be referred to the CITY Representative or the Representative's designee.

The CONTRACTOR Representative for this Agreement is:

Gregory L. Fasiano, P.G., Principal
8795 Folsom Blvd., Suite 250
Sacramento, CA 95826
Phone (916) 388-5655 / Fax (916) 388-5676/ Email GFasiano@nce.reno.nv.us

All CITY questions pertaining to this Agreement shall be referred to the CONTRACTOR Representative. All correspondence to CONTRACTOR shall be addressed to the address set forth on page one of this Agreement. Unless otherwise provided in this Agreement, all correspondence to the CITY shall be addressed to the CITY Representative.

2. Professional Liability Insurance. Professional Liability (Errors and Omissions) insurance is **X** is not ___ *[check one]* required for this Agreement. If required, such coverage must be continued for at least **3** year(s) following the completion of all Services and Additional Services under this Agreement. (See Exhibit D, Section 11, for complete insurance requirements.)

3. Conflict of Interest Requirements.

A. **Generally.** Under the California Political Reform Act, Government Code §§ 81000 et seq., designated employees of the CITY are required to comply with the CITY's Conflict of Interest Code. The term designated employees is a term of art and includes individuals who are working for contractors who are providing services or performing work for the CITY and who are considered to be consultants under the Political Reform Act. The term consultant generally includes individuals who make, or participate in making, governmental decisions or who serve in a staff capacity. Individuals who perform work that is solely clerical, ministerial, manual or secretarial are not "consultants."

The CITY's Conflict of Interest Code requires designated employees, including individuals who qualify as "consultants", to file the following statements of economic interests:

(1) An “assuming office” statement of economic interests to be filed within 30 days after execution of the agreement between the City and the contractor;

(2) Annual statements of economic interests while the agreement remains in effect, to be filed not later than April 30 of each year; and

(3) A “leaving office” statement of economic interests to be filed within 30 days of completion of the contract.

The above statements of economic interests are public records subject to public disclosure under the California Public Records Act.

The CITY’s Conflict of Interest Code also requires individuals who qualify as “consultants” under the Political Reform Act to comply with the conflict of interest provisions of the Political Reform Act, which generally prohibit individuals from making or participating in the making of decisions that will have a material financial effect on their economic interests.

B. **Conflict of Interest Statements.** The individual(s) who will provide services or perform work pursuant to this Agreement are “consultants” within the meaning of the Political Reform Act and the CITY’s Conflict of Interest Code: ____ yes **X** no *[check one]*

If “yes” is checked above, CONTRACTOR shall cause the following to occur within 30 days after execution of this Agreement:

(1) Identify the individuals who will provide services or perform work under this Agreement as “consultants”;

(2) Cause these individuals to file with the CITY Representative the assuming office statements of economic interests required by the CITY’s Conflict of Interest Code.

Thereafter, throughout the term of the Agreement, CONTRACTOR shall cause these individuals to file with the CITY Representative annual statements of economic interests, and “leaving office” statements of economic interests, as required by the CITY’s Conflict of Interest Code. The CITY may withhold all or a portion of any payment due under this Agreement until all required statements are filed.

4. Scope of Services. The services provided shall be as set forth in Attachment 1 to Exhibit A, attached hereto and incorporated herein.

5. Time of Performance. The services described herein shall be completed by December 31, 2011.

Attachment 1 to Exhibit A
Scope of Services

NICHOLS CONSULTING ENGINEERS, Chtd.
Engineering and Environmental Services

8795 Folsom Blvd., Suite 250 • Sacramento, CA 95826 • 916.388.5655 • FAX 916.388.5676

March 2, 2011

09.35.18

Mr. Desmond Parrington
City of Sacramento
Community Development Department
300 Richards Blvd., 3rd Floor
Sacramento CA 95811

Scope & Cost Estimate
Implementation of Sampling and Analysis Plan/Phase II Assessment
Florin Road Auto Dealers Project
Sacramento, California

Dear Mr. Parrington:

INTRODUCTION

Nichols Consulting Engineers (NCE) is pleased to present this revised proposal to the City of Sacramento Community Development Department, Planning Division (CDD) to implement the scope of work described in the Sampling & Analysis Plan (SAP)/Phase II Assessment which describes activities planned at the Florin Road properties. This proposal is based on the scope of work developed by the property owners and the City over the course of the last several months. A detailed description of the scope of work is presented in the draft SAP prepared by NCE and submitted to the City. The SAP is required by the US Environmental Protection Agency (USEPA) to support the City acquisition of the Brownfield Assessment Grant funding recently awarded to the City of Sacramento. If after EPA's review of the Draft SAP there are required changes to the SAP, NCE will provide the City with an amendment to this scope and cost estimate describing those changes.

The initial proposal was previously submitted that included scope and cost to investigate eight "properties" as described in the SAP. Subsequent to the submittal of the SAP and the initial proposal one of the owners of Site 3 elected to remove themselves in the collective Phase II assessment. Accordingly, this revised proposal includes scope and costs for only Sites 1 and 2, and Sites 4 through 8.

The purpose of the investigation is to collect and analyze a limited number of soil samples adjacent to and/or below each of the concerns identified at each Site with the intended goal to answer the question "has there been a significant release". The answer to the question will be based on visual and olfactory observations, as well as analytical data from a limited number of soil samples. The data set is not anticipated to allow for the estimation of quantities, determining if groundwater has been impacted and/or the estimation of clean-up costs. It is

assumed that additional phase II investigations will be required to answer these questions and others for which the City and/or property owners may wish to be answered.

The Site is located approximately six miles southeast of downtown Sacramento, Sacramento County, California. The surrounding properties are primarily used for residential/commercial/light industrial uses. The Site is located in an area currently zoned as commercial (based on the City of Sacramento Zoning map [updated on April 30, 2010]). The Site includes seven properties with the following addresses and parcel numbers:

- 3655 Florin Road (Assessor Parcel Number [APN] 0410112018);
- 3800 Florin Road (APN 049-0010-090);
- 3801 Florin Road (APN #s: 041-0112-016; 041-0120-013; 041-0112-021);
- 3810 Florin Road (APN 049-0370-001);
- 3815 Florin Road (APN 041-0120-022); and
- 7150 Franklin Boulevard (APN 041-0120-004).

The Site or sampling area is approximately 55-acres in areal extent and occupies two main areas of adjoining parcels that are separated by Florin Road, a main east-west arterial (See attached Plate 2 from the SAP). Property No.'s 1, 2, 4, and 8 are located on the north side of Florin Road. Property No.'s 5, 6, and 7 are located on the south side of Florin Road. Each property associated with the Site is identified as indicated below and on Plate 2 from the SAP:

Property Address	Property Identification
3655 Florin Road	Site No. 1
3801 Florin Road	Site No. 2
3815 Florin Road	Site No. 4
3810 Florin road	Site No. 5
3800 Florin Road (northern portion of property)	Site No. 6
3800 Florin Road (southern portion of property)	Site No. 7
7150 Franklin Boulevard	Site No. 8

SCOPE OF WORK

NCE has divided the scope of work into eight tasks. The details of the field investigation portion of the scope are provided in the attached tables while the methods for implementation are discussed below. Each task, and our costing, presumes that access to each site is not hindered and movement of personnel and equipment is not encumbered, and that multiple mobilizations are not required of any of the sub-contractors. In addition, it assumes that the drilling locations are free of obstructions, equipment and vehicles. NCE assumes that there will be one individual for each Site with whom we will coordinate schedules and work activities throughout all phases of the project. With advanced notice, it may be possible to conduct some of the investigative work on weekends and nights if absolutely necessary. However, we have assumed only 15% of

the work will require night or weekend work, and that the nights and weekend work is performed as part of the overall field investigation and that special mobilizations and staffing is not required.

