

Meeting Date: 1/21/2014

Report Type: Consent

Report ID: 2014-00013

Title: Contract: Title Report Search Services

Location: Citywide

Issue: This report recommends awarding a contract to perform required title report search services for the Community Development Department. This service is necessary for all Housing and Dangerous Buildings and Code Enforcement cases to ensure notices and communication are being done so with the legal owner and/or beneficiaries.

Recommendation: Pass a Motion 1) awarding a contract for title report search services to the lowest, responsible bidder; and 2) authorizing the City Manager or his designee to execute the Non-Professional Service Agreement with Placer Title Company for an amount not-to-exceed \$169,850.

Contact: Ron O' Connor, Operations Manager, (916) 808-8183, Community Development Department

Presenter: None

Department: Community Development Dept

Division: Housing & Dangerous Buildings

Dept ID: 21001311

Attachments:

1-Description/Analysis

2-Background

3-Placer Title Professional Services Agreement

City Attorney Review

Approved as to Form

Michael Benner

1/6/2014 11:50:45 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt

Russell Fehr

12/19/2013 10:31:38 AM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 12/23/2013 11:08:53 AM

Description/Analysis

Issue Detail: Title report search services are a necessary and vital tool for code enforcement. Through the use of title reports, code enforcement is able to provide the required noticing to the property owners and beneficiaries whose property is found to be in violation of City Code or to be a potential risk to public safety.

Due to housing market conditions over recent years, the Community Development Department has experienced an increased need for title reports due to the many ownership changes on properties. It is critical that these services be continued in order to be able to address the increased volume of nuisance cases and unsafe conditions created when a property is not in compliance with health and safety codes, building standards and other related laws.

In November of 2013, through the competitive bid process, the City advertised a formal, multiple-year solicitation (B14211011007) for title report search services. The City received three responses from Placer Title Company, BNT Title Company and New World Title Company. Of these three bids, it was determined that Placer Title Company was the lowest responsible, bidder.

City Code requires that contracts of \$100,000 or more be formally bid unless City Council approves the suspension of the competitive bidding process, and finds it to be in the best interests of the City.

Policy Considerations: Not applicable

Economic Impacts: Not applicable

Environmental Considerations: Not applicable

Sustainability: Not applicable

Commission/Committee Action: Not applicable

Rationale for Recommendation: Title report search services are a necessary and vital tool for code enforcement. Through the use of title reports, staff can gain access to property owners and beneficiaries whose property is found to be in violation of City Code or a potential risk to public safety. It is critical that these services be continued to address threats to the public's health safety and welfare created when a property is not in compliance with health and safety codes, building standards and other related laws.

In November 2013, through the City's competitive bid process, a multiple year solicitation was advertised (B14211011007) for title report search services. Three bids

were received in response to this solicitation. Of those, the Placer Title Company was found to be the lowest responsible, responsive, and technically capable bidder.

Given the responsiveness of the required materials, proof of abilities, and lowest bid in accordance with the requirements, staff recommends that it is in the best interests of the City to award the title report search services contract to the Placer Title Company for a base period and two option periods with an overall not-to-exceed value of \$169,850.

Financial Considerations: The only responsible, responsive, and technically capable bidder was determined to be Placer Title. The maximum cost of the contract if the two options are exercised is a not-to-exceed amount of \$169,850. Sufficient funds are available in the Community Development Department's Fiscal Year 2013/14 operating budget to accommodate the costs for this year. Additional option periods and funding for those options are subject to the annual budget process. Any unused funds during a contract year may be used during the additional optional years provided that there are sufficient budgetary resources available in the subsequent fiscal years.

Local Business Enterprise: Not applicable.

BACKGROUND Title Report Search Services

Title report search services are a necessary and vital tool for Code Enforcement and Housing and Dangerous Buildings. Through the use of title reports, Code Enforcement and Housing and Dangerous Buildings is able to provide the required noticing to property owners and beneficiaries whose properties are found to be in violation of City code or a potential risk to public safety. Due to current housing market conditions and the many property ownership changes, it is critical that these services be continued in order to be able to address the increased volume of nuisance cases and unsafe conditions created when a property is not in compliance with health and safety codes, building standards and other related laws.

In November 2013, the City issued a formal, multiple-year solicitation (B14211011007) in accordance with City Code. A pre-bid conference was held on November 18, 2013 at 300 Richards Blvd, Sacramento, California. Four vendors attended the pre-bid conference: Stewart Title, First American, New World Title and Fidelity. The City received three bids in response to the solicitation from Placer Title Company, BNT Title Company and New World Title Company. As indicated in the bid evaluation table, Placer Title Company was determined to be the lowest responsible bidder which submitted all required items.

Bid Evaluation-B14211011007 Title Report Search Services					
Vendor	Total Bid Price	Items required as part of bidder response			
		Amendment	References	Sample Title Report	CLTA Membership
Placer Title Company	\$169,850.00	X	X	X	X
BNT Title Company	\$153,845.00	X			
New World	\$92,600.75		X ¹	X ²	

¹ References were submitted; however, the required governmental agency was not included.

² A sample title report was submitted, but it was a skeleton/outline; no data.



Requires Council Approval: No YES Meeting: 1/21/14

Real Estate Other Party Signature Needed Recording Requested

General Information

Form with fields: Type: Professional Services Formal Bid-Prof Service, PO Type, Attachment: Original No., Original Doc Number, \$ Not to Exceed: \$169,850, Other Party: Placer Title Company, Project Name: Title Report Search Services, Deed: [X] None, [] Included, [] Separate, Project Number: N/A, Bid Transaction #: B14211011007, LBE: N/A

Department Information

Department: Community Development Division: Housing and Dangerous Building
Project Mgr: Ron O' Connor Supervisor:
Contract Services: Stacey Chatman Date: 1/2/14 Division Mgr: Candace Noguchi
Phone Number: 916-808-8793 Org Number: 21001311
Comment:

Review and Signature Routing

Table with columns: Department, Signature or Initial, Date. Rows for Project Mgr, Accounting, Contract Services, Supervisor, Division Manager.

