

RESOLUTION NO. 2012-397

Adopted by the Sacramento City Council

November 20, 2012

APPROVING A TEN-YEAR AGREEMENT WITH THE SACRAMENTO CONVENTION AND VISITORS BUREAU FOR SPORTS MARKETING SERVICES AND TERMINATING CITY AGREEMENTS 2006-0257 AND 2010-0546

Recitals

- A. The Sacramento Convention and Visitors Bureau's (SCVB's) mission is to strengthen positive awareness of the City and County of Sacramento as a convention and visitor destination, thereby increasing revenues and economic development and growth for the community.
- B. The SCVB solicits and produces events that will benefit the Sacramento region. As part of its efforts, the SCVB has promoted and marketed large sporting events in the Sacramento region, including the Olympic Trials for Track and Field, the Amgen Tour of California, and the World Masters Athletics.
- C. The City and County would like to attract major professional and amateur sporting events to the Sacramento region. The SCVB is uniquely positioned to assist the City and County in this effort, and provide sports marketing and event production, based on its proven fiscal stability, organizational depth, and partnerships it has developed within the region. Therefore, the City would like to engage SCVB to provide sports marketing and event production. Accordingly, City Agreements 2006-0257 (Memorandum of Understanding Between the City of Sacramento and the Sacramento Convention and Visitors Bureau Regarding the Sacramento Sports Commission) and 2010-0546 (Memorandum of Understanding Between the City of Sacramento and the Sacramento Region Sports Education Foundation) are no longer needed.

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 a ten-year agreement with the SCVB to provide sports marketing and event production within the Sacramento region at a cost of \$141,600 annually to the City, with reimbursement to the City for the right to perform the services totaling \$400,000 by May 1, 2017 (attached as Exhibit A).

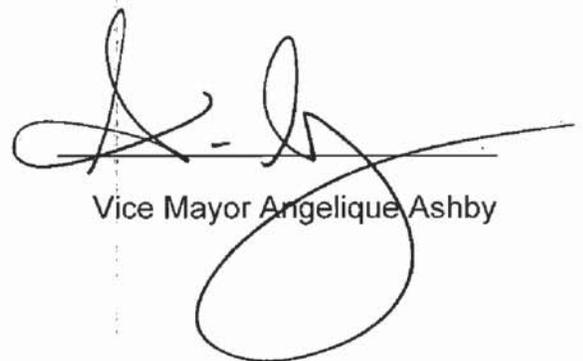
- Section 2. The City Manager or his designee is authorized to establish the appropriate budgets to fund \$141,600 for sports marketing and events to be managed by the SCVB and to transfer any remaining balance of the Sports Commission Fund (Fund 7108) to the SCVB and eliminate the Sports Commission Fund (Fund 7108).
- Section 3. The City Manager or his designee is authorized to terminate City Agreement 2006-0257 (attached as Exhibit B).
- Section 4. The City Manager or his designee is authorized to terminate City Agreement 2010-0546 (attached as Exhibit C).
- Section 5. Exhibits A, B, and C are a part of this Resolution.

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- Exhibit A Agreement between the City of Sacramento, the County of Sacramento and the Sacramento Convention and Visitors Bureau
- Exhibit B City Agreement 2006-0257
- Exhibit C City Agreement 2010-0546

Adopted by the City of Sacramento City Council on November 20, 2012 by the following vote:

- Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, and Sheedy
- Noes: None.
- Abstain: None.
- Absent: Mayor Johnson.



Vice Mayor Angelique Ashby

Attest:



Shirley Concolino, City Clerk

Department: Convention, Culture & Leisure
Division: Administration

AGREEMENT FOR SPORTS MARKETING

This Agreement, dated _____, 2012, for purposes of identification only, is between the **City of Sacramento**, a California municipal corporation (the "City"), the **County of Sacramento**, a political subdivision of the State of California (the "County"), and the **Sacramento Convention and Visitors Bureau (SCVB)**, a California non-profit mutual benefit corporation ("SCVB"). The City, County, and SCVB may be referred to collectively as "Parties" or in the singular as "Party", as the context requires.

Recitals

- A. SCVB's mission is to strengthen positive awareness of the City and County of Sacramento as a convention and visitor destination, thereby increasing revenues and economic development and growth for the community.
- B. As part of its efforts, the SCVB currently supports and produces multi-day events that include but are not limited to the Sacramento Music Festival (formerly Jazz Jubilee), California Capital Airshow, Sacramento's Wine & Dine Week, Juneteenth, Gold Rush Days and the Amgen Tour of California. In the past, the SCVB has also hosted a variety of multi-day sporting events that include but are not limited to the International Sportsmen's Expo, US Tennis Association West Coast Championships, USA Archery JOAD Nationals/World Championships, NCAA Women's Rowing Championships, Northern California Volleyball Association, Sacramento Gay & Lesbian Gold Rush Softball Tournament and the Foothill High School Annual Invitational Wrestling Tournament.
- C. The City and County would like to attract major professional and amateur sporting events to the Sacramento region. SCVB is uniquely positioned to assist the City and County in this endeavor based on SCVB's experience, proven fiscal stability, organizational depth, and various partnerships it has developed within the Sacramento region.

Based on the facts set forth in the foregoing recitals, the City, County, and SCVB agree as follows:

- 1. **Agreement Term.** The term of this Agreement shall commence on January 1, 2013, and end on June 30, 2022, unless sooner terminated as set forth in this Agreement.
- 2. **Scope of Services ("Services").**
 - a) The SCVB shall work to attract major professional and amateur sporting events to the Sacramento region, and facilitate production of those events, resulting in an economic benefit to the community;

- b) By September 1 of each year, SCVB will provide the City and County with a set of goals that reflect the SCVB's sports marketing plan for the upcoming year. The City and County may suggest amendments to this plan so that all parties agree on SCVB's sports marketing objectives for the year; and
- c) By September 1 of each year, SCVB will submit an annual report, for the previous fiscal year ending June 30, to the City and County that identifies the following:
 - 1. Number and projected economic impact of future SCVB-booked sporting events, including:
 - i. Estimated attendance
 - ii. Estimated hotel room nights to be booked
 - iii. Estimated day visitors, if applicable, and
 - iv. Anticipated level of media exposure (i.e. local, regional, national, or international); and
 - 2. Number of, and economic impact of, sporting events hosted by SCVB, for the previous fiscal year, including:
 - i. Event Attendance
 - ii. Hotel room nights booked
 - iii. Number of day visitors, if applicable, and;
 - iv. Media exposure (i.e. local, regional, national, or international); and
 - 3. Total sports marketing department budget associated with the performance of the Services.