Task 1 – Mobilization

Task 1 includes efforts to obtain final quotes from contractors, execute subcontracts with each contractor, marking the areas schedule for borings for an Underground Service Alert (USA) notification, and utility clearance at each boring location using a private utility locator. The utility clearance is also included as a means to establish a location to drill at each of the hydraulic lifts that does not conflict with the hydraulic lines, storage reservoirs or hydraulic rams. As part of this task the locations of the hydraulic lifts and other concerns listed in attached Table A1 from the SAP will be field verified. This task assumes one mobilization to the field to verify and clear all the locations.

Task 2 – Hydraulic Lifts at Sites 1, 2 and 4 Through 7

Sites 1, 2 and 4 through 7 have a total of 155 lifts that either still exist, have been partially removed, or were previously completely removed. There are no known lifts at Site 8 although it is presumed that that there were likely two lifts as some point in the past. These two presumed lifts are not included in the 167 lift total. There are two facets to the investigation of the hydraulic lifts at Sites 1, 2 and 4 through 7. Task 2a is the drilling of a boring at each previously identified lift that is to remain in the ground or that was previously completely removed from the ground. Task 2b is the collection of a soil sample at wholly intact or partially removed that are to be removed by a contractor that is hired directly by the property owners. Additional details are described below:

<u>Task 2a – Drilling at Lifts</u>

A summary of the number of lift borings to be drilled and the number of lift samples to be collected and analyzed at each Site is listed in on Table 1A from the SAP (attached). There are a total of 57 lift locations where the lift was either previously completely removed or the lifts are scheduled to remain. The scope includes the drilling of one 15-foot boring to be drilled at each of these lifts. The borings will be drilled with truck-mounted Geoprobe, direct-push drilling equipment (the use of limited access drilling equipment is presumed to not be necessary). Prior to drilling the concrete floor around each lift will be cored at the location cleared in Task 1. We assumed for costing purposes that the concrete is no greater then 5 inches thick.

During drilling continuous cores of the soil will be collected and observed for signs of contamination (staining, discoloration, etc.). The cores will also be screened with a photoionization detector (PID) to screen for evidence of volatile constituents. Observations and PID readings will be noted in the boring logs. Boring logs of the soil will be prepared and soils logged in accordance with the Unified Soil Classification System (USCS).

Samples will be collect for a laboratory analyses. We have assumed two samples in each boring will be analyzed from total petroleum hydrocarbons as hydraulic oil (TPHho). If there are no signs of contamination, it is presumed that one soil sample from each boring will be submitted and that sample will be from the estimated depth that is just below the anticipated

depth of the lower most portion of the lift. This depth is assumed to be approximately 10 feet. The 10-foot depth will be selected unless there are observations, olfactory signs and/or PID readings at other depths that suggest the presence of contamination. If that occurs, the sample showing signs of contamination will be tested. If a sample that shows signs of contamination is submitted for testing, a second sample will also submitted. That sample is expected to be the deepest sample collected that does not show signs of contamination. If there are no signs of contamination in the boring only one sample will be tested.

Samples from the soil cores will be collected using a stainless-steel spoon or trowel and placed into laboratory supplied sample containers. The containers will be labeled, placed in a cooled container and transported to the laboratory under chain-of-custody procedures. Sampling equipment will be properly decontaminated between sample collections.

Task 2b – Sampling at Pulled Lifts

There are 98 lifts that are scheduled to be removed (Table A1). It is our understanding that the property owners will be coordinating with contractor(s) to remove the lifts. NCE's scope of work includes coming to the Site(s) and collecting a sample from the resulting excavation. The sample will be analyzed for TPHho. Only one soil sample per lift is presumed to be collected during lift removal. The sample to be collected is presumed to be collected from the deepest portion of the excavation that is below the base of the lift. For this work NCE made the following assumptions:

- Samples will be collected in "batches" and not on a "one lift at a time bases".
- Samples will be collected on an average of 6 lifts per batch (or per trip).
- Contractor will be responsible for advising NCE personnel of his observations at each lift location regarding visual or olfactory indications of contamination including depths and relative degree of contamination.
- Contractor will efficiently provide the samples to the onsite personnel and collect samples at the locations directed by the engineer.
- Contractor will supply all equipment necessary to collect the samples.

Once collected the samples will be handled and transported as previously described.

Task 3 – Investigation of Other Identified Concerns at Sites 1, 2 and 4 Through 8

The Other Identified Concerns on Sites 1 through 7 include existing above-ground storage tanks, below-ground storage tanks, hazardous material storage areas, paint booths, body and detail shops, wash racks, oil water separators, and machine and parts washing areas. The number of borings and samples to be collected at each concern at each site in listed in Table A1. Below is a list of the number and depths of each boring to be drilled by type of concern for Sites 1, 2 and 4 through 7:

Type of Concern – Sites 1 through 7	Boring Per Concern	Samples per Boring	Boring Depth (feet)
above-ground storage tanks	1	1	5
below-ground storage tanks	1	1	25
hazardous material storage areas	1	1	5
paint booths/body and detail shops wash racks	2	1	5
oil water separators	1	1	15
machine and parts washing areas	1 except Site 4 which has 4 borings	1	5

The Other Identified Concerns at Site 8 include possible presence of former underground storage tanks, a possible sump and two hydraulics lifts (for simplicity the two possible former lifts for Site 8 have been incorporated into Task 3). While there are no specific data available regarding the presence of the tank, for scoping purposes we have presumed the presence of these tanks with the quantities and sizes not known. The initial part of Task 3 for Site 8 is conducting a historical search using readily available photographs to look for the possible locations of the underground storage tanks followed by the conduction a geophysical survey on the parcel to look for the presence of buried tanks.

A California registered geophysicist will perform the investigation using a combination of ground penetrating radar (GPR) and electromagnetics (EM). In general, geophysical data will be collected along co-located EM and GPR survey lines crossing the entire site. To the extent allowed by site conditions, parallel survey lines spaced approximately 25 feet apart in the north-south direction and along east-west tie lines spaced approximately 50 feet apart. The EM survey will be performed first and followed by the GPR survey work.

The results of the historical photo review and the geophysics survey will be used to identify the locations of the borings to be drilled to evaluate soil conditions in the vicinity of the tanks. If the geophysics or aerial photo review does not provide any indications regarding the former tank locations, the borings will be drilled at evenly spaced locations around Site 8. For estimating purposes we have allocated six 30-foot borings for the diesel and gasoline tanks and three 30-foot borings for the waste oil tank. We have also allocated borings for a possible hazardous material storage areas, oil water separators, and hydraulic lifts. A summary of the borings planned for Site 8 is presented below:

Type of Concern – Site 8	Boring Per Concern	Samples per Boring	Boring Depth (feet)
underground storage tanks - gasoline	3	2	30
underground storage tanks - diesel	3	2	30
underground storage tanks – waste oil	3	2	30
hazardous material storage areas	2	1	5
oil water separators	2	1	15
hydraulic lifts	2	2	25

A summary of the total number of concerns, borings and samples to be collected and analyzed at each Site is listed in Tables 1 and 2. The borings will be drilled using truck-mounted Geoprobe, direct-push drilling equipment (the use of limited access or hand-auger drilling equipment is only presumed necessary in the parts/machine room at Site 4). Prior to drilling the concrete floor around each lift will be cored at the location cleared in Task 1. We assumed for costing purposes that the concrete is no greater then 5 inches thick.

The borings will be logged and samples collected as described in Task 2a. Samples to be collect for a laboratory analyses as assumed to be. One sample from each boring will be submitted for laboratory analyses. Assuming no indications of contamination are noted the deepest sample from each boring will be submitted for analyses. If there are indications of contamination, either visual, olfactory signs and/or PID readings the sample showing signs of contamination will be tested.

Task 4 – Asbestos and Lead Paint Evaluation

No lead paint or asbestos testing within the buildings is contemplated at this time.