City Attorney Signature or Initial Date
City Attorney: [Signature] 1/6/14

[X] Send Interoffice Mail [] Notify for Pick Up

Authorization Signature or Initial Date
Choose Director Department Director: [Signature] 1/10/14
City Mgr: yes [] No [X]

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

For City Clerk Processing Finalized: Initial: Date: Imaged: Initial: Date: Received: (City Clerk Stamp Here)

PROJECT #:
PROJECT NAME: TITLE REPORT SEARCH SERVICES
DEPARTMENT: COMMUNITY DEVELOPMENT DEPARTMENT
DIVISION: ADMINISTRATION
CITY OF SACRAMENTO

PROFESSIONAL SERVICES AGREEMENT *

THIS AGREEMENT is made at Sacramento, California, as of February 1, 2014, by and between the **CITY OF SACRAMENTO**, a municipal corporation ("CITY"), and

Placer Title Company
5814 Lonetree Blvd.
Rocklin, CA 95765
888-958-8060/877-958-8161

("CONTRACTOR"), who agree as follows:

- Services.** Subject to the terms and conditions set forth in this Agreement, CONTRACTOR shall provide to CITY the services described in Exhibit A. CONTRACTOR shall provide said services at the time, place, and in the manner specified in Exhibit A. CONTRACTOR shall not be compensated for services outside the scope of Exhibit A unless prior to the commencement of such services: (a) CONTRACTOR notifies CITY and CITY agrees that such services are outside the scope of Exhibit A; (b) CONTRACTOR estimates the additional compensation required for these additional services; and (c) CITY, after notice, approves in writing a Supplemental Agreement specifying the additional services and amount of compensation therefor. CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement, unless and until this Agreement or any Supplemental Agreement is approved by the Sacramento City Manager or the City Manager's authorized designee, or by the Sacramento City Council, as required by the Sacramento City Code.
- Payment.** CITY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to CONTRACTOR for the services rendered pursuant to this Agreement unless pursuant to Section 1, above, CITY approves additional compensation for additional services. CONTRACTOR shall submit all billings for said services to CITY in the manner specified in Exhibit B, or, if not specified in Exhibit B, according to the usual and customary procedures and practices that CONTRACTOR uses for billing clients similar to CITY.
- Facilities and Equipment.** Except as set forth in Exhibit C, CONTRACTOR shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. CITY shall furnish to CONTRACTOR only the facilities and equipment listed in Exhibit C according to any terms and conditions set forth in Exhibit C.
- General Provisions.** The General Provisions set forth in Exhibit D, that include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of

* This form to be used for all professional services, except professional services related to a construction project and professional services performed by architects, landscape architects, professional engineers, or professional land surveyors.

this Agreement, including without limitation any document relating to the scope of services or payment therefor, the General Provisions shall control over said terms or conditions.

5. **Non-Discrimination in Employee Benefits.** This Agreement is subject to the provisions of Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. The requirements of Sacramento City Code Chapter 3.54 are summarized in Exhibit E. CONTRACTOR is required to sign the attached Declaration of Compliance (Equal Benefits Ordinance), to assure compliance with these requirements.
6. **Authority.** The person signing this Agreement for CONTRACTOR hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to the performance of its obligations hereunder.
7. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

Executed as of the day and year first above stated.

CITY OF SACRAMENTO
A Municipal Corporation

By: _____

Print name: Max Fernandez

Title: Director

For: John F. Shirey, City Manager

APPROVED TO AS FORM:

City Attorney

ATTEST:

City Clerk

Attachments

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

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: Placer Title Company

Address: 5814 Lonetree Blvd., Rocklin, CA 95765

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

12-30-13

Date

Judy Harp

Print Name

President

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

Ron O' Connor/Operations Manager
300 Richards Blvd., 3rd Floor, Sacramento, CA 95811
Phone 916-808-8183/Fax 916-808-7722/E-mail ro'connor@cityofsacramento.org

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

The CONTRACTOR Representative for this Agreement is:

Judy Harp/ President
5814 Lonetree Blvd., Rocklin, CA 95765
Phone 888-958-8060/Fax 877-958-8161/E-mail jharp@ncslenders.com

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

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

3. Conflict of Interest Requirements.

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

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

- (1) An "assuming office" statement of economic interests to be filed within 30 days after execution of the agreement between the City and the contractor;
- (2) Annual statements of economic interests while the agreement remains in effect, to be filed not later than April 30 of each year; and
- (3) A "leaving office" statement of economic interests to be filed within 30 days of completion of the contract.

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

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

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

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

- (1) Identify the individuals who will provide services or perform work under this Agreement as "consultants";
- (2) Cause these individuals to file with the CITY Representative the "assuming office" statements of economic interests required by the CITY's Conflict of Interest Code.

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

4. **Scope of Services.** [Describe services to be provided here, or, if scope of services is described in an attachment, label the attachment "Attachment 1 to Exhibit A" and include the following sentence:]

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

5. **Time of Performance.** The services described herein shall be provided during the period, or in accordance with the schedule, set forth in the scope of services.

SECTION II – CONTRACT DOCUMENTS

B. TECHNICAL SPECIFICATIONS/PLANS/OTHER REQUIREMENTS

1. General

The City of Sacramento is seeking a contractor to provide Title Report/Lot Book Search services. These reports are used to verify that contact is being made with the proper parties and that the contact information is valid. The Contractor shall be responsible to conduct Title searches on residential and commercial parcels and submit reports to the City of Sacramento. This is a City of Sacramento wide contract but the main users of this contract will be the Community Development Department and more specifically the following Divisions: Neighborhood Code Compliance and Housing and Dangerous Buildings. The annual not to exceed amount for the contract will be \$85,000 per year, for a maximum total of \$255,000 covering the span of two additional years.

2. Definitions

- a. Title Report. The resulting document of data research conducted on the title/piece of real estate property. A real estate researcher, sometimes an abstractor, will retrieve the records on a property, such as transfers, liens, judgments, and other recorded data, which are then compiled into a report called a title search.
- b. Residential Parcel. For the purposes of this contract, a residential parcel shall be a parcel with residential zoning, three or less residential units with garages and sheds on it and no other uses on the parcel.
- c. Commercial Parcel. For the purposes of this contract, a commercial parcel shall be any parcel that is not considered a residential parcel.