3. **Sports Marketing Funding.**

- a) For performing the services outlined in section 2 above, SCVB shall receive the following Annual Funding:
 - 1. From the City:
 - i. By February 15, 2013, that amount earmarked for the Sacramento Sports Commission in City Fund 7108 as of the Effective Date of the Agreement less any outstanding expenses of the Sacramento Sports Commission as of December 31, 2012; and
 - ii. By August 1, 2013, and annually thereafter, \$141,600.
 - 2. From the County:
 - i. By February 15, 2013, \$100,000; and
 - ii. By August 1, 2013, and annually thereafter, \$70,000.
- b) In consideration for performing the Services, SCVB agrees to pay the City as follows:
 - 1. Due to the City:

<u>Due Date</u>	<u>Amount</u>
May 1, 2013	\$60,000
May 1, 2014	\$85,000
May 1, 2015	\$85,000
May 1, 2016	\$85,000
May 1, 2017	\$85,000

4. **License to Use “Sacramento Sports Commission”.** The City and County are the joint owners of the service mark “Sacramento Sports Commission,” together with its related logo (depicted in Exhibit A) (collectively, the “Mark”) and the good will of the commission symbolized by such a Mark. The City and County make no representation or warranty of any kind whether expressed or implied with respect to the Mark. SCVB desires to use the Mark in commerce as described herein and the City and County agree to license the Mark to SCVB. Thus, subject to the terms described in this Agreement and for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged and agreed, the City and County hereby grant to SCVB, for the term of this Agreement, a non-transferable license (other than to its agent) to use the Mark (with or without the logo without any specific limitation on stylization or font style) solely for and in connection with the marketing, promotion, advertisement, distribution or similar activity aimed at fostering, supporting, or developing sporting events, instructive sport clinics and other related activities in Sacramento County (collectively the “use of the Mark” or the “using of the Mark”). In the course of using the Mark, SCVB must maintain and adhere to standards of quality and specifications that conform to or exceed those quality standards utilized by a competent practitioner in SCVB’s profession and in accordance with Section 11 below. In order to ensure that the use of the Mark is consistent with the industry standard, the City and County have the right, but not the obligation, with prior written notice to SCVB to review materials prepared using the Mark (either on the premises, electronically or remotely) during the business hours of 8 a.m. to 5 p.m. Monday through Friday. If at any time such materials, in the sole opinion of the City or County, fail to conform to the standard of care described in Section 11 or those standards utilized by a competent practitioner in SCVB’s profession, the City and/or County will notify SCVB in writing and SCVB shall immediately cease using the Mark until the parties mutually agree in writing that SCVB may continue to do so. In the event the City and County do request to review materials, if neither the City nor County object to such materials within ten (20) business days after receiving the materials, then such materials will be deemed to be approved by the City and County. All materials or derivative works created by SCVB related to the Mark will remain the property of the City and County. Further, any and all agreements entered into by SCVB relating to the Mark (i.e., agreements with advertising agencies regarding concepts, themes, characters and the like) will provide that the City and County will own all materials created and or developed if related to the Mark and SCVB will receive a non-exclusive, royalty-free license to use such materials in connection with the advertising and promotional materials developed by SCVB or its agent for the term of this Agreement.

5. Independent Contractor.

- a) It is understood and agreed that SCVB (including SCVB's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither SCVB nor SCVB's assigned personnel shall be entitled to any benefits payable to employees of the City or County. Neither the City nor County is required to make any deductions or withholdings from the compensation payable to SCVB under the provisions of this Agreement, and SCVB shall be issued a Form 1099 for its services hereunder. As an independent contractor, SCVB hereby agrees to indemnify and hold the City and County harmless from any and all claims that may be made against City and/or County based upon any contention by any of SCVB'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.
- b) If, in the performance of this Agreement, any third persons are employed by SCVB, such persons shall be entirely and exclusively under the direction, supervision, and control of SCVB. 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 SCVB. It is further understood and agreed that SCVB shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of SCVB's assigned personnel and subcontractors.
- c) The provisions of this Section 2 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between the City and/or County and SCVB. SCVB may represent, perform services for, or be employed by such additional persons or companies as SCVB sees fit provided that SCVB does not violate this Agreement.

6. Licenses; Permits, Etc. SCVB represents and warrants that SCVB has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature that are legally required for SCVB to practice its profession or provide any services under the Agreement. SCVB represents and warrants that SCVB 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 SCVB to practice its profession or provide such Services.

7. Time. SCVB 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 SCVB'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.

8. **SCVB Not Agent.** Except as the City or County may specify in writing, SCVB and SCVB's personnel shall have no authority, express or implied, to act on behalf of the City or County in any capacity whatsoever as an agent. SCVB and SCVB's personnel shall have no authority, express or implied, to bind the City or County to any obligations whatsoever.
9. **Conflicts of Interest.** SCVB 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 the City or County or that would in any way hinder SCVB's performance of Services under this Agreement. SCVB 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 the City and/or County. SCVB agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of the City and County at all times during the performance of this Agreement. If SCVB is or employs a former officer or employee of the City or County, SCVB 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.
10. **Confidentiality of CITY Information.** During performance of this Agreement, SCVB 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. SCVB agrees to protect all City Information and treat it as strictly confidential and further agrees that SCVB 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 the City. In addition, SCVB 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 SCVB of this Section shall be a material violation of this Agreement and shall justify legal and/or equitable relief.
11. **Standard of Performance.** SCVB shall perform all Services required pursuant to this Agreement in the manner and according to the standards currently observed by a competent practitioner of SCVB's profession in California. All products of whatsoever nature that SCVB delivers to the City and County 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 SCVB's profession. SCVB shall assign only competent personnel to perform Services outlined in this Agreement. SCVB shall notify the City and County in writing of any changes in SCVB's staff assigned to perform the Services required under this Agreement, prior to any such performance. In the event that the City and County, at any time during the term of this

Agreement, desires the removal of any person assigned by SCVB to perform Services pursuant to this Agreement, because the City and County, in their sole discretion, determines that such person is not performing in accordance with the standards required herein, SCVB shall remove such person immediately upon receiving notice from the City and County of the desire of the City and County for the removal of such person.