Task 5 – Investigation Derived Waste Management

Investigation derived waste will be placed in 55-gallon DOT approved drums. The drums will be labeled and left on the Site where the waste was generated. We have assumed one "profile" analysis per site will be required for each Site and that multiple profiles will not be required by the disposal facilities. We have also presumed that disposal costs will not exceed $300 per site.

NCE presumes that each facility has an active EPA identification number that can be used for the purposes of disposing the waste. In addition, we assume that the property owner (or designated representative) will be responsible for signing any waste manifests. NCE will not sign waste manifests and has assumed that we are not responsible for securing and EPA ID Number. In addition, NCE has not included costs for the payment of any BOE or other taxes that may be required and is the responsibility of the property owners.

Task 6 – Data Analysis and Reporting

Upon receipt of all data NCE will review the data and prepare a report. The data will be tabularized along with appropriate published regulatory screening levels. A report will be prepared for each Site. The reports will include maps showing the locations of each boring, borings logs along with a description of the investigation methods and findings. The base map to be used for the reports is the Google Earth Pro aerial photograph used to prepare the scoping documents. The Site 8 report will include geophysical maps and a description of the geophysical findings. The reports are assumed to be brief data reports. For estimating purposes we have assumed that one draft and one final of each report will be prepared, that comments from the property owners on the reports will be collated by the City into one summarized set of comments, and that all reports will be submitted to the City in electronic format through NCE's file sharing network.

Task 7 – Project Management

This task assumes routine project management functions including budget tracking, invoicing, client telephone conference, and meetings. We have assumed a minimal number of meetings will be required during implementation of this project.

FEE ESTIMATE & SCHEDULE

NCE's estimated fee for the above scope of work is estimated to be $230,880.00. A summary and a detail of the fee estimate by Site and by task are provided in the attached Cost Total by Site table. We will conduct the work on a time and materials basis in accordance the City's agreement and our attached Schedule of Charges. The anticipated schedule for the project is attached. We will do everything reasonably possible to maintain this project schedule.

NCE understands that the current Site owners will be responsible for a certain portion of the payment to NCE. Except for Site 8, all the property owners are required to make payment in full to NCE prior to the start of work. No work will occur until payment has been received from the property owners and until NCE has received a notice to proceed from the City.

Based on the City's request NCE will hold the funds in our bank account. During execution of the project NCE will invoice the City per the contract between the City and NCE. The invoice will show the charges against the project for each invoicing period. The invoice will also show a credit and remaining fund balance on each invoice until the funds are depleted. At that time NCE will expect payment of each invoice by the City. Each invoice submit to the City will also be accompanied by a cover letter requesting explicit, written approval of each invoice.

We appreciate the opportunity to submit this supplemental proposal to the City of Sacramento. .
Pease contact either of the undersigned at 916-388-5655 with any questions.

Sincerely,

NICHOLS CONSULTING ENGINEERS, Chtd.

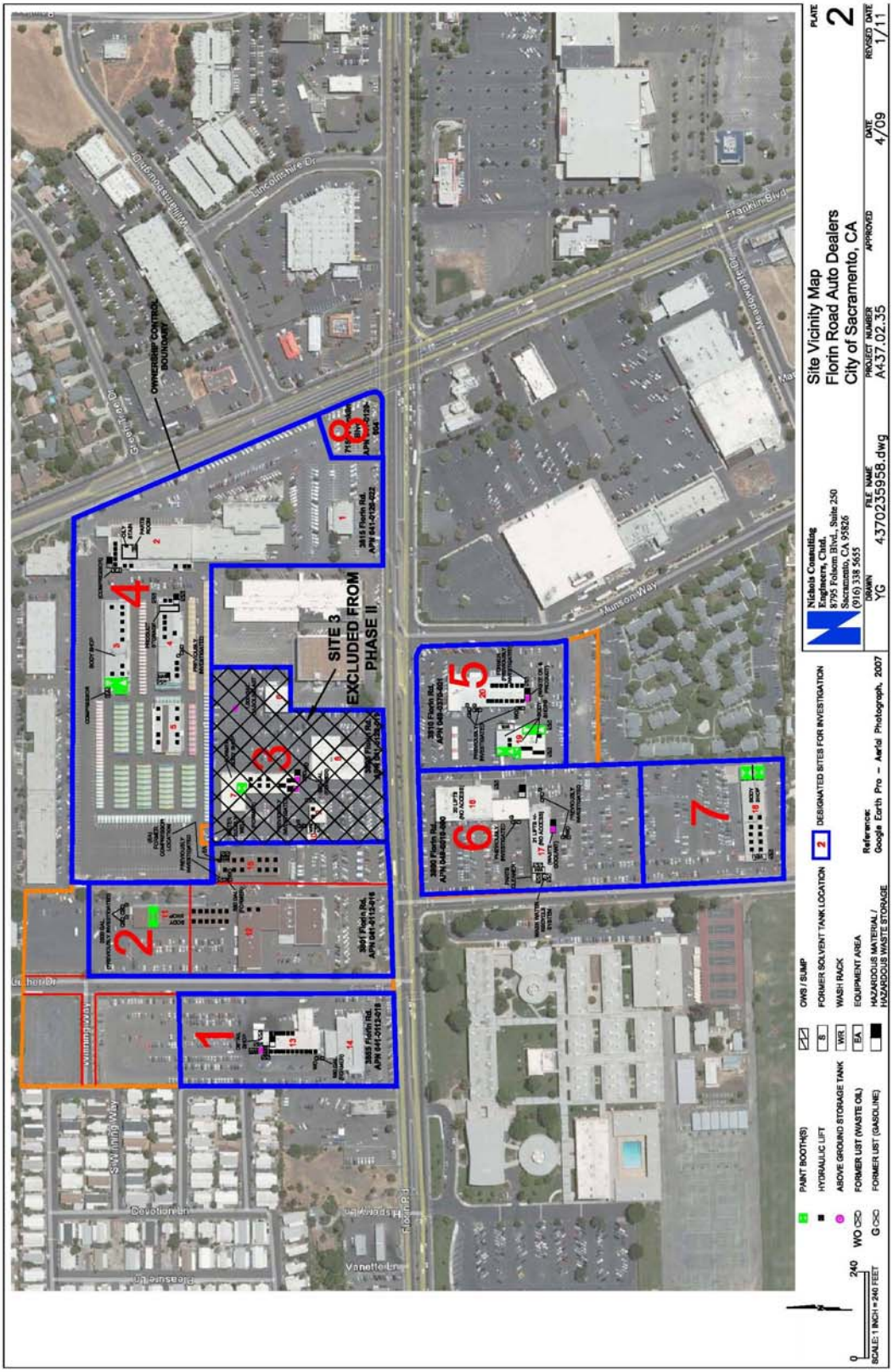
Michael J. Leacox, C.E.G.
Principal

Gregory L. Fasiano, P.G.
Principal

Enclosures Plate 2 from the SAP, Excluding Site 3
Table A1 from SAP, Excluding Site 3
Cost Summary and Task Costing Details

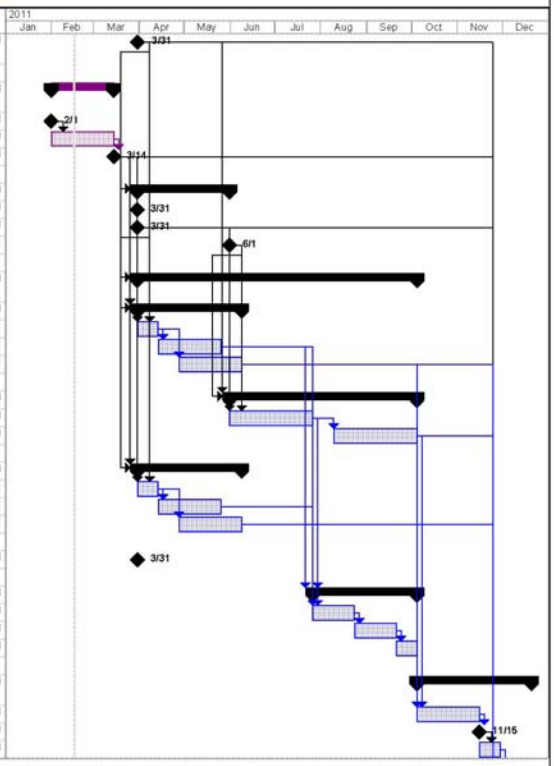
Summary of Estimate for Phase II Assessment
Florin Auto Dealers Project
City of Sacramento, CA
2/28/2011