3. Description of Services

a. Title Report. The following is a minimum requirement of data to be contained in each Title Report ordered:

1. Owner Information with copies of the documentation;
 - a. Owner information must include owners' mailing address
2. Beneficiary information with copies of the documentation;
 - a. Beneficiary information must include beneficiaries' mailing address
3. Property address;
4. Legal description of property;
5. Parcel number of property;
6. Plat Map;
7. Copy of deed of trust;
8. Liens/Encumbrances with copies of the documentation;
9. Judgments with copies of the documentation;
10. Last document purporting to convey the fee title;
11. Conveyances;
12. Declarations and Terminations;
13. Certificates of Compliance;
14. Tax information; and
15. All attached Exhibits and Schedules.

b. Order Placement. An authorized representative of the City of Sacramento will e-mail the contractor requesting a title report/cloud for a specific address or order online if the contractor has that capability. Upon contract award, the City will provide in writing a list of authorized representatives.

c. Turn Around. The Title Report shall be issued within 3-business days of request for both residential and commercial parcels. On parcels that are linked and require title reports that are linked, the Title Report shall be issued within 5-business days. Should that not be possible due to the complexity of the search, the contractor agrees to notify the authorized representative within 24-hours of the request being made that the file has been assigned for more comprehensive searching. If the Title Report is assigned for a more complex search, a preliminary title report shall be sent on the required due date for the title report. The deadline for issuance of a more complex search will be 7-business days or fewer.

d. Method of Transmission. Contractor will provide title report to the City of Sacramento via e-mail.

e. Title Report Format. The Title Report shall be on a form that is approved by the City of Sacramento, Code Enforcement Department. Any modifications to said form or format shall be approved by the City of Sacramento.

f. Training. The Contractor shall provide training to the City of Sacramento staff. The purpose of training is to ensure City of Sacramento staff can read and understand the Title Reports. Two training sessions shall be provided within the first 30-days of contract award at a City of Sacramento designated location. After the initial base period of the contract additional training sessions will take place every six months thereafter for the life of the contract for a total of six sessions. Vendor will coordinate training and schedule with authorized representatives.

4. Period of Performance

This contract is being awarded with a base period of 365 calendar days from the date of the contract, as well as two (2) option periods both 365-calendar days each. It is the City of Sacramento's unilateral right to exercise the option periods. The option period will be exercised upon successful performance/delivery in accordance with the Scope of Work as well as the contract's terms and conditions.

5. Points-of-Contact

The point of contact for contractual or technical issues is Stacey Chatman

Stacey Chatman/Administrative Analyst
300 Richards Bl, 3rd Floor
Sacramento, CA 95811
Phone: (916) 808-8793 Fax: (916) 808-7722
Email: schatman@cityofsacramento.org

The point of contact for payment or invoicing is the CDD Accounting Group.

Community Development Department/Accounting
300 Richards Blvd, 3rd Floor
Sacramento, California 95811
Phone: (916) 808-6515
Email: CDD-Accounting@cityofsacramento.org

6. Deliverables

Contractor shall submit a monthly report to the contract point of contact detailing all of the searched performed for the previous month. The Contractor shall be responsible for producing complete, competent, properly coordinated, and thoroughly checked documents with agreed upon schedules. Each monthly report shall provide at a minimum for each order placed against this contract:

- a. Address
- b. Case Number
- c. Name of Department and Representative placing the order
- d. Order Date
- e. Delivery Date
- f. Authorities

7. Authorities

The Contractor will take no-direction that changes the price, schedule, or other terms and conditions of this contract from any City of Sacramento employee other than those designated at time of award. Contractor will be notified in writing by the using departments as to the authorized City of Sacramento employees. Any changes to the price, schedule; or other terms of this contract will be documented in the form of a written Purchase Order, and received by the Contractor prior-to acting upon those changes. The Contractor will comply with the changes clause of this contract by notifying the Contracting Officer when the Contractor believes the direction has been given from persons other than those designated in writing.

8. Quality Control

The Contractor shall be responsible for quality control of its own work. The Contractor shall have a logical and functional quality control program to assure that errors and deficiencies in all submittals are minimal.

9. Payments and Invoicing

Payment shall be made in arrears for the preceding month. The City of Sacramento shall pay the Contractor upon submission of proper invoices for services delivered and accepted. Payment shall be based on the price of individual reports not a percentage of completion. The City of Sacramento must accept deliverables before payment shall be made.

Individual invoices for payment shall be submitted for each Title Report/Lot Book Search. Each invoice shall contain sufficient documentation necessary to allow for verification by the City of Sacramento. Invoices shall be mailed to the appropriate City of Sacramento point of contact (see paragraph 5, Points-of-Contact) within 2-business days of the Title Reports issuance. Failure to submit invoices in a timely manner will result in a delay in payment to the Contractor for services already provided. Invoices shall contain at a minimum the following information:

1. Case number for each parcel;
2. Job address for each parcel;
3. Description of services billed under this particular invoice;
4. Date of invoice issuance;
5. Sequential invoice number;
6. City of Sacramento agreement number; and the
7. Amount of invoice, with all reimbursable expenses itemized;
8. Requesting Division, i.e., Housing & Dangerous Buildings or Neighborhood Code Compliance
9. Name of authorized representative who placed request.

10. Fulfillment of Contractual Obligations

Any problems, which endanger the fulfillment of contractual requirements, shall be immediately brought to the attention of the City point-of-contact (see paragraph 5, Point-of-Contact).

The Contractor shall not perform services beyond this Scope of Work requested any person which he/she considers to be a change in work or services required by this contract and necessitating an adjustment in contract price until the Contractor has (1) made a proposal to the City of Sacramento covering such extra services; (2) negotiated a mutually satisfactory fee; and (3) received a Purchase Order detailing the change(s).

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT

FEE SCHEDULE/MANNER OF PAYMENT

1. **CONTRACTOR's Compensation.** The total of all fees paid to the CONTRACTOR for the performance of all services set forth in Exhibit A, including normal revisions (hereafter the "Services"), and for all authorized Reimbursable Expenses, shall not exceed the total sum of \$ 169,850.

