

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE CALIFORNIA HIGHWAY PATROL FOR THE JOINT USE OF THE WEAPONS FIRING RANGE

WHEREAS, the Scott Creek weapons firing range has been jointly used by the Milpitas Police Department and the California Highway Patrol for a number of years; and

WHEREAS, the City has an agreement to lease the firing range from the property owner and the City has subleased use of the facility to the California Highway Patrol on a bi-annual basis which ended December, 31, 2009; and

WHEREAS, there has been submitted to the City Council of the City of Milpitas a proposed agreement to be entered into by and between the City of Milpitas and the California Highway Patrol; and

WHEREAS, said Agreement is attached as Exhibit A and is made a part hereof.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The Agreement, attached as Exhibit A, is approved and the City Manager is authorized and directed to execute said Agreement for and on behalf of the City of Milpitas.

PASSED AND ADOPTED this _____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Robert Livengood, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

EXHIBIT A

State of California—Business, Transportation and Housing Agency

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

Business Services Section
Contract Services Unit
P.O. Box 942898
Sacramento, CA 94298-0001
(916) 843-3610
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



June 8, 2010

Milpitas Police Department/City of Milpitas
1275 N. Milpitas Blvd.
Milpitas, CA 95035

Subject: Agreement Number 09C340000-0

Complete the following marked item(s) and return to the above address within ten (10) business days:

- STD. 213, Standard Agreement with attached exhibits. Sign the first page of the STD. 213, sign the additional single STD. 213, and return both copies.
- STD. 213A, Standard Agreement Amendment. Sign the first page of the STD. 213A, sign the additional single STD. 213A, and return both copies.
- STD. 210, Short Form Contract. Sign and return both copies.
- Letter of Agreement. Sign and return both copies.
- STD. 204, Payee Data Record. Complete and return.
- CCC, Contractor Certification Clauses. Complete and return.
- Obtain and forward the liability insurance certificate required by the terms of the Agreement.
- Resolution, motion, order, or ordinance from the local governing body authorizing this Agreement.
- STD. 807, Payment Bond. Complete and return one copy.
- CHP 28, Voluntary Statistical Data. Complete and return.
- Other: CHP 78V. Please complete and return with your contract documents.

Contract status.

- The enclosed agreement is signed on behalf of the Department of California Highway Patrol. Process and when approved, return an original to this office.
- The enclosed approved agreement is for your records. You are now authorized to provide services.

BOBBY CONTRERAS
Contract Analyst

Enclosures

Safety, Service, and Security

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

CONTRACT NUMBER

9C340000

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

Department of California Highway Patrol

CONTRACTOR'S NAME

Milpitas Police Department/City of Milpitas

2. The term of this Agreement is: 01/01/2010 through 12/31/2012
 This Agreement shall not become effective until approved by the Department of California Highway Patrol.

3. The maximum amount of this Agreement is: \$36,000.00
 Thirty-Six Thousand Dollars and Zero Cents.

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	2 pages
Exhibit B – Budget Detail and Payment Provisions	1 page(s)
Exhibit C* – General Terms and Conditions	GTC 307
Exhibit D – Special Terms and Conditions (Attached hereto as part of this agreement)	1 page(s)
Exhibit E – Additional Provisions – Commercial Liability Insurance Requirements	1 page(s)

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
 These documents can be viewed at www.ois.dgs.ca.gov/Standard+Language/default.html

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		<i>California Department of General Services Use Only</i> EXEMPT FROM DEPARTMENT OF GENERAL SERVICES APPROVAL IN ACCORDANCE WITH THE STATE ADMINISTRATIVE MANUAL
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)		
Milpitas Police Department – <i>City of Milpitas</i>		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
<i>[Signature]</i>		
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
1275 N. Milpitas Boulevard Milpitas, CA 95035		
STATE OF CALIFORNIA		
AGENCY NAME		
Department of California Highway Patrol		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
<i>[Signature]</i>		
PRINTED NAME AND TITLE OF PERSON SIGNING		
K. V. Smith, Commander		
ADDRESS		
P.O. Box 942898, Sacramento, CA 94298-0001		

**EXHIBIT A
(Standard Agreement)**

SCOPE OF WORK

1. Contractor agrees to provide weapons shooting range for monthly weapons training to The Department of California Highway Patrol (CHP) San Jose Area located at 2020 Junction Avenue, San Jose, CA 95131.