		Site 1	Site 2	Site 3	Site 4	Site 5	Site 6	Site 7	Site 8	
	Owner	Creedon	Creedon	Vaira	Florin Road Enterprises	Snider	Snider	Snider	Sugarman	Totals
	Address	3655 Florin Road	3801 Florin Road	3805 Florin Road	3815 Florin Road	3810 Florin Road	3800 Florin Road	3800 Florin Road	7150 Franklin Road	
Task 1	Mobilization	1,552	1,552	1,552	1,552	1,552	1,552	1,552	3,172	12,484
Task 2a	Hydraulic Lifts Drilled	17,358	19,359	-	8,414	-	-	10,589	-	55,720
Task 2b	Hydraulic Lifts Pulled	-	1,764	3,919	7,915	7,610	10,698	-	-	27,987
Task 3	Other Identified Concerns Subsurface Investigation	11,760	9,855	12,431	14,698	16,915	10,443	8,460	27,285	99,416
Task 4	Asbestos and Lead Paint Evaluation	-	-	-	-	-	-	-	-	-
Task 5	Investigation Derived Waste Management	769	769	769	769	769	769	769	769	5,383
Task 6	Data Analysis and Reporting	3,384	3,384	3,384	3,384	3,384	3,384	3,384	3,384	23,688
Task 7	Project Management	886	886	886	886	886	886	886	886	6,202
	Totals	35,709	37,569	22,941	37,618	31,116	27,732	25,640	35,496	230,880


OWNERSHIP CONTROL BOUNDARY
SITE 3 EXCLUDED FROM PHASE II
1
2
3
4
5
6
7
8
Devotion Ln
Vanette Ln
Lincolnshire Dr
Franklin Blvd
Humson Way
Florin Rd
PAINT BOOTH(S)
HYDRAULIC LIFT
ABOVE GROUND STORAGE TANK
FORMER UST (WASTE OIL)
FORMER UST (GASOLINE)
OWS / SUMP
FORMER SOLVENT TANK LOCATION
WASH RACK
EQUIPMENT AREA
HAZARDOUS MATERIAL / HAZARDOUS WASTE STORAGE
DESIGNATED SITES FOR INVESTIGATION
SCALE: 1 INCH = 240 FEET
Reference: Google Earth Pro – Aerial Photograph, 2007
Nichols Consulting
Environmental Engineers, Chtd.
8795 Folsom Blvd., Suite 250
Sacramento, CA 95826
(916) 338 5655
Site Vicinity Map
Florin Road Auto Dealers
City of Sacramento, CA
DRAWN YG
FILE NAME 4370235958.dwg
PROJECT NUMBER A4370235.35
APPROVED
DATE 4/09
REVISED DATE 1/11
PLATE 2

Schedule (Expanded Scope of Work Including Tasks A & B)
Florin Road Auto Dealers Phase II
Sacramento, CA

ID	Task Name	Duration	Start	Finish
1	Contract Award	0 days	Thu 3/31/11	Thu 3/31/11
2				
3	EPA Reviews & Approvals	30 days	Tue 2/1/11	Mon 3/14/11
4	Submit SAP to EPA	0 days	Tue 2/1/11	Tue 2/1/11
5	EPA Review of SAP	30 days	Tue 2/1/11	Mon 3/14/11
6	EPA Approval of SAP	0 days	Mon 3/14/11	Mon 3/14/11
7				
8	Property Owner Requirements	44 days	Thu 3/31/11	Wed 6/1/11
9	Execution of Contract With City	0 days	Thu 3/31/11	Thu 3/31/11
10	Funding of Phase II Investigation	0 days	Thu 3/31/11	Thu 3/31/11
11	Lift Removal Contractor Onsite	0 days	Wed 6/1/11	Wed 6/1/11
12				
13	Task 2 - Hydraulic Lifts	134 days	Thu 3/31/11	Tue 10/4/11
14	Task 2a - Hydraulic Lifts Drilled	50 days	Thu 3/31/11	Wed 6/8/11
15	Mob to Field	10 days	Thu 3/31/11	Wed 4/13/11
16	Conduct Field Investigation	30 days	Thu 4/14/11	Wed 5/25/11
17	Analytical Testing	30 days	Thu 4/28/11	Wed 6/8/11
18				
19	Task 2b - Hydraulic Lifts Sampled	90 days	Wed 6/1/11	Tue 10/4/11
20	Conduct Field Sampling	40 days	Wed 6/1/11	Tue 7/26/11
21	Analytical Testing	40 days	Wed 8/10/11	Tue 10/4/11
22				
23	Task 3 - Other Ident. Concerns	50 days	Thu 3/31/11	Wed 6/8/11
24	Mob to Field	10 days	Thu 3/31/11	Wed 4/13/11
25	Conduct Field Investigation	30 days	Thu 4/14/11	Wed 5/25/11
26	Analytical Testing	30 days	Thu 4/28/11	Wed 6/8/11
27				
28	Task 4 - Asbestos and Lead Paint (Removed from Scope)	0 days	Thu 3/31/11	Thu 3/31/11
29				
30	Task 5 - Investigation Derived Waste	50 days	Wed 7/27/11	Tue 10/4/11
31	Profile Waste	20 days	Wed 7/27/11	Tue 8/23/11
32	Waste Disposal Alternatives	20 days	Wed 8/24/11	Tue 9/20/11
33	Waste Disposal	10 days	Wed 9/21/11	Tue 10/4/11
34				
35	Task 6 - Data Analysis and Reporting	55 days	Wed 10/5/11	Tue 12/20/11
36	Prepare Draft Report	30 days	Wed 10/5/11	Tue 11/15/11
37	Submit Draft Report	0 days	Tue 11/15/11	Tue 11/15/11
38	City Review of Draft Report	10 days	Wed 11/16/11	Tue 11/29/11



Project: Florin Schedule
Date: Wed 2/16/11

Task | Progress | Summary | External Tasks | Deadline
Split | Milestone | Project Summary | External Milestone

Page 1

Schedule (Expanded Scope of Work Including Tasks A & B)
Florin Road Auto Dealers Phase II
Sacramento, CA

ID	Task Name	Duration	Start	Finish
39	**City Submit Comments on Draft Report**	0 days	Tue 11/29/11	Tue 11/29/11
40	**Prepare Final Report**	15 days	Wed 11/30/11	Tue 12/20/11
41	**Submit Final Report**	0 days	Tue 12/20/11	Tue 12/20/11
42				
43	**Task 7 - Project Management**	**11 days?**	**Tue 11/29/11**	**Wed 12/14/11**
44	**City Meetings**	**5 days**	**Tue 11/29/11**	**Tue 12/6/11**
45	Kick Off Meeting/Mobilization Meeting	0 days	Tue 11/29/11	Tue 11/29/11
46	Meeting to Discuss Phase II Findings	0 days	Tue 11/29/11	Tue 11/29/11
47	Meeting to Discuss Draft Report	0 days	Tue 12/6/11	Tue 12/6/11
48	**Property Owner Meetings**	**11 days?**	**Tue 11/29/11**	**Wed 12/14/11**
49	Mobilization Meeting	0 days	Tue 11/29/11	Tue 11/29/11
50	Meeting to Discuss Findings	1 day?	Wed 12/14/11	Wed 12/14/11

Project: Florin Schedule
Date: Wed 2/16/11

Task | Progress | Summary | External Tasks | Deadline
Split | Milestone | Project Summary | External Milestone

Page 2

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

FEE SCHEDULE/MANNER OF PAYMENT

1. **CONTRACTOR's Compensation.** The total of all fees paid to the CONTRACTOR for the performance of all services set forth in Exhibit A, including normal revisions (hereafter the "Services"), and for all authorized Reimbursable Expenses, shall not exceed the total sum of **$230,880.00.**

2. **Billable Rates.** CONTRACTOR shall be paid for the performance of Services on an hourly rate, daily rate, flat fee, lump sum or other basis, as set forth in Attachment 1 to Exhibit B, attached hereto and incorporated herein.