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

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

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

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

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

D. Requests for payment shall be sent to:

Community Development Department
300 Richards Blvd., 3rd Floor, Sacramento, CA 95811
(916) 808-6515 Phone/(916) 808-7722 Fax

Attn: CDD Accounting

5. **Additional Services.** Additional Services are those services related to the scope of services of CONTRACTOR set forth in Exhibit A but not anticipated at the time of execution of this Agreement. Additional Services shall be provided only when a Supplemental Agreement authorizing such Additional Services is approved by CITY in accordance with CITY's Supplemental Agreement procedures. CITY reserves the right to perform any Additional Services with its own staff or to retain other contractors to perform said Additional Services.
6. **Accounting Records of CONTRACTOR.** During performance of this Agreement and for a period of three (3) years after completing all Services and Additional Services hereunder, CONTRACTOR shall maintain all accounting and financial records related to this Agreement, including, but not limited to, records of CONTRACTOR's costs for all Services and Additional Services performed under this Agreement and records of CONTRACTOR's Reimbursable Expenses, in accordance with generally accepted accounting practices, and shall keep and make such records available for inspection and audit by representatives of the CITY upon reasonable written notice.
7. **Taxes.** CONTRACTOR shall pay, when and as due, any and all taxes incurred as a result of CONTRACTOR's compensation hereunder, including estimated taxes, and shall provide CITY with proof of such payment upon request. CONTRACTOR hereby agrees to indemnify CITY for any claims, losses, costs, fees, liabilities, damages or injuries suffered by CITY arising out of CONTRACTOR's breach of this Section 7.

D. PRICING SCHEDULE

In compliance with the contract documents, the undersigned hereby proposes to furnish all required labor, materials, supervision, transportation, equipment, services, taxes, incidentals, and supplies necessary to accomplish all services as required for:

TITLE REPORT SEARCH SERVICES

LINE ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE	TOTAL PRICE
BASE YEAR					
01	Residential Parcels	435	Each	\$ <u>100</u>	\$ <u>43,500</u>
02	Commercial Parcels	23	Each	\$ <u>650</u>	\$ <u>14,950</u>
Total Estimated Price for the Base Year (Lines 01-02)					\$ <u>58,450</u>
OPTION YEAR ONE					
101	Residential Parcels	457	Each	\$ <u>100</u>	\$ <u>45,700</u>
102	Commercial Parcels	25	Each	\$ <u>650</u>	\$ <u>16,250</u>
Total Estimated Price for the Option Year One (Lines 101-102)					\$ <u>61,950</u>
OPTION YEAR TWO					
201	Residential Parcels	371	Each	\$ <u>100</u>	\$ <u>37,100</u>
202	Commercial Parcels	19	Each	\$ <u>650</u>	\$ <u>12,350</u>
Total Estimated Price for the Option Year Two (Lines 201-202)					\$ <u>49,450</u>
Total Base Period					\$ <u>58,450</u>
Total Option Year One					\$ <u>61,950</u>
Total Option Year Two					\$ <u>49,450</u>
Grand Total (Base + Option One + Option Two)					\$ <u>169,850</u>

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [check one] Not furnish any facilities or equipment for this Agreement; or
 furnish the following facilities or equipment for the Agreement; [*list, if applicable*]

EXHIBIT D
PROFESSIONAL SERVICES AGREEMENT

GENERAL PROVISIONS

1. Independent Contractor.

- A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither CONTRACTOR nor CONTRACTOR's assigned personnel shall be entitled to any benefits payable to employees of CITY. CITY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this Agreement, and CONTRACTOR shall be issued a Form 1099 for its services hereunder. As an independent contractor, CONTRACTOR hereby agrees to indemnify and hold CITY harmless from any and all claims that may be made against CITY based upon any contention by any of CONTRACTOR's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any Services under this Agreement. (As used in this Exhibit D, the term "Services" shall include both Services and Additional Services as such terms are defined elsewhere in this Agreement.)
- B. It is further understood and agreed by the parties hereto that CONTRACTOR, in the performance of its obligations hereunder, is subject to the control and direction of CITY as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by CONTRACTOR for accomplishing such results. To the extent that CONTRACTOR obtains permission to, and does, use CITY facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the CONTRACTOR's sole discretion based on the CONTRACTOR's determination that such use will promote CONTRACTOR's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the CITY does not require that CONTRACTOR use CITY facilities, equipment or support services or work in CITY locations in the performance of this Agreement.
- C. If, in the performance of this Agreement, any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR. It is further understood and agreed that CONTRACTOR shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel and subcontractors.

- D. The provisions of this Section 1 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between CITY and CONTRACTOR. CONTRACTOR may represent, perform services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of Section 5, below.
2. **Licenses; Permits, Etc.** CONTRACTOR represents and warrants that CONTRACTOR has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature that are legally required for CONTRACTOR to practice its profession or provide any services under the Agreement. CONTRACTOR represents and warrants that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals that are legally required for CONTRACTOR to practice its profession or provide such Services. Without limiting the generality of the foregoing, if CONTRACTOR is an out-of-state corporation, CONTRACTOR warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.
 3. **Time.** CONTRACTOR shall devote such time and effort to the performance of Services pursuant to this Agreement as is necessary for the satisfactory and timely performance of CONTRACTOR's obligations under this Agreement. Neither party shall be considered in default of this Agreement, to the extent that party's performance is prevented or delayed by any cause, present or future, that is beyond the reasonable control of that party.
 4. **CONTRACTOR Not Agent.** Except as CITY may specify in writing, CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to bind CITY to any obligations whatsoever.
 5. **Conflicts of Interest.** CONTRACTOR covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of CITY or that would in any way hinder CONTRACTOR's performance of Services under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of CITY. CONTRACTOR agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY at all times during the performance of this Agreement. If CONTRACTOR is or employs a former officer or employee of the CITY, CONTRACTOR and any such employee(s) shall comply with the provisions of Sacramento City Code Section 2.16.090 pertaining to appearances before the City Council or any CITY department, board, commission or committee.
 6. **Confidentiality of CITY Information.** During performance of this Agreement, CONTRACTOR may gain access to and use CITY information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright, data, and other vital information (hereafter collectively referred to as "City Information") that are valuable, special and unique assets of the CITY. CONTRACTOR agrees to protect all City Information and treat it as strictly confidential, and further agrees that CONTRACTOR shall not at any time, either directly or indirectly, divulge, disclose or

communicate in any manner any City Information to any third party without the prior written consent of CITY. In addition, CONTRACTOR shall comply with all CITY policies governing the use of the CITY network and technology systems, as set forth in applicable provisions of the City of Sacramento Administrative Policy Instructions # 30. A violation by CONTRACTOR of this Section 6 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