12. Termination.

- a) During the first five years of this Agreement, if SCVB breaches, or fails to execute in good faith, any of the terms or conditions of this Agreement, the City or County may terminate the Agreement.
- b) After the initial five-year period, the City or County has the right to terminate this Agreement at any time by giving a 365 day written notice of termination to SCVB. If the City or County gives such notice of termination, SCVB shall immediately cease rendering Services pursuant to this Agreement. If the City or County terminate this Agreement:
 - 1. SCVB shall, not later than five days after such notice of termination, deliver to City and County copies of all information, including contracts, contacts, and promotional materials, for booked events and other contracts (occurring in the past or future) prepared pursuant to this Agreement.
 - 2. City and County shall pay SCVB the reasonable value of Services (“Reasonable Value of Services”) rendered by SCVB prior to termination; provided, however, City and County shall not in any manner be liable for lost profits that might have been made by SCVB had the Agreement not been terminated or had SCVB completed the Services required by this Agreement. The Reasonable Value of Services shall be calculated as follows:
 - i. Monthly Funding Amount = Annual Funding (defined in Section 3)/12
 - ii. Reasonable Value of Services = Monthly Funding Amount x Number of Months SCVB Has Performed During Current Year

If the City and/or County has prepaid the Annual Funding, SCVB shall reimburse the City and/or County for that amount pre-paid in excess of the Reasonable Value of Services.

The foregoing is cumulative and does not affect any right or remedy that the City and/or County may have in law or equity.

12. Indemnity.

- a) Indemnity: SCVB shall defend, hold harmless and indemnify the City and County, their

officers and employees, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by the City's or County's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), including but not limited to Liabilities arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform this Agreement by SCVB, any sub-consultant, subcontractor or agent, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not (i) such Liabilities are caused in part by a party indemnified hereunder or (ii) such Liabilities are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for any damage or expense for death or bodily injury to persons or damage to property to the extent arising from the sole negligence or willful misconduct of City or County, its agents, servants, or independent contractors who are directly responsible to the City or County, except when such agents, servants, or independent contractors are under the direct supervision and control of SCVB.

b) Insurance Policies; Intellectual Property Claims: The existence or acceptance by the City or County of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of the City's or County's rights under this Section 17, nor shall the limits of such insurance limit the liability of SCVB hereunder. This Section 17 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 13.b., above. The provisions of this Section 17 shall survive any expiration or termination of this Agreement.

13. Insurance Requirements. During the entire term of this Agreement, SCVB shall maintain the insurance coverage described in this Section 13.

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

It is understood and agreed by the SCVB that its liability to the City and County shall not in any way be limited to or affected by the amount of insurance coverage required or carried by the SCVB 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 SCVB.

No automobile liability insurance shall be required if SCVB 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.” _____ (SCVB 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 or County by selecting the option below:

_____ Workers’ Compensation waiver of subrogation in favor of the City and County is required for all work performed by the SCVB.

No Workers’ Compensation insurance shall be required if SCVB 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.” _____ (SCVB 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.

b) Additional Insured Coverage

1. Commercial General Liability Insurance: The City and County, their 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 SCVB, products and completed operations of SCVB, and premises

owned, leased or used by SCVB. 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 or County 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 and County, their 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, SCVB's insurance coverage shall be primary insurance as respects City and County, their officials, employees and volunteers. Any insurance or self-insurance maintained by City and County, their officials, employees or volunteers shall be in excess of SCVB'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 and County, their officials, employees or volunteers.
3. Coverage shall state that SCVB'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 and County 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's Risk Management Division and County in writing prior to execution of this Agreement.

e) Verification of Coverage

1. SCVB shall furnish the City and County with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the City and County representative named in Section 24 of this Agreement. Copies of policies shall be delivered to the City and County on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.
2. The City and County may withdraw cancel this Agreement if the certificates of insurance and endorsements required have not been provided prior to execution of this Agreement. The City and County may withhold payments to SCVB and/or cancel the Agreement if the insurance is canceled or SCVB otherwise ceases to be insured as required herein.

f) Subcontractors

SCVB 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.

14. 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 B. SCVB is required to sign the attached Declaration of Compliance (Equal Benefits Ordinance), to assure compliance with these requirements.

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

- a) Compliance With Regulations. SCVB 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. SCVB, 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. SCVB 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 SCVB for work to be performed under any subcontract, including all procurement of materials or equipment, each potential subcontractor or supplier shall be notified by SCVB of SCVB'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. SCVB 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 and/or County to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of SCVB is in the exclusive possession of another who fails or refuses to furnish this information, SCVB shall so certify to the City and/or County, and shall set forth what efforts it has made to obtain the information.

- e) Sanctions for Noncompliance: In the event of noncompliance by SCVB with the nondiscrimination provisions of this Agreement, the City and/or County shall impose such sanctions as it may determine to be appropriate including, but not limited to:
 - 1. Withholding of payments to SCVB under this Agreement until SCVB complies;
 - 2. Cancellation, termination, or suspension of the Agreement, in whole or in part.

- f) Incorporation of Provisions: SCVB 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. SCVB shall take such action with respect to any subcontract or procurement as the City and/or County may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event SCVB becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, SCVB may request City and/or County to enter such litigation to protect the interests of City and County.

16. 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 SCVB, and by City and County, in accordance with applicable provisions of the Sacramento City Code and Sacramento County Code.

17. 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.

- 18. Waiver.** Neither City nor County acceptance of, or payment for, any Service or Additional Service performed by SCVB, 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.
- 19. 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.
- 20. Assignment Prohibited.** The expertise and experience of SCVB are material considerations for this Agreement. City and County have a strong interest in the qualifications and capability of the persons and entities that will fulfill the obligations imposed on SCVB under this Agreement. In recognition of this interest, SCVB shall not assign any right or obligation pursuant to this Agreement without the written consent of the City and County. Any attempted or purported assignment without written consent of the City and County shall be void and of no effect.
- 21. 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.
- 22. Use Tax Requirements.** During the performance of this Agreement, SCVB, 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 Agreement and shipped from outside California, SCVB 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, SCVB 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. SCVB 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 Agreement.