3. **CONTRACTOR's Reimbursable Expenses.** Reimbursable Expenses shall be limited to actual expenditures of CONTRACTOR for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance by CITY.

4. **Payments to CONTRACTOR.**

   A. Payments to CONTRACTOR shall be made within a reasonable time after receipt of CONTRACTOR's invoice, said payments to be made in proportion to services performed or as otherwise specified in Attachment 1 to Exhibit B. CONTRACTOR may request payment on a monthly basis. CONTRACTOR shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of CITY.

   B. All invoices submitted by CONTRACTOR shall contain the following information:

      (1) Job Name
      (2) Description of services billed under this invoice, and overall status of project
      (3) Date of Invoice Issuance
      (4) Sequential Invoice Number
      (5) CITY's Purchase Order Number
      (6) Total Contract Amount
      (7) Amount of this Invoice (Itemize all Reimbursable Expenses)
      (8) Total Billed to Date
      (9) Total Remaining on Contract
      (10) Updated project schedule. This shall identify those steps that shall be taken to bring the project back on schedule if it is behind schedule.

   C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to CONTRACTOR for correction. CITY shall not be responsible for delays in payment to CONTRACTOR resulting from CONTRACTOR's failure to comply with the invoice format described below.

D. Requests for payment shall be sent to:

Community Development Department
300 Richards Blvd., 3rd Floor
Sacramento, CA 95811
Attn: Desmond Parrington, Infill Coordinator

5. Additional Services. Additional Services are those services related to the scope of services of CONTRACTOR set forth in Exhibit A but not anticipated at the time of execution of this Agreement. Additional Services shall be provided only when a Supplemental Agreement authorizing such Additional Services is approved by CITY in accordance with CITY's Supplemental Agreement procedures. CITY reserves the right to perform any Additional Services with its own staff or to retain other consultants to perform said Additional Services.

6. Accounting Records of CONTRACTOR. During performance of this Agreement and for a period of three (3) years after completing all Services and Additional Services hereunder, CONTRACTOR shall maintain all accounting and financial records related to this Agreement, including, but not limited to, records of CONTRACTOR's costs for all Services and Additional Services performed under this Agreement and records of CONTRACTOR's Reimbursable Expenses, in accordance with generally accepted accounting practices, and shall keep and make such records available for inspection and audit by representatives of the CITY upon reasonable written notice.

7. Taxes. CONTRACTOR shall pay, when and as due, any and all taxes incurred as a result of CONTRACTOR's compensation hereunder, including estimated taxes, and shall provide CITY with proof of such payment upon request. CONTRACTOR hereby agrees to indemnify CITY for any claims, losses, costs, fees, liabilities, damages or injuries suffered by CITY arising out of CONTRACTOR's breach of this Section 7.

Attachment 1 to Exhibit B
Billing Rates

NICHOLS CONSULTING ENGINEERS, Chtd.
Engineering and Environmental Services

8795 Folsom Blvd., Suite 250 • Sacramento, CA 95826 • 916.388.5655 • FAX 916.388.5676

Hourly Rates
Florin Road Auto Dealers Phase II Assessment

Name	Title	Hourly Rate
Mike Leacox	Principal	$190.00
Greg Fasiano	Principal	$190.00
Franz Haidinger	Associate Engineer	$155.00
Brett Bardsley	Senior Geologist	$120.00
Yona Golan	Project Geologist	$100.00
Frank Drewes	Project Geologist	$100.00
Jason Herberg	Staff Engineer	$85.00
Kimberly Seaman	Staff Scientist	$85.00
Melissa Ferguson	Clerical	$50.00

Bringing the State of the Art to the Standard of Practice

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [*check one*]

X Not furnish any facilities or equipment for this Agreement; or

____ furnish the following facilities or equipment for the Agreement; [*list, if applicable*]

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

GENERAL PROVISIONS

1. **Independent Contractor**.

A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither CONTRACTOR nor CONTRACTOR's assigned personnel shall be entitled to any benefits payable to employees of CITY. CITY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this Agreement, and CONTRACTOR shall be issued a Form 1099 for its services hereunder. As an independent contractor, CONTRACTOR hereby agrees to indemnify and hold CITY harmless from any and all claims that may be made against CITY based upon any contention by any of CONTRACTOR's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any Services under this Agreement. (As used in this Exhibit D, the term "Services" shall include both Services and Additional Services as such terms are defined elsewhere in this Agreement.)

B. It is further understood and agreed by the parties hereto that CONTRACTOR, in the performance of its obligations hereunder, is subject to the control and direction of CITY as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by CONTRACTOR for accomplishing such results. To the extent that CONTRACTOR obtains permission to, and does, use CITY facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the CONTRACTOR's sole discretion based on the CONTRACTOR's determination that such use will promote CONTRACTOR's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the CITY does not require that CONTRACTOR use CITY facilities, equipment or support services or work in CITY locations in the performance of this Agreement.

C. If, in the performance of this Agreement, any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR. It is further understood and agreed that CONTRACTOR shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel and subcontractors.

D. The provisions of this Section 1 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between CITY and CONTRACTOR. CONTRACTOR may represent, perform services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of Section 5, below.

2. Licenses; Permits, Etc. CONTRACTOR represents and warrants that CONTRACTOR has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature that are legally required for CONTRACTOR to practice its profession or provide any services under the Agreement. CONTRACTOR represents and warrants that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals that are legally required for CONTRACTOR to practice its profession or provide such Services. Without limiting the generality of the foregoing, if CONTRACTOR is an out-of-state corporation, CONTRACTOR warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.

3. Time. CONTRACTOR shall devote such time and effort to the performance of Services pursuant to this Agreement as is necessary for the satisfactory and timely performance of CONTRACTOR's obligations under this Agreement. Neither party shall be considered in default of this Agreement, to the extent that party's performance is prevented or delayed by any cause, present or future, that is beyond the reasonable control of that party.

4. CONTRACTOR Not Agent. Except as CITY may specify in writing, CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to bind CITY to any obligations whatsoever.

5. Conflicts of Interest. CONTRACTOR covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of CITY or that would in any way hinder CONTRACTOR's performance of Services under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of CITY. CONTRACTOR agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY at all times during the performance of this Agreement. If CONTRACTOR is or employs a former officer or employee of the CITY, CONTRACTOR and any such employee(s) shall comply with the provisions of Sacramento City Code Section 2.16.090 pertaining to appearances before the City Council or any CITY department, board, commission or committee.