7. CONTRACTOR Information.

- A. CITY shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement. In this Agreement, the term "information" shall be construed to mean and include: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostatting, photographing, computer models, and any other computerized data and every other means of recording any form of information, communications, or representation, including letters, works, pictures, drawings, sounds, or symbols, or any combination thereof. CONTRACTOR shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose by CITY.
- B. CONTRACTOR shall fully defend, indemnify and hold harmless CITY, its officers and employees, and each and every one of them, from and against any and all claims, actions, lawsuits or other proceedings alleging that all or any part of the information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement infringes upon any third party's trademark, trade name, copyright, patent or other intellectual property rights. CITY shall make reasonable efforts to notify CONTRACTOR not later than ten (10) days after CITY is served with any such claim, action, lawsuit or other proceeding, provided that CITY's failure to provide such notice within such time period shall not relieve CONTRACTOR of its obligations hereunder, which shall survive any termination or expiration of this Agreement.
- C. All proprietary and other information received from CONTRACTOR by CITY, whether received in connection with CONTRACTOR's proposal to CITY or in connection with any Services performed by CONTRACTOR, will be disclosed upon receipt of a request for disclosure, pursuant to the California Public Records Act; provided, however, that, if any information is set apart and clearly marked "trade secret" when it is provided to CITY, CITY shall give notice to CONTRACTOR of any request for the disclosure of such information. The CONTRACTOR shall then have five (5) days from the date it receives such notice to enter into an agreement with the CITY, satisfactory to the City Attorney, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney fees) incurred by CITY in any legal action to compel the disclosure of such information under the California Public Records Act. The CONTRACTOR shall have sole responsibility for defense of the actual "trade secret" designation of such information.
- D. The parties understand and agree that any failure by CONTRACTOR to respond to the notice provided by CITY and/or to enter into an agreement with CITY, in accordance with the provisions of subsection C, above, shall constitute a complete waiver by CONTRACTOR of any rights regarding the information designated "trade secret" by CONTRACTOR, and such

information shall be disclosed by CITY pursuant to applicable procedures required by the Public Records Act.

8. **Standard of Performance.** CONTRACTOR shall perform all Services required pursuant to this Agreement in the manner and according to the standards currently observed by a competent practitioner of CONTRACTOR's profession in California. All products of whatsoever nature that CONTRACTOR delivers to CITY pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in CONTRACTOR's profession, and shall be provided in accordance with any schedule of performance specified in Exhibit A. CONTRACTOR shall assign only competent personnel to perform Services pursuant to this Agreement. CONTRACTOR shall notify CITY in writing of any changes in CONTRACTOR's staff assigned to perform the Services required under this Agreement, prior to any such performance. In the event that CITY, at any time during the term of this Agreement, desires the removal of any person assigned by CONTRACTOR to perform Services pursuant to this Agreement, because CITY, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, CONTRACTOR shall remove such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person.
9. **Term; Suspension; Termination.**
- A. This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.
- B. CITY shall have the right at any time to temporarily suspend CONTRACTOR's performance hereunder, in whole or in part, by giving a written notice of suspension to CONTRACTOR. If CITY gives such notice of suspension, CONTRACTOR shall immediately suspend its activities under this Agreement, as specified in such notice.
- C. CITY shall have the right to terminate this Agreement at any time by giving a written notice of termination to CONTRACTOR. If CITY gives such notice of termination, CONTRACTOR shall immediately cease rendering Services pursuant to this Agreement. If CITY terminates this Agreement:
- (1) CONTRACTOR shall, not later than five days after such notice of termination, deliver to CITY copies of all information prepared pursuant to this Agreement.
 - (2) CITY shall pay CONTRACTOR the reasonable value of Services rendered by CONTRACTOR prior to termination; provided, however, CITY shall not in any manner be liable for lost profits that might have been made by CONTRACTOR had the Agreement not been terminated or had CONTRACTOR completed the Services required by this Agreement. In this regard, CONTRACTOR shall furnish to CITY such financial information as in the judgment of the CITY is necessary for CITY to determine the reasonable value of the Services rendered by CONTRACTOR. The foregoing is cumulative and does not affect any right or remedy that CITY may have in law or equity.

10. Indemnity.

- A. Indemnity: CONTRACTOR shall defend, hold harmless and indemnify CITY, its officers and employees, and each and every one of them, from and against any and all 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 performance of or failure to perform this Agreement by CONTRACTOR, 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 CONTRACTOR.
- B. Insurance Policies; Intellectual Property Claims: The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY's rights under this Section 10, nor shall the limits of such insurance limit the liability of CONTRACTOR hereunder. This Section 10 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 7.B., above. The provisions of this Section 10 shall survive any expiration or termination of this Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Additional Insured Coverage

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

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

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

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

C. Other Insurance Provisions

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

- (1) Except for professional liability, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officials, employees and volunteers. Any insurance or self-insurance maintained by CITY, its officials, employees or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.
- (2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its officials, employees or volunteers.
- (3) Coverage shall state that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (4) CITY will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

D. Acceptability of Insurance

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

E. Verification of Coverage

- (1) CONTRACTOR shall furnish CITY with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.
- (2) The CITY may withdraw its offer of contract or cancel this Agreement if the certificates of insurance and endorsements required have not been provided prior to execution of this Agreement. The CITY may withhold payments to CONTRACTOR and/or cancel the

Agreement if the insurance is canceled or CONTRACTOR otherwise ceases to be insured as required herein.

F. Subcontractors

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

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

- A. Compliance With Regulations: CONTRACTOR shall comply with the Executive Order 11246 entitled "Equal Opportunity in Federal Employment", as amended by Executive Order 11375 and 12086, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), hereinafter collectively referred to as the "Regulations".
- B. Nondiscrimination: CONTRACTOR, with regards to the work performed by it after award and prior to completion of the work pursuant to this Agreement, shall not discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation in selection and retention of subcontractors, including procurement of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in discrimination prohibited by the Regulations.
- C. Solicitations for Subcontractors, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by CONTRACTOR for work to be performed under any subcontract, including all procurement of materials or equipment, each potential subcontractor or supplier shall be notified by CONTRACTOR of CONTRACTOR's obligation under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation.
- D. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or by any orders or instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of noncompliance by CONTRACTOR with the nondiscrimination provisions of this Agreement, the CITY shall impose such sanctions as it may determine to be appropriate including, but not limited to:
- (1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;

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

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

13. **Entire Agreement.** This document, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by CONTRACTOR, and by CITY, in accordance with applicable provisions of the Sacramento City Code.
14. **Severability.** If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
15. **Waiver.** Neither CITY acceptance of, or payment for, any Service or Additional Service performed by CONTRACTOR, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.
16. **Enforcement of Agreement.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.
17. **Assignment Prohibited.** The expertise and experience of CONTRACTOR are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities that will fulfill the obligations imposed on CONTRACTOR under this Agreement. In recognition of this interest, CONTRACTOR shall not assign any right or obligation pursuant to this Agreement without the written consent of the CITY. Any attempted or purported assignment without CITY's written consent shall be void and of no effect.
18. **Binding Effect.** This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.
19. **Use Tax Requirements.** During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:

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

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

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

EXHIBIT E

REQUIREMENTS OF THE NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

INTRODUCTION

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

APPLICATION

The provisions of the Ordinance apply to any contract or agreement (as defined below), between a Contractor and the City of Sacramento, in an amount exceeding \$100,000.00. 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

On2/1/14..... (date), your employer (the "Employer") entered into a contract with the City of Sacramento (the "City") forTitle Report Search Services..... (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
915 I Street, Second Floor
Sacramento, CA 95814

- Bring an action in the appropriate division of the Superior Court of the State of California against the Employer and obtain the following remedies:
 - Reinstatement, injunctive relief, compensatory damages and punitive damages
 - Reasonable attorney's fees and costs

Attachment B



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

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

The included employee benefits are:

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

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

You May . . .

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

City of Sacramento
Procurement Services Division
915 I Street, Second Floor
Sacramento, CA 95814

- 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.

POLICY NUMBER: ZAWCI9317100

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

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

The additional premium for this endorsement shall be 2 % of the California workers' compensation premium otherwise due on such remuneration.

SCHEDULE

PERSON OR ORGANIZATION

JOB DESCRIPTION

ANY PERSON OR ORGANIZATION WHERE
WAIVER OF OUR RIGHT TO RECOVER IS
REQUIRED BY WRITTEN CONTRACT WITH
SUCH PERSON OR ORGANIZATION
PROVIDED SUCH CONTRACT WAS
EXECUTED PRIOR TO DATE OF LOSS

ALL JOBS UNDER CONTRACT

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 01-01-14 Policy No. ZAWCI9317100

Endorsement No.

Insured MOTHER LODE HOLDING COMPANY

Premium \$ INCL.

Insurance Company ARCH INSURANCE COMPANY

Countersigned By _____

DATE OF ISSUE: 12-27-13

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ADVANCE COPY



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/25/2013

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

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

PRODUCER LIC #0B29370 Edgewood Partners Insurance Center (EPIC) 135 Main Street, 21st Floor San Francisco, CA 94105 requests@edgewoodins.com	1-415-356-3989	CONTACT NAME: Denise LeClerc PHONE (A/C, No, Ext): 650-295-4657 E-MAIL ADDRESS: dleclerc@edgewoodins.com	FAX (A/C, No): 415-284-9947
INSURED National Closing Solutions, Inc. Placer Title Company 5814 Lonetree Blvd. Rocklin, CA 95765		INSURER(S) AFFORDING COVERAGE	
		INSURER A: TRAVELERS PROPERTY CAS CO OF AMER	NAIC # 25674
		INSURER B: INDIAN HARBOR INS CO	36940
		INSURER C: STARR SURPLUS LINES INS CO	13604
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 36571210

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Per Loc Aggregate GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X		Y6308463L546TIL13	03/15/13	03/15/14	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			Y8108463L546TIL13	03/15/13	03/15/14	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	E&O			SL9LPRO26225013	11/01/13	11/01/14	2,000,000
B	E&O (Excess)			ELU13185113	11/01/13	11/01/14	3,000,000

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

City of Sacramento, its officials, employees and volunteers are named as Additional Insured as respects General Liability per the endorsement attached.

CERTIFICATE HOLDER**CANCELLATION**

City of Sacramento c/o Ebix BPO PO Box 257, Ref# 106-Z342993 Portland, MI 48875-0257 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Denise LeClerc</i>
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INTERNATIONAL XTEND ENDORSEMENT FOR SERVICE INDUSTRIES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

- | | |
|---|--|
| <p>A. Broadened Named Insured</p> <p>B. Blanket Additional Insured – Broad Form Vendors</p> <p>C. Limited Worldwide Liability Coverage – Indemnity Basis</p> <p>D. Damage To Premises Rented To You</p> <ul style="list-style-type: none"> ▪ Perils of fire, explosion, lightning, smoke, water ▪ Limit increased to \$300,000 <p>E. Blanket Waiver of Subrogation</p> <p>F. Blanket Additional Insured – Owners, Managers or Lessors of Premises</p> <p>G. Blanket Additional Insured – Lessors of Leased Equipment</p> <p>H. Incidental Medical Malpractice</p> <p>I. Personal Injury – Assumed by Contract</p> | <p>J. Amended Bodily Injury Definition</p> <p>K. Bodily Injury to Co-Employees and Co-Volunteer Workers</p> <p>L. Aircraft Chartered with Crew</p> <p>M. Non-Owned Watercraft – Increased from 25 feet to 50 feet</p> <p>N. Increased Supplementary Payments</p> <ul style="list-style-type: none"> • Cost of bail bonds increased to \$2,500 • Loss of earnings increased to \$500 per day <p>O. Knowledge and Notice of Occurrence or Offense</p> <p>P. Unintentional Omission</p> <p>Q. Reasonable Force – Bodily Injury or Property Damage</p> <p>R. Transportation Expenses For Repatriation or Relocation of Injured Or Sick Employees</p> |
|---|--|

PROVISIONS

A. BROADENED NAMED INSURED

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

Any organization, other than a partnership or joint venture, over which you maintain ownership or majority interest on the effective date of the policy qualifies as a Named Insured. However, coverage for any such organization will cease as of the date during the policy period that you no longer maintain ownership of, or majority interest in, such organization.

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

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, unless reported in writing to us within 180 days.

B. BLANKET ADDITIONAL INSURED – BROAD FORM VENDORS

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

Any person or organization that is a vendor and that you have agreed in a written contract or

COMMERCIAL GENERAL LIABILITY

agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" that:

- a. Is caused by an "occurrence" that takes place after you have signed and executed that contract or agreement; and
- b. Arises out of "your products" which are distributed or sold in the regular course of such vendor's business.