23. Effective Date. This agreement is effective on the date both parties have signed it, as indicated by the dates in the signature blocks below.

24. Notices and Payments. Any notice, payment, or refund required under this agreement or by reason of the application of any law will be deemed to have been given by either party when deposited in the U.S. mail, postage prepaid and addressed as follows:

If to SCVB: Sacramento Convention and Visitors Bureau
1608 I Street
Sacramento, CA 95814

If to the City: City of Sacramento
Convention, Culture and Leisure Department
1030 – 15th Street, Suite 250
Sacramento, CA 95814

If to the County: County of Sacramento
Economic Development Office
700 H Street, 7th Floor
Sacramento, CA 95814

25. Counterparts. The parties may execute this agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.

(Signature Page Follows)

CITY OF SACRAMENTO

By: Barbara E. Bonebrake, Director of
Convention, Culture and Leisure Department,
for John F. Shirey, City Manager

Date: _____

COUNTY OF SACRAMENTO

By: Brad Hudson, County Executive

Date: _____

SACRAMENTO CONVENTION & VISITORS BUREAU

By: _____
Signature

Name

Title

Date

APPROVED AS TO FORM

Deputy City Attorney

ATTEST

City Clerk

EXHIBIT A



EXHIBIT B

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: _____

Address: _____

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

Date

Print Name

Title

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



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.

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SACRAMENTO AND THE SACARMENTO CONVENTION & VISITORS BUREAU REGARDING THE SACRAMENTO SPORTS COMMISSION

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this 21st day of March, 2006, by and between the City of Sacramento ("City"), and the Sacramento Convention & Visitors Bureau ("SCVB"), a California corporation. The City and the SCVB may be referred to collectively as "Parties" or in the singular as "Party", as the context requires.

RECITALS

The City and the SCVB have entered into this MOU with reference to the following facts and circumstances:

WHEREAS, the Sacramento Sports Commission was established in 1988 by the City and County of Sacramento to act as a coordinating and facilitating body to augment the efforts of the public and private sector to attract professional sports franchises and major professional and amateur sporting events to the Sacramento region; and

WHEREAS, at that time, the Sacramento Convention & Visitors Bureau was given the responsibility of providing staff support and administrative oversight to the Sacramento Sports Commission; and

WHEREAS, the Sacramento Convention & Visitors Bureau and Sacramento Sports Commission have maintained an excellent relationship as they pursue their common goals of attracting and promoting quality sporting events to the Sacramento region; and

WHEREAS, the Sacramento Sports Commission has been highly successful in attracting such premier events as the 2000 and 2004 Olympic Track and Field Trials and the NCAA Men's Basketball Tournament to Sacramento; and

WHEREAS, the City and County of Sacramento jointly provide annual operating funds for the Sacramento Sports Commission; and

WHEREAS, the Sacramento Convention & Visitors Bureau has entered into an annual agreement with the City to provide administrative support to the Sacramento Sports Commission.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows:

CITY AGREEMENT NO. 2006-0257

1. PURPOSE

The purpose of this MOU is to identify the administrative support services that will be provided by the Sacramento Convention & Visitors Bureau, on behalf of the City, to the Sacramento Sports Commission.

2. SERVICES TO BE PROVIDED

The Sacramento Convention and Visitor's Bureau shall:

- A. Promote and pursue sporting events in Sacramento through the Sacramento Sports Commission
- B. Provide payroll and benefit services and the directly related accounting for such services to the Sacramento Sports Commission
- C. Contribute 50 percent of the funding, not to exceed \$50,000, for salary and benefits for the Director of the Sacramento Sports Commission

3. TERM OF MOU; TERMINATION

This MOU shall be effective when it is signed by both Parties. Either Party may terminate this MOU for its convenience, upon giving a thirty-day (30) written notice to the other Party in the manner specified in Paragraph 4.

4. NOTICE

Any communication required during the term of this MOU, including, without limitation, notice of termination, shall be deemed given when placed in the United States Mail, postage prepaid, and addressed as follows:

Notice to the City: Barbara Bonebrake, Director (or designee)
Convention, Culture and Leisure Department
1030 15th Street Room 250
Sacramento, CA 95814
(916) 808-7733

Notice to the SCVB: Steve Hammond, President and CEO (or designee)
Sacramento Convention & Visitors Bureau
1608 I Street
Sacramento, CA 95814
(916) 808-7777

Any Party who desires to change its address for notice may do so by giving notice as described above.

5. NO JOINT VENTURE

This MOU shall not create between the Parties a joint venture, partnership, or any other relationship of association.

6. NO GRANT OF AGENCY

Except as the Parties may specify in writing, neither Party shall have authority, express or implied, to act on behalf of the other Party in any capacity whatsoever as an agent. Neither Party shall have any authority, express or implied, pursuant to this MOU, to bind the other Party to any obligation whatsoever.

7. INDEMNITY

The City shall assume the responsibility and liability for and the City shall indemnify, defend, and hold harmless the SCVB, its agents, officers and employees from and against any and all liabilities, obligations, losses, damages, penalties, fines, claims, actions, suits, costs and expenses and disbursements (including legal fees and expenses) of any kind and nature imposed in, asserted against, incurred or suffered by the SCVB or its agents, officers or employees by reason of damage, loss or injury (including death) of any kind or nature whatsoever to persons or property caused by or in any way relating to or arising out of any negligent act or action, or any neglect, omission or failure to act when under a duty to act on the part of the City or any of its agents, officers or employees in its or their performance of services hereunder.

The provisions contained herein include any violation of applicable law, ordinance, regulation, or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or criminal acts of the City, or any of its agents, officers, or employees in its or their performance hereunder.

The City shall cooperate in the defense of such actions brought by others with respect to the matters covered in this indemnity provision. Nothing set forth in this MOU shall establish a standard of care for, or create any legal rights in, any person not a party to this MOU.

The indemnity provisions of this MOU shall survive the termination of this MOU.