6. Confidentiality of CITY Information. During performance of this Agreement, CONTRACTOR may gain access to and use CITY information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright,

data, and other vital information (hereafter collectively referred to as "City Information") that are valuable, special and unique assets of the CITY. CONTRACTOR agrees to protect all City Information and treat it as strictly confidential, and further agrees that CONTRACTOR shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of CITY. In addition, CONTRACTOR shall comply with all CITY policies governing the use of the CITY network and technology systems, as set forth in applicable provisions of the City of Sacramento Administrative Policy Instructions # 30. A violation by CONTRACTOR of this Section 6 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

7. CONTRACTOR Information.

A. CITY shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement. In this Agreement, the term "information" shall be construed to mean and include: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostatting, photographing, computer models, and any other computerized data and every other means of recording any form of information, communications, or representation, including letters, works, pictures, drawings, sounds, or symbols, or any combination thereof. CONTRACTOR shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose by CITY.

B. CONTRACTOR shall fully defend, indemnify and hold harmless CITY, its officers and employees, and each and every one of them, from and against any and all claims, actions, lawsuits or other proceedings alleging that all or any part of the information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement infringes upon any third party's trademark, trade name, copyright, patent or other intellectual property rights. CITY shall make reasonable efforts to notify CONTRACTOR not later than ten (10) days after CITY is served with any such claim, action, lawsuit or other proceeding, provided that CITY's failure to provide such notice within such time period shall not relieve CONTRACTOR of its obligations hereunder, which shall survive any termination or expiration of this Agreement.

C. All proprietary and other information received from CONTRACTOR by CITY, whether received in connection with CONTRACTOR's proposal to CITY or in connection with any Services performed by CONTRACTOR, will be disclosed upon receipt of a request for disclosure, pursuant to the California Public Records Act; provided, however, that, if any information is set apart and clearly marked "trade secret" when it is provided to CITY, CITY shall give notice to CONTRACTOR of any request for the disclosure of such information. The CONTRACTOR shall then have five (5) days from the date it receives such notice to enter into an agreement with the CITY, satisfactory to the City Attorney, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney fees) incurred by CITY in any legal action to compel the disclosure of such information under the California Public Records Act. The CONTRACTOR shall have sole responsibility for defense of the actual "trade secret" designation of such information.

D. The parties understand and agree that any failure by CONTRACTOR to respond to the

notice provided by CITY and/or to enter into an agreement with CITY, in accordance with the provisions of subsection C, above, shall constitute a complete waiver by CONTRACTOR of any rights regarding the information designated "trade secret" by CONTRACTOR, and such information shall be disclosed by CITY pursuant to applicable procedures required by the Public Records Act.

8. Standard of Performance. CONTRACTOR shall perform all Services required pursuant to this Agreement in the manner and according to the standards currently observed by a competent practitioner of CONTRACTOR's profession in California. All products of whatsoever nature that CONTRACTOR delivers to CITY pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in CONTRACTOR's profession, and shall be provided in accordance with any schedule of performance specified in Exhibit A. CONTRACTOR shall assign only competent personnel to perform Services pursuant to this Agreement. CONTRACTOR shall notify CITY in writing of any changes in CONTRACTOR's staff assigned to perform the Services required under this Agreement, prior to any such performance. In the event that CITY, at any time during the term of this Agreement, desires the removal of any person assigned by CONTRACTOR to perform Services pursuant to this Agreement, because CITY, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, CONTRACTOR shall remove such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person.

9. Term; Suspension; Termination.

A. This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.

B. CITY shall have the right at any time to temporarily suspend CONTRACTOR's performance hereunder, in whole or in part, by giving a written notice of suspension to CONTRACTOR. If CITY gives such notice of suspension, CONTRACTOR shall immediately suspend its activities under this Agreement, as specified in such notice.

C. CITY shall have the right to terminate this Agreement at any time by giving a written notice of termination to CONTRACTOR. If CITY gives such notice of termination, CONTRACTOR shall immediately cease rendering Services pursuant to this Agreement. If CITY terminates this Agreement:

(1) CONTRACTOR shall, not later than five days after such notice of termination, deliver to CITY copies of all information prepared pursuant to this Agreement.

(2) CITY shall pay CONTRACTOR the reasonable value of Services rendered by CONTRACTOR prior to termination; provided, however, CITY shall not in any manner be liable for lost profits that might have been made by CONTRACTOR had the Agreement not been terminated or had CONTRACTOR completed the Services required by this Agreement. In this regard, CONTRACTOR shall furnish to CITY such financial information as in the judgment of the CITY is necessary for CITY to determine the reasonable value of the Services rendered

by CONTRACTOR. The foregoing is cumulative and does not affect any right or remedy that CITY may have in law or equity.

10. Indemnity.

A. Indemnity: CONTRACTOR shall defend, hold harmless and indemnify CITY, its officers and employees, and each and every one of them, from and against any and all claims, actions, damages, costs, liabilities, demands, losses, judgments, penalties and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Claims"), including but not limited to Claims arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, that arise out of, pertain to or relate to any negligent act or omission, recklessness or willful misconduct of CONTRACTOR, its sub-consultants, subcontractors or agents, and their respective officers and employees, in connection with performance of or failure to perform this Agreement, whether or not such Claims are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense to the extent arising from (i) the sole negligence or willful misconduct of, or defects in design furnished by, CITY, its agents, servants, or independent contractors who are directly responsible to CITY, or (ii) the active negligence of CITY.

B. Insurance Policies; Intellectual Property Claims: The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY's rights under this Section 10, nor shall the limits of such insurance limit the liability of CONTRACTOR hereunder. This Section 10 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 7.B., above. The provisions of this Section 10 shall survive any expiration or termination of this Agreement.

11. Insurance Requirements. During the entire term of this Agreement, CONTRACTOR shall maintain the insurance coverage described in this Section 11.

Full compensation for all premiums that CONTRACTOR is required to pay for the insurance coverage described herein shall be included in the compensation specified for the Services provided by CONTRACTOR under this Agreement. No additional compensation will be provided for CONTRACTOR's insurance premiums.

It is understood and agreed by the CONTRACTOR that its liability to the CITY shall not in any way be limited to or affected by the amount of insurance coverage required or carried by the CONTRACTOR in connection with this Agreement.

A. Minimum Scope & Limits of Insurance Coverage

(1) Commercial General Liability Insurance, providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less

than one million dollars ($1,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations coverage for the term of the policy.

(2) Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars ($1,000,000) per occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the CONTRACTOR.

No automobile liability insurance shall be required if CONTRACTOR completes the following certification:

> "I certify that a motor vehicle will not be used in the performance of any work or services under this agreement." _____ (CONTRACTOR initials)

(3) Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than one million dollars ($1,000,000). The Worker's Compensation policy shall include a waiver of subrogation for contracts involving construction or maintenance, or if required by the CITY by selecting the option below:

> _____ Workers' Compensation waiver of subrogation in favor of the City is required for all work performed by the CONTRACTOR.

No Workers' Compensation insurance shall be required if CONTRACTOR completes the following certification:

> "I certify that my business has no employees, and that I do not employ anyone. I am exempt from the legal requirements to provide Workers' Compensation insurance." _____ (CONTRACTOR initials)

(4) Professional Liability Insurance providing coverage on a claims made basis for errors, omissions or malpractice with limits of not less than one million ($1,000,000) dollars if required by the CITY under Exhibit A, Section 2.

B. Additional Insured Coverage

(1) Commercial General Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insureds as respects general liability arising out of activities performed by or on behalf of CONTRACTOR, products and completed operations of CONTRACTOR, and premises owned, leased or used by CONTRACTOR. The general liability additional insured endorsement must be signed by an authorized representative of the insurance carrier for contracts involving construction or maintenance, or if required by the CITY by selecting the option below:

_____ Additional insured endorsement must be signed by an authorized representative of the insurance carrier.

If the policy includes a blanket additional insured endorsement or contractual additional insured coverage, the above signature requirement may be fulfilled by submitting that document with a signed declaration page referencing the blanket endorsement or policy form.

(2) Automobile Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insureds as respects auto liability.

C. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

(1) Except for professional liability, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officials, employees and volunteers. Any insurance or self-insurance maintained by CITY, its officials, employees or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

(2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its officials, employees or volunteers.