2. The services shall be performed at: If checked see attached for additional service locations

Milpitas Police Department/City of Milpitas
2000 Scott Creek Road
Milpitas, CA 95035

SHOOTING RANGE

3. The services shall be provided during:
the hours agreed upon by the parties hereto.

4. The project representatives during the term of this agreement will be:

STATE AGENCY		CONTRACTOR	
Department of California Highway Patrol		Milpitas Police Department/City of Milpitas	
NAME Sergeant John Warren		NAME Lt. Steve Petrakovitz	
TELEPHONE NUMBER (408) 467-5400	FAX NUMBER (408) 467-5407	TELEPHONE NUMBER (408) 586-2419	FAX NUMBER (408) 586-2488

Direct all inquiries to:

STATE AGENCY		CONTRACTOR	
Department of California Highway Patrol		Milpitas Police Department/City of Milpitas	
SECTION/UNIT San Jose Area		SECTION/UNIT	
ATTENTION Sergeant John Warren		ATTENTION Lt. Steve Petrakovitz	
ADDRESS 2020 Junction Avenue, San Jose, CA 95131		ADDRESS 1275 N. Milpitas Blvd., Milpitas, CA 95035	
TELEPHONE NUMBER (408) 467-5400	FAX NUMBER (408) 467-5407	TELEPHONE NUMBER (408) 586-2419	FAX NUMBER (408) 586-2488

EXHIBIT A
(Standard Agreement)

SPECIFICATIONS

- A. The weapons range use shall be limited to CHP personnel assigned to the CHP San Jose Area office located at 2020 Junction Avenue, San Jose, CA 95131.
- B. Contractor agrees that CHP shall have the use of all on-site facilities located on the range for training programs without additional charge.
- C. Contractor and CHP agree the weapons range shall be open and usable by members of CHP at such times that are mutually agreeable to both parties. Exclusive use of the facilities by CHP must be coordinated and mutually agreed to by both parties.
- D. The CHP agrees that its members using the weapons range facilities under this Agreement shall be governed by the range safety rules established by Contractor.
- E. Brass will be retained by Contractor.
- F. The weapons range must be able to accommodate the following:
 - 1) .40 caliber pistol (loaded with Department-issued ammunition currently 180G).
 - a. Twelve (12) shoots per year, one (1) each month or two (2) every other month.
 - b. Two (2) qualification shoots which must be performed at the following distances:
2 yards, 4 yards, 7 yards, 10 yards, 15 yards, and 25 yards.
 - c. Ten (10) practice shoots, of which two (2) night shoots are recommended.
 - d. Use for make-up shoots at times mutually agreeable to both parties.
 - 2) Tactical rifle (.223 caliber).
 - a. Four (4) shoots per year (quarterly).
 - b. One (1) night shoot is required.
 - c. Maximum distance of 50 yards.
 - 3) Shotgun (00 buckshot).
 - a. Eight shoots per year (two quarterly).
 - b. Two (2) night shoots required.
 - c. Distance 15 yards maximum.
- G. Inspection and test firing of weapons:
 - 1) All weapons are to be test fired after each required inspection by the Area Weapons Range Officer.
 - 2) Use of facility to test fire weapons will be coordinated between the Area Weapons Range Officer and the Contractor.

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number and shall be submitted in duplicate not more frequently than monthly in arrears to:

Name: Sergeant John Warren
Office: San Jose Area - 340
Address: 2020 Junction Avenue
San Jose, CA 95131

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Rate Schedule

The CHP agrees to pay Contractor in arrears at a rate of One Thousand Dollars and Zero Cents (\$1,000.00) per month for use of the weapons shooting range for the CHP San Jose Area. The monthly rate consists of Two Hundred Fifty Dollars and Zero Cents (\$250.00) for rent and Seven Hundred Fifty Dollars and Zero Cents (\$750.00) to off-set maintenance and improvement costs.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. Both parties reserve the right to cancel this Agreement with thirty (30) days prior written notice to the other party.
2. This Agreement may be amended in writing with mutual consent of the parties hereto.
3. The parties hereto agree that the following supercedes and substitutes for Paragraph 5 of Exhibit C herein:

CHP shall defend, hold harmless and indemnify Contractor from any and all liabilities directly or proximately caused by CHP use of said weapons firing range. The persons benefited and protected by this promise are the City of Milpitas and its city council members, officers, volunteers, agents and employees. The liabilities protected against are any and all losses, claims, actions and liabilities, of any kind allegedly suffered, incurred or threatened because of actions described herein, and include claims for damages for personal injury, death, property damage, inverse condemnation, or any combination of these, and shall also include the defense of any suit(s), action(s), or other proceeding(s) asserting those liabilities. The duty to indemnify applies to any acts or omissions, willful misconduct, or negligent conduct, whether active or passive, on the part of the CHP or any of its contractors, subcontractors, officers, agents or employees. CHP shall not be liable for, nor shall its defense and indemnity obligations extend to, any act or omission arising solely from the misconduct or negligence of Contractor.

EXHIBIT E
(Standard Agreement)

COMMERCIAL LIABILITY INSURANCE REQUIREMENTS

A. Commercial General Liability

Contractor shall furnish to CHP a valid certificate of commercial general liability insurance, at no expense to CHP or to the state, and shall maintain or cause to be maintained and in effect, at all times during the term of the agreement, a policy of no less than \$1,000,000 per occurrence for bodily injury and property damage liability combined.

B. Automobile Liability (Applicable only when automobile(s) are required to provide services in accordance with the Agreement.)

Contractor shall furnish to CHP a valid certificate of automobile liability insurance, at no expense to CHP or to the state, and shall maintain or cause to be maintained and in effect, at all times during the term of the agreement, a policy of no less than \$1,000,000 per occurrence for bodily injury and property damage liability combined.

C. Pollution Liability (Applicable only when services involve the handling of toxic or hazardous substances.)

Contractor shall furnish to CHP a valid certificate of pollution liability insurance, at no expense to CHP or to the state, and shall maintain or cause to be maintained and in effect, at all times during the term of the agreement, a policy of no less than \$1,000,000, which shall provide for work performed on-site as well as during the transport of hazardous materials.

D. Any or all types of insurance coverage must meet the following State of California requirements:

- 1) Evidence of insurance shall be of a form and content acceptable to the Department of General Services, Office of Risk and Insurance Management (ORIM).
- 2) The certificate of insurance shall be issued by an insurance company, or be provided through a partial or total self-insurance, acceptable to ORIM.
- 3) The certificate of insurance shall show that hazardous activities are protected through comprehensive general liability.
- 4) The certificate of insurance shall provide that the insurer shall not cancel the insured's coverage without **thirty (30)** days prior written notice to the CHP.
- 5) The certificate of insurance shall provide that the State of California, its officers, agents, employees, and servants are included as additional insured.
- 6) The certificate of insurance shall meet such additional standards as may be determined by the CHP, either independently or in consultation with ORIM, for protection of the CHP.

E. In the event said insurance coverage lapses, expires, or is cancelled at any time or times during the term of the agreement, Contractor shall provide, at least thirty (30) days prior to said date, a new certificate of insurance coverage as provided for herein for not less than the remainder of the term of the agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of ORIM. Contractor agrees that no work or services shall be performed prior to such approval. In the event Contractor fails to keep current and in effect at all times, insurance coverage as herein provided, the CHP may, in addition to any other remedies, terminate the agreement.

F. Worker's Compensation

As per Contractor Certification Clauses, Contractor must be insured against liability for Worker's Compensation or undertake self-insurance in accordance with the provisions for Worker's Compensation in Labor Code § 3700 prior to commencement of this agreement.

G. Contractor shall submit to the CHP before the start of the agreement, the certificate(s) of insurance, identifying the CHP Agreement number, at the following address:

Department of California Highway Patrol
Business Services Section
Attention: Contract Services Unit
P.O. Box 942898
Sacramento, California 94298-0001 To expedite processing, certificates may be faxed to: (916) 322-3166.