8. INSURANCE

Each Party, at its sole cost and expense and for the full term of this MOU, shall obtain and maintain at least all of the following minimum insurance requirements prior to commencing any activities under this MOU. All or a portion of the required insurance may be satisfied through the use of a self-insurance program or pooled insurance, if any. Each Party must provide a letter of self-insurance, or pooled insurance if any, upon request of the other Party.

A. Comprehensive General Liability

A policy with a minimum limit of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage, providing at least all of the following minimum coverages:

- 1) Premises Operations
- 2) Blanket Contractual
- 3) Personal Injury

B. Workers' Compensation and Employers' Liability

A policy written in accordance with the laws of the State of California and providing coverage for any and all employees of each of the Parties, as applicable.

- 1) This policy shall provide coverage for Workers' Compensation (Coverage A).
- 2) This policy shall also provide coverage of \$1,000,000 Employers' Liability (Coverage B).

C. Special Provisions

The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Parties are not intended to and shall not in any manner limit, alter, or qualify the liabilities and obligations otherwise assumed pursuant to this MOU, including, but not limited to, the provisions concerning indemnification and contribution.

9. NON-WAIVER

Waiver of any breach of, or default under, this MOU shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this MOU.

10. ENTIRE AGREEMENT; MODIFICATION

This MOU contains all of the terms and conditions as agreed upon by the Parties, and supercedes any and all oral or written communications by and between the Parties.

No waiver, alteration, modification, or termination of this MOU shall be valid unless made in writing and signed by the Parties. In the event of a conflict between this MOU and any other agreement or understanding executed by the Parties subsequent to the commencement of this MOU, the terms of this MOU shall prevail and be controlling unless such other agreement expressly provides to the contrary.

11. ASSIGNMENT PROHIBITED

Neither the City nor the SCVB may assign any right or obligation pursuant to this MOU. Any attempt or purported assignment of any right or obligation pursuant to this MOU shall be void and of no effect.

12. SEVERABILITY

If any term, covenant, or condition of this MOU is held to by a court of competent jurisdiction to be invalid, the remainder of this MOU shall remain in full force and effect.

13. GOVERNING LAW

The interpretation and enforcement of this MOU shall be governed by the laws of the State of California, the state in which the Agreement is signed.

14. COUNTERPARTS

This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

15. CAPTIONS

The headings or captions contained in this MOU are for identification purposes only and shall have no effect upon the construction or interpretation of this MOU.

16. AMBIGUITIES

The Parties have each carefully reviewed this MOU and have agreed to each term of this MOU. No ambiguity shall be presumed to be construed against either Party.

17. INTEGRATION

This MOU embodies the entire agreement of the Parties in relation to the scope of matters covered by this MOU, and no other agreement or understanding verbal or otherwise, exists between the Parties.

18. AUTHORITY

The people executing this MOU have the capacity and are authorized to execute this MOU as the representatives of their respective Party, and to bind their respective Party to the terms of this MOU.

CITY OF SACRAMENTO,
A Municipal Corporation

By: Cassandra H.B. Jennings

Cassandra H.B. Jennings, Assistant City Manager
For: Ray Kerridge, City Manager

Attest:

Dawn Bullwinkel
Asst CITY CLERK 3-24-06

Approved As To Form:

[Signature]
Deputy City Attorney

SACRAMENTO CONVENTION &
VISITOR'S BUREAU

By: [Signature]
STEVE HAMMOND
President & CEO

CITY
AGREEMENT NO. 2006-0257

RESOLUTION NO. 2006-199

Adopted by the Sacramento City Council

March 21, 2006

**AUTHORIZING THE CITY MANAGER TO EXECUTE FISCAL YEAR
2005-06 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY
AND THE SACRAMENTO CONVENTION & VISITORS BUREAU FOR
SERVICES TO THE SACRAMENTO SPORTS COMMISSION**

BACKGROUND

- A. The City of Sacramento and County of Sacramento annually provide joint funding the Sacramento Sports Commission.
- B. The City has executed annual agreements with the Sacramento Convention & Visitors Bureau to provide administrative support to the Sports Commission.

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

Section 1. Direct the City Manager to execute a Memorandum of Understanding between the City of Sacramento and the Sacramento Convention & Visitors Bureau to provide designated administrative services.

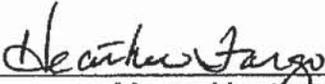
Adopted by the City of Sacramento City Council on March 21, 2006 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters and Mayor Fargo.

Noes: None.

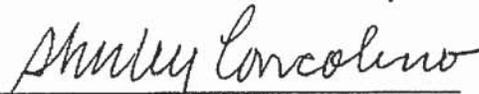
Abstain: None.

Absent: None.



Mayor Heather Fargo

Attest:



Shirley Concolino, City Clerk



City of Sacramento

Tax ID # if applicable:

Requires Council Approval: No YES Meeting: 7/20/10

Real Estate Other Party Signature Needed Recording Requested

General Information

Type: Memorandum Attachment: Original Number:
 PO Type: Interagency Agreement Original Document Number:
 \$ Not to Exceed: \$ NA Original Contract Amount: \$
 Other Party: SRSEF Deed: None Included Separate
 Project Name: Sacramento Sports Commission No. Certified Copies of Document: 1
 Project Number:
 Bid Transaction #: E/SBE-DBE-MWBE:

Department Information

Department: CCL Division: Admin
 Project Mgr: Karolyn Pelka Supervisor: Rebecca Bitter
 Contract Services: Date: 7/12/10 Division Mgr: Rebecca Bitter
 Phone Number: 808-5898 Org Number: 17001011
 Comment:

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:	KP	7/12/10
Accounting:		
Contract Services:	RPB	7/12/10
Supervisor:	/	/
Division Manager:	/	/
City Attorney	Signature or Initial	Date
City Attorney:	ac	7/13/10

Send Interoffice Mail Notify for Pick Up

Authorization	Signature or Initial	Date
Bonebrake, Barbara Department Director:	[Signature]	7/12/10
City Mgr: yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	CG	7/23/10

Contract Cover/Routing Form: Must accompany ALL Contracts; however, is not part of the Contract

For City Clerk Processing

Finalized:
 Initial: RLB
 Date: 7-28-10
Imaged:
 Initial: UE
 Date: 8/2/10


 With: SRSEF
 Title: Sacramento Sports Commission
 Authorization: Reso 2010-416
2010-0546

Received:
(City Clerk Stamp Here)

2010 JUL 13 P 2:59
 RECEIVED
 CITY CLERK'S OFFICE
 CITY OF SACRAMENTO



2010-0546

With: SRSEF
Title: Sacramento Sports Commission
Authorization: Reso 2010-416

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF SACRAMENTO AND THE
SACRAMENTO REGION SPORTS EDUCATION FOUNDATION**

This Memorandum of Understanding ("MOU") between the City of Sacramento ("City") and the Sacramento Region Sports Education Foundation ("SRSEF"), a nonprofit organization, is made as of 7/21, 2010. SRSEF and City may be referred to in the singular as "Party" or collectively as "Parties", as the context requires.