(3) Coverage shall state that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) CITY will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

D. Acceptability of Insurance

Insurance shall be placed with insurers with a Bests' rating of not less than A:V. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this Section 11 must be declared to and approved by the CITY Risk Management Division in writing prior to execution of this Agreement.

E. Verification of Coverage

(1) CONTRACTOR shall furnish CITY with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.

(2) The CITY may withdraw its offer of contract or cancel this Agreement if the certificates of insurance and endorsements required have not been provided

prior to execution of this Agreement. The CITY may withhold payments to CONTRACTOR and/or cancel the Agreement if the insurance is canceled or CONTRACTOR otherwise ceases to be insured as required herein.

F. Subcontractors

CONTRACTOR shall require and verify that all sub-consultants and subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsection A, above.

12. Equal Employment Opportunity. During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:

A. Compliance With Regulations: CONTRACTOR shall comply with the Executive Order 11246 entitled "Equal Opportunity in Federal Employment", as amended by Executive Order 11375 and 12086, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), hereinafter collectively referred to as the "Regulations".

B. Nondiscrimination: CONTRACTOR, with regards to the work performed by it after award and prior to completion of the work pursuant to this Agreement, shall not discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation in selection and retention of subcontractors, including procurement of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in discrimination prohibited by the Regulations.

C. Solicitations for Subcontractors, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by CONTRACTOR for work to be performed under any subcontract, including all procurement of materials or equipment, each potential subcontractor or supplier shall be notified by CONTRACTOR of CONTRACTOR's obligation under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation.

D. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or by any orders or instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of noncompliance by CONTRACTOR with the nondiscrimination provisions of this Agreement, the CITY shall impose such sanctions as it may determine to be appropriate including, but not limited to:

(1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;

(2) Cancellation, termination, or suspension of the Agreement, in whole or in part.

F. Incorporation of Provisions: CONTRACTOR shall include the provisions of subsections A through E, above, in every subcontract, including procurement of materials and leases of equipment, unless exempted by the Regulations, or by any order or instructions issued pursuant thereto. CONTRACTOR shall take such action with respect to any subcontract or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, CONTRACTOR may request CITY to enter such litigation to protect the interests of CITY.

13. Entire Agreement. This document, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by CONTRACTOR, and by CITY, in accordance with applicable provisions of the Sacramento City Code.

14. Severability. If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

15. Waiver. Neither CITY acceptance of, or payment for, any Service or Additional Service performed by CONTRACTOR, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

16. Enforcement of Agreement. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

17. Assignment Prohibited. The expertise and experience of CONTRACTOR are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities who will fulfill the obligations imposed on CONTRACTOR under this Agreement. In recognition of this interest, CONTRACTOR shall not assign any right or obligation pursuant to this Agreement without the written consent of the CITY. Any attempted or purported assignment without CITY's written consent shall be void and of no effect.

18. Binding Effect. This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.

19. Use Tax Requirements. During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:

A. Use Tax Direct Payment Permit: For all leases and purchases of materials, equipment, supplies, or other tangible personal property used to perform the Contract or Agreement

and shipped from outside California, the Contractor and any subcontractors leasing or purchasing such materials, equipment, supplies or other tangible personal property shall obtain a Use Tax Direct Payment Permit from the California State Board of Equalization ("SBE") in accordance with the applicable SBE criteria and requirements.

B. Sellers Permit: For any construction contract and any construction subcontract in the amount of $5,000,000 or more, Contractor and the subcontractor(s) shall obtain sellers permits from the SBE and shall register the jobsite as the place of business for the purpose of allocating local sales and use tax to the City. Contractor and its subcontractors shall remit the self-accrued use tax to the SBE, and shall provide a copy of each remittance to the City.

C. The above provisions shall apply in all instances unless prohibited by the funding source for the Contract or Agreement.

EXHIBIT E

REQUIREMENTS OF THE NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

INTRODUCTION

The Sacramento Non-Discrimination In Employee Benefits Code (the "Ordinance"), codified as Sacramento City Code Chapter 3.54, prohibits City contractors from discriminating in the provision of employee benefits between employees with spouses and employees with domestic partners, and between the spouses and domestic partners of employees.

APPLICATION

The provisions of the Ordinance apply to any contract or agreement (as defined below), between a Contractor and the City of Sacramento, in an amount exceeding $25,000.00. The Ordinance applies to that portion of a contractor's operations that occur: (i) within the City of Sacramento; (ii) on real property outside the City of Sacramento if the property is owned by the City or if the City has a right to occupy the property; or (iii) at any location where a significant amount of work related to a City contract is being performed.

The Ordinance does not apply: to subcontractors or subcontracts of any Contractor or contractors; to transactions entered into pursuant to cooperative purchasing agreements approved by the Sacramento City Council; to legal contracts of other governmental jurisdictions or public agencies without separate competitive bidding by the City; where the requirements of the ordinance will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement; to permits for excavation or street construction; or to agreements for the use of City right-of-way where a contracting utility has the power of eminent domain.

DEFINITIONS

As set forth in the Ordinance, the following definitions apply:

"Contract" means an agreement for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided, at the expense of the City or to be paid out of moneys deposited in the treasury or out of the trust money under the control or collected by the City. "Contract" also means a written agreement for the exclusive use ("exclusive use" means the right to use or occupy real property to the exclusion of others, other than the right reserved by the fee owner) or occupancy of real property for a term exceeding 29 days in any calendar year, whether by singular or cumulative instrument, (i) for the operation or use by others of real property owned or controlled by the City for the operation of a business, social, or other establishment or organization, including leases, concessions, franchises and easements, or (ii) for the City's use or occupancy of real property owned by others, including leases, concessions, franchises and easements.

"Contract" shall not include: a revocable at-will use or encroachment permit for the use of or encroachment on City property regardless of the ultimate duration of such permit; excavation, street construction or street use permits; agreements for the use of City right-of-way where a contracting utility has the power of eminent domain; or agreements governing the use of City property that constitute a public forum for activities that are primarily for the purpose of espousing or advocating causes or ideas

and that are generally protected by the First Amendment to the United States Constitution or that are primarily recreational in nature.

"Contractor" means any person or persons, firm partnership or corporation, company, or combination thereof, that enters into a Contract with the City. "Contractor" does not include a public entity.

"Domestic Partner" means any person who has a currently registered domestic partnership with a governmental entity pursuant to state or local law authorizing the registration.

"Employee Benefits" means bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefit given to employees. "Employee benefits" shall not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state.

CONTRACTOR'S OBLIGATION TO PROVIDE THE CITY WITH DOCUMENTATION AND INFORMATION

Contractor shall provide the City with documentation and information verifying its compliance with the requirements of the Ordinance within ten (10) days of receipt of a request from the City. Contractors shall keep accurate payroll records, showing, for each City Contract, the employee's name, address, Social Security number, work classification, straight time pay rate, overtime pay rate, overtime hours worked, status and exemptions, and benefits for each day and pay period that the employee works on the City Contract. Each request for payroll records shall be accompanied by an affidavit to be completed and returned by the Contractor, as stated, attesting that the information contained in the payroll records is true and correct, and that the Contractor has complied with the requirements of the Ordinance. A violation of the Ordinance or noncompliance with the requirements of the Ordinance shall constitute a breach of contract.

EMPLOYER COMPLIANCE CERTIFICATE AND NOTICE REQUIREMENTS

(a) All contractors seeking a Contract subject to the Ordinance shall submit a completed Declaration of Compliance Form, signed by an authorized representative, with each proposal, bid or application. The Declaration of Compliance shall be made a part of the executed contract, and will be made available for public inspection and copying during regular business hours.

(b) The Contractor shall give each existing employee working directing on a City contract, and (at the time of hire), each new employee, a copy of the notification provided as Attachment "A."