PAYEE DATA RECORD(Required when receiving payment from the State of California in lieu of IRS W-9)
STD. 204 (Rev. 6-2003) (CHP Automated)

1	INSTRUCTIONS: Complete all information on this form. Sign, date, and return to the State agency (department/office) address shown at the bottom of this page. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used by State agencies to prepare Information Returns (1099). See reverse side for more information and Privacy Statement. NOTE: Governmental entities, federal, State, and local (including school districts), are not required to submit this form.		
2	PAYEE'S LEGAL BUSINESS NAME (Type or Print) Milpitas Police Department / <u>CITY OF MILPITAS</u> SOLE PROPRIETOR - ENTER NAME AS SHOWN ON SSN (Last, First, M.I.) _____ E-MAIL ADDRESS _____ MAILING ADDRESS _____ BUSINESS ADDRESS _____ 1275 N. Milpitas Blvd. _____ CITY, STATE, ZIP CODE _____ CITY, STATE, ZIP CODE _____ Milpitas, CA 95035 _____		
3	ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN): <u>94-6019192</u>	NOTE: Payment will not be processed without an accompanying taxpayer I.D. number.	
PAYEE ENTITY TYPE CHECK ONE BOX ONLY	<input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> ESTATE OR TRUST <input type="checkbox"/> INDIVIDUAL OR SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER: _____ <small>(SSN required by authority of California Revenue and Tax Code Section 18646)</small>		
4	PAYEE RESIDENCY STATUS <input type="checkbox"/> California resident - Qualified to do business in California or maintains a permanent place of business in California. <input type="checkbox"/> California nonresident (see reverse side) - Payments to nonresidents for services may be subject to State income tax withholding. <input type="checkbox"/> No services performed in California. <input type="checkbox"/> Copy of Franchise Tax Board waiver of State withholding attached.		
5	I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the State agency below.		
	AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print)		TITLE
	SIGNATURE	DATE	TELEPHONE
6	Please return completed form to: Department/Office: <u>California Highway Patrol, Business Services Section</u> Unit/Section: <u>Contract Services Unit</u> Mailing address: <u>P.O. Box 942898</u> City/State/Zip: <u>Sacramento, CA 94298-0001</u> Telephone: <u>(916) 843-3610</u> Fax: <u>(916) 843-3662</u> E-mail Address: _____		

PAYEE DATA RECORD

STD. 204 (Rev. 6-2003) (REVERSE) (CHP Automated)

1	<p><u>Requirement to Complete Payee Data Record, STD. 204</u></p> <p>A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies.</p> <p>Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.</p>								
2	<p>Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.</p>								
3	<p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).</p>								
4	<p><u>Are you a California resident or nonresident?</u></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.</p> <p>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:</p> <table border="0"> <tr> <td>Withholding Services and Compliance Section:</td> <td>1-888-792-4900</td> <td>E-mail address:</td> <td>wscs.gen@ftb.ca.gov</td> </tr> <tr> <td>For hearing impaired with TDD, call:</td> <td>1-800-822-6268</td> <td>Website:</td> <td>www.ftb.ca.gov</td> </tr> </table>	Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov	For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov
Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov						
For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov						
5	<p>Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.</p>								
6	<p>This section must be completed by the State agency requesting the STD. 204.</p>								
	<p><u>Privacy Statement</u></p> <p>Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.</p> <p>It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.</p> <p>You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business.</p> <p>All questions should be referred to the requesting State agency listed on the bottom front of this form.</p>								

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
Milpitas Police Department / CITY OF MILPITAS		946019192
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other government entity.

CONFLICT OF INTEREST AND CONFIDENTIALITY STATEMENT - VENDOR

CHP 78V (Rev. 4-08) OPI 076

OPI CONTRACT/REQUISITION NUMBER

9C340000

It is a mandatory requirement for the contractor/vendor to complete and submit the Conflict of Interest and Confidentiality Statement prior to commencing contract services and/or delivering requested commodities. Failure to complete and submit the Conflict of Interest and Confidentiality Statement prior to commencement of work and/or delivery of requested commodities will be grounds for contract termination.

As an authorized representative and/or corporate officer of the company named below, I warrant my company and its employees have no personal or financial interest and no present or past employment or activity which would be incompatible with participating in any activity related to this contract. For the duration of this contract, I warrant my company and its employees will not accept any gift, benefit, gratuity or consideration, or begin a personal or financial interest in a party who is associated with this contract.

I warrant my company and its employees not to disclose any financial, statistical, personal, technical, media-related, and all other data and information made available to use by the state for the purpose of providing services to the California Highway Patrol (CHP) in conjunction with the contract identified above. I warrant that only those employees who are authorized and required to use such materials will have access to them. Authorization documentation must be provided to the CHP prior to the start of the contract.