RECITALS

- A. In 1988, Sacramento Sports Commission ("Sports Commission") was established by the City and the County of Sacramento ("County") to attract major professional and amateur sporting events and professional sports franchises to the Sacramento region.
- B. In 1998, the Sports Commission formed the SRSEF to administer Sports Commission events.
- C. The City and County annually budget funding for the activities of the Sports Commission.
- D. The City's and County's funding of Sports Commission activities have been paid directly to SRSEF, which incurs expenses on behalf of the Sports Commission in the performance and administration of Sports Commission activities and events.
- E. City and SRSEF would like to memorialize the procedures through which City will reimburse SRSEF for expenses it incurs in the performance and administration of proper Sports Commission activities and events.

NOW, THEREFORE, based on the facts set forth in the foregoing recitals, City and SRSEF agree as follows:

1. TERM OF MOU, TERMINATION

This MOU shall be effective when it is signed by both Parties. Either Party may terminate this MOU upon the giving of thirty (30) days written notice to the other Party in the manner specified in Section 3.

2. PROCEDURES FOR REIMBURSEMENT OF SPORTS COMMISSION RELATED EXPENSES

A. SRSEF may invoice City for the expenses it has incurred in the administration of Sports Commission activities and events. The City will reimburse SRSEF for these expenses within a reasonable period of time after receipt of SRSEF's invoice, not to exceed the total amount allocated to the Sports Commission in the City

and County's annual budgets. The City shall have the sole discretion to deny reimbursement of any expenses that are not incurred in connection with the proper administration of activities or duties of the Sports Commission or which are otherwise contrary to any applicable law, City regulation or provision of the City Code. The City will not reimburse SRSEF for any expenses incurred in connection with SRSEF's presentation of the 2011 World Masters Athletics Championships event. Nothing in this MOU shall be construed as a transfer or delegation of powers or duties given to the Sports Commission under Chapter 2.88 of the City Code to SRSEF.

B. Invoices shall include the following information:

- (1) Event and activity descriptions
- (2) Itemized expenses
- (3) Invoice date
- (4) Sequential invoice number
- (5) Invoice amount
- (6) All documentation necessary to substantiate expenses to the satisfaction of City.

The City will not reimburse SRSEF where information required under this subsection is not provided to City.

C. Accounting Records of SRSEF. During performance of this MOU and for a period of three (3) years following the termination of this MOU, SRSEF shall maintain accurate books and records and all accounting and financial records related to this MOU in accordance with generally accepted accounting principles, and shall keep and make such records available for inspection and audit by representatives of the City upon reasonable written notice.

3. NOTICES

Any communication required during the term of this MOU, including, without limitation, notice of termination, shall be deemed given when placed in the United States Mail, postage prepaid, and addressed as follows:

Notice to the City: Barbara Bonebrake, Director (or designee)
City of Sacramento
Convention, Culture and Leisure Department
1030 15th Street, Suite 250
Sacramento, CA 95814
916-808-7733

Notice to the SRSEF: John McCassey, Executive Director (or designee)
Sacramento Region Sports Education Foundation
1030 15th Street, Suite 200
Sacramento, CA 95814
916-808-2400

Any Party who desires to change its address for notice may do so by giving notice as described above.

4. INDEMNITY.

SRSEF shall defend, hold harmless and indemnify City, its officers and employees, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs 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 "Liabilities"), including but not limited to Liabilities arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with the performance of or failure to perform this MOU by SRSEF, any sub-consultant, subcontractor or agent, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not (i) such Liabilities are caused in part by a party indemnified hereunder or (ii) such Liabilities are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for any damage or expense for death or bodily injury to persons or damage to property to the extent arising from the sole negligence or willful misconduct of City, its agents, servants, or independent contractors who are directly responsible to City, except when such agents, servants, or independent contractors are under the direct supervision and control of SRSEF.

5. OBLIGATION TO DEFEND.

SRSEF shall, upon City's request, defend at SRSEF's sole cost, any action, claim, suit, cause of action or portion thereof which asserts or alleges Liabilities to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of SRSEF, its sub-consultants, subcontractors or agents, or their respective officers and employees, in connection with the Event, whether such action, claim, suit, cause of action or portion thereof is well founded or not.

6. INSURANCE REQUIREMENTS.

During the entire term of this MOU, SRSEF shall maintain the insurance coverage described in this Section 6. It is understood and agreed by the SRSEF 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 SRSEF in connection with this MOU.

A. Minimum Scope & Limits of Insurance Coverage. SRSEF shall maintain commercial general liability insurance, providing coverage at least as broad as ISO CGL Form 0001 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.

B. City as Additional Insured. 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 SRSEF, products and completed operations of SRSEF, and premises owned, leased or used by SRSEF.

C. Acceptability of Insurance. Insurance shall be placed with insurers with a Best's 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 6 must be declared to and approved by the City's Risk Management Division in writing prior to execution of this Agreement.

D. Other Insurance Provisions. The policy is to contain, or be endorsed to contain, the following provisions:

(1) SRSEF'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 SRSEF'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 SRSEF'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 ten (10) days written notice of cancellation or material change in the policy language or terms.

E. Verification of Coverage.

(1) SRSEF 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 Section 3. 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 MOU if the certificates of insurance and endorsements required have not been provided prior to execution of this MOU. The City may cancel the MOU if the insurance is canceled or SRSEF otherwise ceases to be insured as required herein.

7. NO JOINT VENTURE

This MOU shall not create between the Parties a joint venture, partnership, or any other relationship of association.