(c) Contractor shall post, in a place visible to all employees, a copy of the notice provided as Attachment "B."

Attachment A

YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

On …….. (date), your employer (the "Employer") entered into a contract with the City of Sacramento (the "City") for …….. (contract details), and as a condition of that contract, agreed to abide by the requirements of the City's Non-Discrimination In Employee Benefits Code (Sacramento City Code Section 3.54).

The Ordinance does not require the Employer to provide employee benefits. The Ordinance does require that if certain employee benefits are provided by the Employer, that those benefits be provided without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouse or domestic partner of employees.

The Ordinance covers any employee working on the specific contract referenced above, but only for the period of time while those employees are actually working on this specific contract.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

(Employee Benefits does not include benefits that may be preempted by federal or state law.)

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, or in the application of these employee benefits, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of the Ordinance, and after having exhausted all remedies with your employer,

You May . . .

- Submit a written complaint to the City of Sacramento, Contract Services Unit, containing the details of the alleged violation. The address is:

  City of Sacramento
  Procurement Services Division
  5730 24th Street, Bldg. 1
  Sacramento, CA 95822

- Bring an action in the appropriate division of the Superior Court of the State of California against the Employer and obtain the following remedies:

  - Reinstatement, injunctive relief, compensatory damages and punitive damages

  - Reasonable attorney's fees and costs

Attachment B

YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

If your employer provides employee benefits, they must be provided to those employees working on a City of Sacramento contract without discriminating between employees with spouses and employees with domestic partners.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

If you feel you have been discriminated against by your employer . . .

You May . . .

○ Submit a written complaint to the City of Sacramento, Contract Services Unit, containing the details of the alleged violation. The address is:

City of Sacramento
Procurement Services Division
5730 24th Street, Bldg. 1
Sacramento, CA 95822

○ Bring an action in the appropriate division of the Superior Court of the State of California against the employer and obtain reinstatement, injunctive relief, compensatory damages, punitive damages and reasonable attorney's fees and costs.

Discrimination and Retaliation Prohibited.

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of this Ordinance . . .

You May Also . . .

Submit a written complaint to the City of Sacramento, Contract Services Unit, at the same address, containing the details of the alleged violation.

Attachment

Insurance Certificates

OP ID: LB

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 02/28/11

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

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

PRODUCER
A and H Insurance, Inc.
PO Box 7340
Reno, NV 89510
WCH Enterprises Inc
775-829-2600
775-829-2607

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:
PRODUCER CUSTOMER ID #: NICHO-1

INSURED
Nichols Consulting Engineers
CHTD
1885 S Arlington Ave #111
Reno, NV 89509

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : American Casualty of Reading	20427
INSURER B : Transportation - CNA	20494
INSURER C : National Fire Ins of Hartford	20478
INSURER D :	
INSURER E :	
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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC	X	X	B1069021152	05/17/10	05/17/11	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $500 Ded	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
B	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS $100 Comp Ded	X		B1069021166	05/17/10	05/17/11	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DEDUCTIBLE X RETENTION $ 10,000			B2051542451	05/17/10	05/17/11	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
B C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WC419942750-NV WC419942795-CA	05/17/10 05/17/10	05/17/11 05/17/11	X WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
A	Property			B1069021152	05/17/10	05/17/11	BPP	262,650
B	Equipment Floate			B1069021183	05/17/10	05/17/11	Schedule	515,150

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
City of Sacramento Department,
Commmunity Development Department, Economic Development Department,
its officials, employees, & volunteers are named as additional insureds with
respects to Phase II Assessment- Florin Auto Dealers Properties.

CERTIFICATE HOLDER

The City of Sacramento
Economic Development Dept &
Community Development Dept
915 I Street Room 2000
Sacramento, CA 95814-2702

CANCELLATION

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
Leah M. Beaudette

© 1988-2009 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

INSURED: Nichols Consulting Engineers
POLICY NUMBER: B1069021152

Continental Casualty Co.
COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization: **City of Sacramento Community Development Dept, Economic Development Department, its officials, employees & volunteers**
915 I Street Room 2000
Sacramento, CA 95814-2702

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

We waive any right of recovery we may have against the person or organization shown in the Schedule because of payments we make or injury or damage arising out of "your work" done under a contract with that person or organization. The waiver applies only to the person or organization shown in the Schedule.

Leann M. Bouvette February 23, 2011

CG 24 04 11 85

COMMERCIAL LIABILITY **CGL - ENDORSEMENTS**
INSURED: Nichols Consulting Engineers **Continental Casualty Co.**
POLICY NUMBER: B1069021152

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – PRIMARY COVERAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

City of Sacramento , Community Development Dept, Economic Development Department, its officials, employees & volunteers
915 I Street Room 2000
Sacramento, CA 95814-2702

Who is an insured (Section II) is amended to include as an insured the person or organization shown in the schedule, but only with respect to liability arising out of your work for that insured by or for you.

Furthermore, the following is added to SECTION IV COMMERCIAL GENERAL LIABILITY CONDITIONS paragraph 4. Other Insurance:

4. Other Insurance

   d) This insurance is primary for the person or organization shown in the schedule, but only with respect to liability arising out of your work for that insured by or for you. Other insurance afforded to that insured will apply as excess and not contribute as primary to the insurance afforded by this endorsement.

All other terms and conditions of this policy remain unchanged.

Leah M. Beaucette
Authorized Representative
930008 Ed. 7-92

OP ID: LB

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 02/28/11

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

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

PRODUCER
A and H Insurance, Inc.
PO Box 7340
Reno, NV 89510
WCH Enterprises Inc
775-829-2600
775-829-2607

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:
PRODUCER CUSTOMER ID #: NICHO-1

INSURED
Nichols Consulting Engineers
CHTD
1885 S Arlington Ave #111
Reno, NV 89509

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Hiscox	
INSURER B : % Allrisks Ltd	
INSURER C :	
INSURER D :	
INSURER E :	
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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY						EACH OCCURRENCE	$
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
	CLAIMS-MADE / OCCUR						MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC						PRODUCTS - COMP/OP AGG	$
								$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS						BODILY INJURY (Per accident)	$
	SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident)	$
	HIRED AUTOS							$
	NON-OWNED AUTOS							$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DEDUCTIBLE							$
	RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Professional Liab			ANE115445310	05/17/10	05/17/11	Per Claim	2,000,000
	$15 K Deductible			04/01/1990 RETRO DATE			Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
RE: Phase II Assessment- Florin Auto Dealers Properties

CERTIFICATE HOLDER

The City Sacramento
Comunnity Development Dept
Economic Development Dept
915 I St Rm 2000
Sacramento, CA 95814-2702

CANCELLATION

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
Leah M. Beaudette

© 1988-2009 ACORD CORPORATION. All rights reserved.

ACORD 25 (2009/09) The ACORD name and logo are registered marks of ACORD

Corporate Signing Authority Documentation

NICHOLS CONSULTING ENGINEERS, Chtd.
Engineering and Environmental Services

8795 Folsom Blvd., Suite 250 • Sacramento, CA 95826 • 916.388.5655 • FAX 916.388.5676

March 3, 2011

Desmond Parrington, AICP, Infill Coordinator
City of Sacramento
Community Development Dept.
300 Richards Blvd., 3rd Floor
Sacramento, CA 95811

Dear Mr. Parrington:

Per your request, please accept this letter as evidence that the following managers are authorized to sign the contract with the City of Sacramento on behalf of Nichols Consulting Engineers, CHTD:

Michael J. Leacox

Gregory L. Fasiano

If you have any additional concerns, please don't hesitate to contact me.

Cordially,
NICHOLS CONSULTING ENGINEERS, Chtd.

Claude Corvino, PE GE
President

Cc: Michael J. Leacox - Nichols Consulting Engineers, Chtd.