I further warrant that all materials provided by the state will be returned promptly after use; all copies or derivations of the materials will be physically and/or electronically sanitized at a minimum in accordance with the Federal Information Security Management Act (FISMA), National Institute of Standard Technology (NIST), 43 NIST Special Publication 800-36. I will include, with the returned materials, a letter attesting to the complete return of materials and documenting the destruction of copies and derivations. Failure to so comply will subject my company to criminal and civil liabilities, including all damages to the state. I authorize the state to inspect and verify the destruction document(s) as described above.

I warrant that my company will not enter into any agreements or discussions with a third party concerning such materials prior to receiving written confirmation from the state that such third party has an agreement with the state similar in nature to this one. I agree to immediately advise the CHP contract coordinator of any person(s) who has access to project confidential information and intends to disclose that information in violation of this agreement.

NAME OF COMPANY

NAME OF COMPANY REPRESENTATIVE

TITLE

SIGNATURE OF COMPANY REPRESENTATIVE

DATE



State of California • Arnold Schwarzenegger, Governor
State and Consumer Services Agency

DEPARTMENT OF GENERAL SERVICES

Office of Risk and Insurance Management

707 Third Street • West Sacramento, CA 95605 • (916) 376-5300 • www.orim.dgs.ca.gov

July 1, 2010

**STATE OF CALIFORNIA
PUBLIC LIABILITY AND WORKERS' COMPENSATION INSURANCE
FISCAL YEAR JULY 1, 2010 / JUNE 30, 2011**

To Whom It May Concern:

The State of California has elected to be self-insured for general liability exposures. (Gov. Code section 990, et. seq.) Under this form of insurance, the State and its employees (as defined in Section 810.2 of the Government Code) are insured for any tort liability that may develop through the carrying out of official State activities and operations. All general liability tort claims against the State of California should be presented to the Victim Compensation and Government Claims Board, P.O. Box 3035, Sacramento, CA 95812-3035. (Gov. Code section 900, et. seq.) Internet link: www.vcgcb.ca.gov.

In addition, the State of California has elected to be insured for its motor vehicle liability exposures through a self-insurance program, administered by the Office of Risk and Insurance Management. Under this program, the Office of Risk and Insurance Management administers liability claims arising out of the operation of motor vehicles. This self-insurance program and the protection it affords applies to vehicles owned and leased by the State of California. All motor vehicle liability tort claims against the State of California should be presented to the Office of Risk and Insurance Management, P.O. Box 989052 MS-403, West Sacramento, CA 95798-9052, (800) 900-3634.

The State of California has a Master Agreement with the State Compensation Insurance Fund regarding workers' compensation benefits for all state employees, as required by the Labor Code.

Sincerely,

A handwritten signature in black ink that reads 'Jeffrey N. Dierks'. The signature is written in a cursive style with a large, sweeping initial 'J'.

Jeffrey N. Dierks
Associate Risk Analyst
916-376-5279
jeff.dierks@dgs.ca.gov

ABAG PLAN Corporation
CERTIFICATE OF COVERAGE

ISSUE DATE (MM/DD/YY)
 7/2/2010

BROKER: ALLIANT RISK SERVICES
 100 PINE ST., 11th FLOOR
 SAN FRANCISCO, CA 94111
 415/403-1400

PROVIDER: ABAG PLAN CORPORATION
 P. O. BOX 2050
 OAKLAND, CA 94604-2050
 510/464-7969

Covered Party: Milpitas
 City Hall, 455 East Calaveras Blvd.
 Milpitas, CA 95035

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

- COMPANY
A ABAG PLAN Corporation
-
- COMPANY
B Ins. Co. Of The State of Pennsylvania
-
- COMPANY
C Lexington Insurance Company

THIS IS TO CERTIFY THAT COVERAGE AGREEMENTS LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE 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 COVERAGE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH AGREEMENTS.