The insurance provided to such vendor is subject to the following provisions:

- a. The limits of insurance provided to such vendor will be the limits which you agreed to provide in the written contract or agreement, or the limits shown in the Declarations of this Coverage Part, whichever are less.
- b. The insurance provided to such vendor does not apply to:
 - (1) "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;
 - (2) Any express warranty unauthorized by you;
 - (3) Any physical or chemical change in "your products" made intentionally by such vendor;
 - (4) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - (5) Any failure to make such inspections, adjustments, tests or servicing as vendors agree to perform or normally undertake to perform in the regular course of business, in connection with the distribution or sale of "your products";
 - (6) Demonstration, installation, servicing or repair operations, except such operations performed at such vendor's premises in connection with the sale of "your products"; or
 - (7) "Your products" which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part or in-

redient of any other thing or substance by or for such vendor.

Coverage under this provision does not apply to:

- a. Any person or organization from whom you have acquired "your products", or any ingredient, part or container entering into, accompanying or containing such products; or
- b. Any vendor for which coverage as an additional insured specifically is scheduled by endorsement.

C. LIMITED WORLDWIDE LIABILITY COVERAGE – INDEMNITY BASIS

1. The following replaces the definition of "coverage territory" in the DEFINITIONS Section:

"Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place; or

- (2) The "personal injury" or "advertising injury" is caused by an offense committed;

in the course of travel or transportation between any places included in Paragraph a. above; or

- c. All other parts of the world except the "prohibited area", but only if the injury or damage arises out of:

- (1) Goods or products made, sold, handled or distributed by you, or services provided by you to your customers or clients, in the territory described in Paragraph a. above;

- (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or

- (3) "Personal injury" or "advertising injury" offenses committed through the Internet or similar electronic means of communication;

provided that the insured's responsibility to pay damages is determined in a "suit" on the merits brought anywhere in the world except

COMMERCIAL GENERAL LIABILITY

the "prohibited area", or in a settlement we agree to.

With respect to "occurrences" that take place, or "personal injury" or "advertising injury" offenses committed within the territory described in Paragraph c. above, the following conditions apply:

- (i) This insurance is excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis.
- (ii) This insurance is not a substitute for "compulsory admitted insurance" in any country or jurisdiction included in Paragraph c. above, regardless of whether this insurance would qualify as "compulsory admitted insurance" in such country or jurisdiction or is accepted by the appropriate authorities as proof of "compulsory admitted insurance".

You agree to maintain "compulsory admitted insurance" at the limits required by law. Your failure to do so will not invalidate the coverage provided for such "occurrences" or offenses, but we will only be liable to the same extent we would have been liable had you maintained "compulsory admitted insurance".

For purposes of this Paragraph (ii), "compulsory admitted insurance" means insurance that is:

- (1) Required to be in-force to satisfy the legal requirements of a specific country or jurisdiction; and
 - (2) Issued by an insurance fund administered by such country or jurisdiction or issued by an insurer licensed or permitted by law to do business in such country or jurisdiction.
- (iii) With respect to defending the insured against, or the investigation or settlement of, any claim or "suit" brought against the insured, the following will apply:

- (1) The phrase "We will pay...." in the first sentence of Paragraph 1.a. of SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY and Paragraph 1.a. of SECTION I – COVERAGES – COVERAGE B PERSONAL AND ADVERTISING

INJURY LIABILITY is replaced by the phrase "We will indemnify the insured for....".

- (2) You must arrange to defend the insured against, and investigate or settle, any claim or "suit".
- (3) Neither you nor any other involved insured will make any settlement without our consent.
- (4) We will pay expenses incurred with our consent for your defense of the insured against any "suit" seeking damages for "bodily injury", "property damage", "personal injury" or "advertising injury" to which this insurance applies.
- (5) We may, at our discretion, participate in defending the insured against, or in the settlement of, any claim or "suit".

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

"Prohibited area" means any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction.

D. DAMAGE TO PREMISES RENTED TO YOU

- 1. The following replaces the last paragraph of Paragraph 2., Exclusions, of SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

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

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

A separate limit of insurance applies to such damage to premises as described in Paragraph 6. of Section III – Limits Of Insurance.

This insurance does not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

COMMERCIAL GENERAL LIABILITY

- a. Rupture, bursting, or operation of pressure relief devices;
 - b. Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water;
 - c. Explosion of steam boilers, steam pipes, steam engines, or steam turbines.
2. The following replaces Paragraph 6. of **SECTION III – LIMITS OF INSURANCE**:
- Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "properly damage" to any one premises while rented to you, or temporarily occupied by you with permission of the owner, caused by fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water. The Damage To Premises Rented To You Limit will apply to all damage proximately caused by the same "occurrence", whether such damage results from fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; water; or any combination of any of these.
- The Damage To Premises Rented To You Limit will be the higher of:
- a. \$300,000; or
 - b. The amount shown on the Declarations of this Coverage Part for Damage To Premises Rented To You Limit.
4. The following replaces Paragraph a. of the definition of "insured contract" in the **DEFINITIONS** Section:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:
 - (1) Fire;
 - (2) Explosion;
 - (3) Lightning;
 - (4) Smoke resulting from such fire, explosion, or lightning; or
 - (5) Water.is not an "insured contract";
5. The following replaces Paragraph 4.b.(1)(b) of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:
- (b) That is insurance for premises rented to you, or temporarily occupied by you with the permission of the owner;
- E. **BLANKET WAIVER OF SUBROGATION**
- The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:
- We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of premises owned or occupied by or rented or loaned to you; ongoing operations performed by you or on your behalf, done under a contract with that person or organization; "your work"; or "your products". We waive this right where you have agreed to do so as part of a written contract, executed by you prior to loss.
- F. **BLANKET ADDITIONAL INSURED – OWNERS, MANAGERS OR LESSORS OF PREMISES**
- The following is added to **SECTION II – WHO IS AN INSURED**:
- Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to name as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that:
- a. Is "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after you have signed and executed that contract or agreement; and
 - b. Arises out of the ownership, maintenance or use of that part of any premises leased to you.
- The insurance provided to such premises owner, manager or lessor is subject to the following provisions:
- a. The limits of insurance provided to such premises owner, manager or lessor will be the limits which you agreed to provide in the written contract or agreement, or the limits shown on the Declarations of this Coverage Part, whichever are less.
 - b. The insurance provided to such premises owner, manager or lessor does not apply to:

- (1) "Bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.

c. The insurance provided to such premises owner, manager or lessor is excess over any valid and collectible other insurance available to such premises owner, manager or lessor, unless you have agreed in a written contract for this insurance to apply on a primary or contributory basis.