8. NO GRANT OF AGENCY

Except as the Parties may specify in writing, neither Party shall have authority, express or implied, to act on behalf of the other Party in any capacity whatsoever as an agent. Neither Party shall have any authority, express or implied, pursuant to this MOU, to bind the other Party to any obligation whatsoever.

9. NON-WAIVER

Waiver of any breach of, or default under, this MOU shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this MOU.

10. ENTIRE AGREEMENT; MODIFICATION

This MOU contains all of the terms and conditions as agreed upon by the Parties, and supersedes any and all oral or written communications by and between the Parties.

No waiver, alteration, modification, or termination of this MOU shall be valid unless made in writing and signed by the Parties. In the event of a conflict between this MOU and any other agreement or understanding executed by the Parties subsequent to the commencement of this MOU, the terms of this MOU shall prevail and be controlling unless such other agreement expressly provides to the contrary.

11. ASSIGNMENT PROHIBITED

Neither the City nor SRSEF may assign any right or obligation pursuant to this MOU. Any attempt or purported assignment of any right or obligation pursuant to this MOU shall be void and of no effect.

12. SEVERABILITY

If any term, covenant, or condition of this MOU is held to by a court of competent jurisdiction to be invalid, the remainder of this MOU shall remain in full force and effect.

13. GOVERNING LAW

The interpretation and enforcement of this MOU shall be governed by the laws of the State of California, the state in which the Agreement is signed.

14. COUNTERPARTS

This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

15. CAPTIONS

The headings or captions contained in this MOU are for identification purposes only and shall have no effect upon the construction or interpretation of this MOU.

16. AMBIGUITIES

The Parties have each carefully reviewed this MOU and have agreed to each term of this MOU. No ambiguity shall be presumed to be construed against either Party.

17. INTEGRATION

This MOU embodies the entire agreement of the Parties in relation to the scope of matters covered by this MOU, and no other agreement or understanding verbal or otherwise, exists between the Parties.

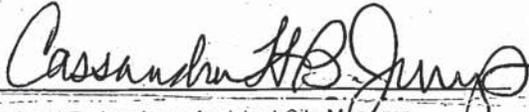
18. AUTHORITY

The people executing this MOU have the capacity and are authorized to execute this MOU as the representatives of their respective Party, and to bind their respective Party to the terms of this MOU.

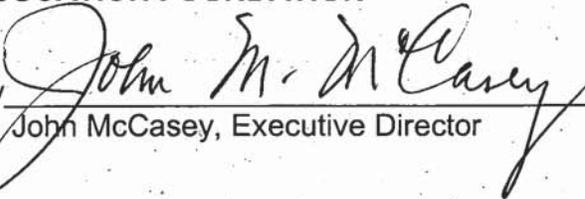
CITY OF SACRAMENTO

**SACRAMENTO REGION SPORTS
EDUCATION FOUNDATION**

By



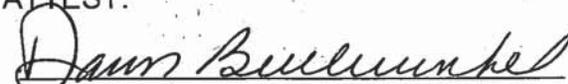
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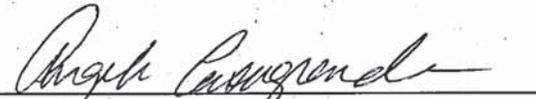
Cassandra H.B. Jennings, Assistant City Manager
For: Gustavo F. Vina, Interim City Manager, July 23, 2010

John M. Casey, Executive Director

ATTEST:

ant 
City Clerk 7-28-10

APPROVED AS TO FORM:


Deputy City Attorney

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/13/2010

PRODUCER John O. Bronson Co. 3636 American River Drive Suite 200 Sacramento, CA 95864 916-974-7800	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.												
INSURED Sacramento Region Sports Education Foundation 1030 - 15th St Ste 200 Sacramento, CA 95814	<table border="1"> <tr> <th>INSURERS AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: Golden Eagle Ins Corp (Walnut Creek, CA)</td> <td>10375</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table>	INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: Golden Eagle Ins Corp (Walnut Creek, CA)	10375	INSURER B:		INSURER C:		INSURER D:		INSURER E:	
INSURERS AFFORDING COVERAGE	NAIC #												
INSURER A: Golden Eagle Ins Corp (Walnut Creek, CA)	10375												
INSURER B:													
INSURER C:													
INSURER D:													
INSURER E:													

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	CBP9869948	6/9/2010	6/9/2011	EACH OCCURRENCE \$ 1,000,000
					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
					MED EXP (Any one person) \$ 10,000
					PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				GENERAL AGGREGATE \$ 2,000,000
					PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	CBP9869948	6/9/2010	6/9/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
					BODILY INJURY (Per person) \$
					BODILY INJURY (Per accident) \$
					PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$
					OTHER THAN EA ACC AGG \$
A	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$ 10,000	CU8158661	6/9/2009	6/9/2010	EACH OCCURRENCE \$ 4,000,000
					AGGREGATE \$ 4,000,000
					\$
					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

RE: MOU between City of Sacramento and The Sacramento Region Sports Education Foundation

Add'l Interests: City of Sacramento, its officials, employees and volunteers

Forms: GE CG602 0904

CERTIFICATE HOLDER

City of Sacramento, Russ Haynes
 1030 - 15th Street, #250
 Sacramento, CA 95814

CANCELLATION ***10 Day Notice for Non-Payment/Non-Reporting***

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Russ Haynes

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

NAMED INSURED: Sacramento Region Sports Education Foundation
POLICY NUMBER: CBP9869948

COMMERCIAL LIABILITY GOLD ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I - COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

2. Exclusions

Item 2.g. 2) is replaced with the following:

2.g. 2) A watercraft you do not own that is:

- a) less than 50 feet long; and
- b) Not being used to carry persons or property for a charge.

Item 2.g. 6) is added:

- 6) An aircraft in which you have no ownership interest and that you have chartered with crew.

The last paragraph of 2. Exclusions is replaced with the following:

Exclusions c. through n. do not apply to damage by fire, explosion, sprinkler leakage, or lightning to premises while rented to you, temporarily occupied by you with the permission of the owner, or managed by you under a written agreement with the owner. A separate limit of insurance applies to this coverage as described in **Section III - Limits of Insurance.**

SECTION I - COVERAGES

COVERAGE C. MEDICAL PAYMENTS

If Medical Payments Coverage is provided under this policy, the following is changed:

3. Limits

The medical expense limit provided by this policy shall be the greater of:

- a. \$10,000; or
- b. The amount shown in the declarations.