CO LTR	TYPE OF COVERAGE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIABILITY LIMIT		
						EACH OCCURRENCE	AGGREGATE
A	GENERAL LIABILITY	GAL 2010-11	7/01/2010	7/01/2011	Combined Single Limit (CSL)	\$5,000,000	
	<input checked="" type="checkbox"/> COMPREHENSIVE FORM						
	<input checked="" type="checkbox"/> PRODUCT/ COMPLETED OPERATIONS						
	<input checked="" type="checkbox"/> PREMISES / OPERATIONS						
	<input checked="" type="checkbox"/> UNDERGROUND EXPLOSION & COLLAPSE HAZARD						
	<input checked="" type="checkbox"/> CONTRACTUAL						
	<input checked="" type="checkbox"/> BROAD FORM PROPERTY DAMAGE						
A	AUTOMOBILE LIABILITY	GAL 2010-11	7/01/2010	7/01/2011	Combined Single Limit (CSL)	\$5,000,000	
	<input checked="" type="checkbox"/> ANY AUTO						
	<input checked="" type="checkbox"/> ALL OWNED AUTO						
	<input checked="" type="checkbox"/> RENTAL / LEASE AUTO						
	<input checked="" type="checkbox"/> NON- OWNED AUTOS						
	<input type="checkbox"/> GARAGE LIABILITY						
B	Excess General & Auto Liability	6907982	7/01/2010	7/01/2011	CSL	\$10,000,000	E&O
C	Public Official's E&O	006502580	7/01/2010	7/01/2011	CSL	\$10,000,000	\$20,000,000
C	PROPERTY INSURANCE	P101654-004	7/01/2010	7/01/2011	CSL	\$ 25,000,000	
	<input checked="" type="checkbox"/> PROPERTY / ALL RISK						
	<input checked="" type="checkbox"/> BOILER & MACHINERY						
					PROPERTY BOILER & MACH	(per schedule) \$50,000,000	

DESCRIPTION: General liability includes Personal Injury and Public Officials' Errors and Omissions Liability. This Certificate is issued as proof the above-named Covered Party is an active member and in good standing with coverage as indicated above.

CERTIFICATE HOLDER

City of Milpitas

Attention: Emma C. Karlen, Finance Director

455 E. Calaveras Blvd

Milpitas CA 95035

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED AGREEMENTS BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE PROVIDER/PROVIDEE WILL ENDEAVOR TO MAIL 30-DAY WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. HOWEVER, FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.



Darrell Dearborn, Interim Risk Manager
 ABAG PLAN Corporation

ASSOCIATION OF BAY AREA GOVERNMENTS

 **ABAG PLAN Corporation**

P.O. Box 2050

Oakland, California 94604-2050

(510) 464-7969

ADDITIONAL COVERED PARTY ENDORSEMENT

THIS ENDORSEMENT CHANGES THE CONTRACT

Please read it carefully!

Endorsement Effective: 7/1/2010 - 7/1/2011

Entity: Milpitas

Additional Covered Party: City of Milpitas

Description of Operations or Facilities:

Evidence of Insurance Coverage Certificate for the City of Milpitas

The definition of Covered Party is amended to include any person or organization the Entity is contractually obligated to include as an additional insured, and for which a Certificate of Coverage has been issued and is on file with ABAG PLAN Corp., with respect to **Bodily Injury, Personal Injury and Property Damage** arising out of the Entity's operations or premises owned by or rented to the Entity. The coverage provided to the additional Covered Party does not apply to any liability occurring after those operations or use of premises have ceased. Coverage applies only to the vicarious liability of the additional Covered Party for operations or services described in the contract with the Entity. No coverage applies to liability arising from the sole negligence of the additional Covered Party.

The inclusion of more than one Covered Party under this policy shall not operate to impair the rights of one Covered Party against another Covered Party and the coverages afforded by this policy shall apply as though separate policies had been issued to each Covered Party. The inclusion of more than one Covered Party shall not, however, operate to increase the limit of ABAG PLAN Corp.'s liability. A Certificate Holder shall not, by reason of their inclusion under this policy, incur liability for payment of premium for this policy.

If required by contract, any insurance carried by an additional Covered Party which may be applicable shall be deemed excess and the Entity's coverage primary notwithstanding any conflicting provisions in the Entity's policy to the contrary. The limit of coverage for the additional Covered Party is the minimum amount required by contract or \$5 million, whichever is less.

In the event of cancellation of the Entity's coverage, we agree to mail thirty (30) days (ten [10] days for non-payment of premium) advance notice of such cancellation to each Additional Covered Party per certificates on file with ABAG PLAN Corporation.

All other terms and conditions in the policy remain unchanged.

Authorized Signature: _____



Darrell Dearborn, Interim Risk Manager

 **ABAG PLAN Corporation**

Date: 7/2/2010 _____