G. BLANKET ADDITIONAL INSURED – LESSORS OF LEASED EQUIPMENT

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

Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that:

- a. Is "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after you have signed and executed that contract or agreement; and
- b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use by you of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

- a. The limits of insurance provided to such equipment lessor will be the limits which you agreed to provide in the written contract or agreement, or the limits shown on the Declarations of this Coverage Part, whichever are less.
- b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or

"advertising injury" caused by an offense that is committed, after the equipment lease expires.

- c. The insurance provided to such equipment lessor is excess over any valid and collectible other insurance available to such equipment lessor, unless you have agreed in a written contract for this insurance to apply on a primary or contributory basis.

H. INCIDENTAL MEDICAL MALPRACTICE

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

Unless you are in the business or occupation of providing professional health care services, "occurrence" also means an act or omission committed in providing or failing to provide "incidental medical services" to a person.

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

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages;
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances;
- c. First aid; or
- d. "Good Samaritan services".

"Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

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

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to any "bodily injury" arising out of any providing or failing to provide "incidental medical services" by any of your "employees", other than an employed doctor. Any such "employees" providing or failing to provide "incidental medical services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- 4. The following exclusion is added to Paragraph 2., Exclusions, of **SECTION I – COV-**

COMMERCIAL GENERAL LIABILITY

COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

Sale Of Pharmaceuticals

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

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

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

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

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of **SECTION II – WHO IS AN INSURED.**

I. PERSONAL INJURY – ASSUMED BY CONTRACT

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

e. Contractual Liability

"Personal injury" or "advertising injury" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to:

- (1) Liability for damages that the insured would have in the absence of the contract or agreement; or
- (2) Liability for damages because of "personal injury" assumed in a contract or agreement that is an "insured contract", provided that the "personal injury" is caused by an offense com-

mitted subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "personal injury", provided that:

- (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

2. The following replaces the third sentence of Paragraph 2. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:**

Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability or Paragraph 2.e. of Section I – Coverage B – Personal and Advertising Injury Liability, such payments will not be deemed to be damages because of "bodily injury", "property damage" or "personal injury", and will not reduce the limits of insurance.

3. The following replaces Paragraph 2.d. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:**

d. The allegations in the "suit" and the information we know about the "occurrence" or offense are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

4. The following replaces the first subparagraph of Paragraph f. of the definition of "insured contract" in the **DEFINITIONS** Section:

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury," "property damage" or "personal injury" to a third person or organization. Tort liability means a liability that

would be imposed by law in the absence of any contract or agreement.

J. EXTENSION OF COVERAGE – BODILY INJURY

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

"Bodily injury" means bodily injury, mental anguish, mental injury, shock, fright, disability, humiliation, sickness or disease sustained by a person, including death resulting from any of these at any time.

K. BODILY INJURY TO CO-EMPLOYEES AND CO-VOLUNTEER WORKERS

The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Paragraph (1)(a) above does not apply to "bodily injury" to a co-"employee" in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" while performing duties related to the conduct of your business.

L. AIRCRAFT CHARTERED WITH CREW

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

This exclusion does not apply to an aircraft that is:

- (a) Chartered with crew to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

M. NON-OWNED WATERCRAFT

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

- (2) A watercraft you do not own that is:
 - (a) Fifty feet long or less; and
 - (b) Not being used to carry any person or property for a charge.

2. The following is added to Paragraph 2, of SECTION II – WHO IS AN INSURED:

Any person or organization that, with your express or implied consent, either uses or is responsible for the use of a watercraft that you do not own that is:

- (1) Fifty feet long or less; and
- (2) Not being used to carry any person or property for a charge.

N. INCREASED SUPPLEMENTARY PAYMENTS

1. The following replaces Paragraph 1.b. of SUPPLEMENTARY PAYMENTS – COVERAGES A AND B of SECTION I – COVERAGES:

- b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

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

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

O. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE

The following is added to Paragraph 2., Duties In The Event of Occurrence, Offense, Claim or Suit, of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

- e. The following provisions apply to Paragraph a. above, but only for the purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:

- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your trustees who is an individual (if you are a trust), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, limited liability company or trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.

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(2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:

(a) Any individual who is:

- (i) A partner or member of any partnership or joint venture;
- (ii) A manager of any limited liability company;
- (iii) A trustee of any trust; or
- (iv) An executive officer or director of any other organization;

that is your partner, joint venture member, manager or trustee; or

(b) Any "employee" authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.

(3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraphs e.(1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.

However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.

P. UNINTENTIONAL OMISSION

The following is added to Paragraph 6., Representations, of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:

The unintentional omission of, or unintentional error in, any information provided by you which

we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

Q. REASONABLE FORCE - BODILY INJURY OR PROPERTY DAMAGE

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

a. Expected or Intended Injury or Damage

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

R. TRANSPORTATION EXPENSES FOR REPATRIATION OR RELOCATION OF INJURED OR SICK EMPLOYEES

1. The following is added to SUPPLEMENTARY PAYMENTS - COVERAGE A AND B of SECTION I - COVERAGES:

We will reimburse you for the reasonable "transportation expenses" that you incur, over and above "normal transportation costs", for the repatriation or relocation of any of your injured, diseased, sick or deceased "employees". But only if:

a. The injury, disease, sickness, or death occurred during the policy period and while such "employee" was employed or assigned to work by you anywhere in the world other than:

(1) The United States of America (including its territories and possessions), Puerto Rico and Canada; and

(2) Any country or jurisdiction in the "prohibited area";

b. The relocation or repatriation is necessary in the opinion of competent medical authorities; and

c. The relocation or repatriation is from the country where the injury, disease, sickness, or death occurred to a destination in another country.

The most we will pay as reasonable "transportation expenses" for the repatriation or relocation of any one of your "employees" is

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\$25,000. The most we will pay as reasonable "transportation expenses" for the repatriation or relocation of all of your "employees" is \$50,000. These payments will not reduce the limits of insurance.

2. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**;

This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available for the reasonable "transportation expenses" that you incur, over and above "normal transportation costs", for the repatriation or relocation of any of your injured, diseased, sick or deceased "employees".

3. The following is added to the **DEFINITIONS** section:

"Normal transportation costs" means the costs of transporting your "employee" in good health, and in conformance with your business travel policy, from the country of injury, disease, sickness, or death to the country of relocation or repatriation.

"Transportation expenses" includes the following expenses:

- a. Costs of embalming to meet United States standards; and
- b. All reasonable expenses of transportation to return the remains of the deceased to the country of burial or funeral.