Coverage C. Medical Payments is primary and not contributing with any other insurance, even if that other insurance is also primary.

The following is added:

COVERAGE D. PRODUCT RECALL NOTIFICATION EXPENSES

Insuring Agreement

We will pay "product recall notification expenses" incurred by you for the withdrawal of your products, provided that:

- a. Such withdrawal is required because of a determination by you during the policy period, that the use or consumption of your products could result in "bodily injury" or "property damage"; and
- b. The "product recall notification expenses" are incurred and reported to us during the policy period.

The most we will pay for "product recall notification expenses" during the policy period is \$100,000.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

Item b. and d. are replaced with:

- b. The cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit" including actual loss of earnings up to \$500 a day because of time off from work.

SECTION II-WHO IS AN INSURED

Item 4. is replaced with:

4. Any subsidiaries, companies, corporations, firms, or organizations you acquire or form during the policy period over which you maintain a controlling interest of greater than 50% of the stock or assets, will qualify as a Named Insured if:
 - a) you have the responsibility of placing insurance for such entity; and
 - b) coverage for the entity is not otherwise more specifically provided; and
 - c) the entity is incorporated or organized under the laws of the United States of America.

However; coverage under this provision does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the entity, or "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the entity.

Coverage under this provision is afforded only until the end of the policy period, or the twelve (12) month anniversary of the policy inception date whichever is earlier.

SECTION III - LIMITS OF INSURANCE

Paragraph 2 is amended to include:

The General Aggregate Limit of Insurance applies separately to each "location" owned by you, rented to you, or occupied by you with the permission of the owner.

Paragraph 6. is replaced with the following:

6. Subject to 5. above, the Fire Damage Limit is the most we will pay under Coverage A for damages because of "property damage" to premises while rented to you, temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner, arising out of any one fire, explosion or sprinkler leakage incident.

The Fire Damage Limit provided by this policy shall be the greater of:

- a. \$500,000. or
- b. The amount shown in the Declarations.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

Item 2. a. is replaced with:

2. Duties In The Event of Occurrence, Offense, Claim or Suit

- a. You must promptly notify us. Your duty to promptly notify us is effective when any of your executive officers, partners, members, or legal representatives is aware of the "occurrence", offense, claim, or "suit". Knowledge of an "occurrence", offense, claim or "suit" by other employee(s) does not imply you also have such knowledge. To the extent possible, notice to us should include:

- 1) How, when and where the "occurrence" or offense took place;
- 2) The names and addresses of any injured persons and witnesses; and
- 3) The nature and location of any injury or damage arising out of the "occurrence", offense, claim or "suit".

Item 4. b. 1) b) is replaced with:

b. Excess Insurance

- 1) b) That is Fire, Explosion or Sprinkler Leakage insurance for premises while rented to you, temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner; or

Item 6. is amended to include:

6. Representations

- d. If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

Item 8. is replaced with:

8. Transfer of Rights Of Recovery Against Others To Us

- a. If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

- b. If required by a written "insured contract", we waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under that written "insured contract" for that person or organization and included in the "products-completed operations hazard".

Item 10. and Item 11. are added:

10. Cancellation Condition

If we cancel this policy for any reason other than nonpayment of premium we will mail or deliver written notice of cancellation to the first Named Insured at least 60 days prior to the effective date of cancellation.

11. Liberalization

If we adopt a change in our forms or rules which would broaden your coverage without an extra charge, the broader coverage will apply to this policy. This extension is effective upon the approval of such broader coverage in your state.

SECTION V- DEFINITIONS

The following definitions are added or changed:

9. "Insured contract"

a. *Is changed to:*

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, explosion or sprinkler leakage to premises while rented to you, or temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner is not an "insured contract".

23 and 24 are added:

23. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
24. "Product recall notification expenses" means the reasonable additional expenses (including, but not limited to, cost of correspondence, newspaper and magazine advertising, radio or television announcements and transportation cost), necessarily incurred in arranging for the return of products, but excluding costs of the replacement products and the cash value of the damaged products.

The following Provisions are also added to this Coverage Part:

A. ADDITIONAL INSURED - BY CONTRACT, AGREEMENT OR PERMIT

1. Paragraph 2: under **SECTION II - WHO IS AN INSURED** is amended to include as an insured any person or organization when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy to provide insurance such as is afforded under this Coverage Part. Such person or organization is not entitled to any notices that we are required to send to the Named Insured and is an additional insured only with respect to liability arising out of:
 - a. Your ongoing operations performed for that person or organization; or
 - b. Premises or facilities owned or used by you.

With respect to provision 1.a. above, a person's or organization's status as an insured under this endorsement ends when your operations for that person or organization are completed.

With respect to provision 1.b. above, a person's or organization's status as an insured under this endorsement ends when their contract or agreement with you for such premises or facilities ends.

2. This endorsement provision A. does not apply:

- a. Unless the written contract or agreement has been executed, or permit has been issued, prior to the "bodily injury", "property damage" or "personal and advertising injury";
- b. To "bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, in the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or
 - (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project;
- c. To the rendering of or failure to render any professional services including, but not limited to, any professional architectural, engineering or surveying services such as:
 - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 - (2) Supervisory, inspection, architectural or engineering activities;
- d. To "bodily injury", "property damage" or "personal and advertising injury" arising out of any act, error or omission that results from the additional insured's sole negligence or wrongdoing;
- e. To any person or organization included as an insured under provision B. of this endorsement;
- f. To any person or organization included as an insured by a separate additional insured endorsement issued by us and made a part of this policy.

B. ADDITIONAL INSURED – VENDORS

Paragraph 2. under **SECTION II - WHO IS AN INSURED** is amended to include as an insured any person or organization (referred to below as "vendor") with whom you agreed, in a written contract or agreement to provide insurance such as is afforded under this policy, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

- 1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;

- d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h. To "bodily injury" or "property damage" arising out of any act, error or omission that results from the additional insured's sole negligence or wrongdoing.
2. This insurance does not apply to any insured person or organization, from whom you have acquired such products; or any ingredient, part or container, entering into, accompanying or containing such products.