



AGENDA REPORT

Meeting Date: January 6, 2015

Item Number: D-10

To: Honorable Mayor & City Council

From: Raj Patel, Assistant Director of Community Development / City Building Official

Subject: APPROVE A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND CITADEL ENVIRONMENTAL SERVICES, INC. FOR CONSULTING SERVICES RELATED TO ENVIRONMENTAL COMPLIANCE MONITORING SERVICES FOR 9876 WILSHIRE BOULEVARD – BEVERLY HILTON REVITALIZATION – PHASE 3 – WALDORF ASTORIA BUILD-OUT PROJECT; AND

AUTHORIZE A PURCHASE ORDER APPROVAL IN THE AMOUNT OF \$402,088 FOR THESE PROFESSIONAL CONSULTING SERVICES.

Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the City Council move to approve an Agreement between the City of Beverly Hills and Citadel Environmental Services, Inc. to provide environmental compliance monitoring services for Phase 3 – Waldorf Astoria Build-Out of the 9876 Wilshire Boulevard – Beverly Hilton Revitalization Project; and authorize a purchase order approval in the amount of \$402,088 for the contracted services. Funds for this consultant are fully paid for by the developer as required by the project's Conditions of Approval.

INTRODUCTION

Staff recommends that Citadel Environmental Services, Inc.'s professional services be continued under a new Agreement and new scope of work to provide the City with environmental compliance services for Phase 3 of the 9876 Wilshire Boulevard Hilton Revitalization Project – Waldorf Astoria Build-Out. Citadel Environmental Services provided environmental compliance oversight during Phases 1 and 2 of the project. The selection of Citadel Environmental Services, Inc. was reviewed and jointly agreed to by the Beverly Hills Unified School District and the City to provide environmental

compliance oversight services. This is a multi- year contract with Citadel Environmental Services, Inc. with the period of performance of January 15, 2015 – January 14, 2017.

DISCUSSION

Staff recommends that the City Council move to approve an Agreement and a purchase order for Citadel Environmental Services, Inc. to perform environmental compliance oversight services in the not-to-exceed amount of \$402,088 for Phase 3 of the Beverly Hilton Revitalization project as selected by the City of Beverly Hills and Beverly Hills Unified School District. Under the Agreement, Citadel Environmental Services, Inc. will review hazardous materials reports and oversee the developer's implementation of all mitigation measures as per the requirements of the "Conditions of Approval" for the 9876 Wilshire Boulevard – Beverly Hilton Revitalization Project.

This request for approval is for the third phase of the Beverly Hilton Revitalization project which is the completion of the Waldorf Astoria structure. The first phase of the project, Demolition was completed in September 2014. Phase two, Shoring and Excavation is currently in progress with anticipated completion by February 2015. Phase three, the Build-Out, construction and completion of the Waldorf Astoria will begin as shoring and excavation is being completed. The total not to exceed amount for all three phases is \$465,340 for the life of the project.

Beverly Hilton Revitalization Project	Duration	Agreement Amount
Phase 1 - Demolition	May 2014 – Sept. 2014	\$13,987
Phase 2 – Shoring & Excavation	Sept. 2014 – Feb. 2015	\$49,265
Phase 3 – Build-Out of Waldorf Astoria	Jan. 2015 – Jan. 2017	\$402,088
Total Not To Exceed Amount		\$465,340

The Environmental Compliance Monitor is retained to oversee the hazardous materials and mitigation measures pursuant to the land use approvals for the Beverly Hilton Revitalization Project. The developer shall pay for the Construction Management Plan Coordinator who shall be hired by and work for the City to monitor compliance of the Construction Management Plan.

Oversight includes, among other conditions, environmental compliance measures developed as part of the Environmental Impact Report (EIR) as incorporated into the entitlement approval, which are broken down into different phases including start up, demolition, excavation, grading, shoring, and building development throughout the entire construction development process. This contract covers work for Phase 3 of the development.

FISCAL IMPACT

There is no fiscal impact to the City as a result of the approval of this Agreement and Purchase Order. All costs associated with the performance of these professional services will be fully covered by the developers of the 9876 Wilshire Boulevard – Beverly Hilton Revitalization Project.


Susan Healy Keene

For Approved By

Attachment 1

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF
BEVERLY HILLS AND CITADEL ENVIRONMENTAL SERVICES, INC.
FOR CONSULTING SERVICES RELATED TO ENVIRONMENTAL
COMPLIANCE MONITORING SERVICES FOR 9876 WILSHIRE
BOULEVARD – BEVERLY HILTON REVITALIZATION – PHASE 3 –
WALDORF ASTORIA BUILD-OUT PROJECT

NAME OF CONSULTANT: CITADEL ENVIRONMENTAL SERVICES, INC.

RESPONSIBLE PRINCIPAL OF
CONSULTANT: Loren Witkin, Principal

CONSULTANT'S ADDRESS: Citadel Environmental Services, Inc.
1725 Victory Blvd.
Glendale, CA 91201
Phone:(818) 246-2707
Attention: Nalinna Rasu, CAC, CDPH, CHMM, LEED AP,
Director, Environmental Compliance

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Raj Patel, Assistant Director of Community
Development/City Building Official

COMMENCEMENT DATE: January 15, 2015

TERMINATION DATE: January 14, 2017

CONSIDERATION: Total not to exceed \$402,088.00 (includes all applicable
sales tax); and more particularly described in Exhibit B

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND CITADEL ENVIRONMENTAL SERVICES, INC. FOR CONSULTING SERVICES RELATED TO ENVIRONMENTAL COMPLIANCE MONITORING SERVICES FOR 9876 WILSHIRE BOULEVARD – BEVERLY HILTON REVITALIZATION – PHASE 3 – WALDORF ASTORIA BUILDOUT PROJECT

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Citadel Environmental Services, Inc. (hereinafter called "CONSULTANT").

RECITALS

- A. CITY desires to have certain services and/or goods provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.
- B. CONSULTANT represents that it is qualified and able to perform the Scope of Works.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONSULTANT's Scope of Work. CONSULTANT shall perform the Scope of Work described in Exhibit A in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. CITY shall have the right to order, in writing, changes in the Scope of Work. Any changes in the Scope of Work by CONSULTANT must be made in writing and approved by both parties. The cost of any change in the Scope of Work must be agreed to by both parties in writing.

Section 2. Time of Performance. CONSULTANT shall commence its services under this Agreement upon the Commencement Date or upon a written receipt of a notice to proceed from CITY. CONSULTANT shall complete the performance of services by the Termination Date set forth above and/or in conformance with the project timeline established by the City Manager or his designee.

The City Manager or his designee may extend the time of performance in writing for one additional one-year term or such other term not to exceed one year from the date of termination pursuant to the same terms and conditions of this Agreement.

Section 3. Compensation. (Check the Applicable Box)

(a) Compensation [check applicable provision]

If compensation is based on an hourly rate

CITY agrees to compensate CONSULTANT for the services and/or goods provided under this Agreement, and CONSULTANT agrees to accept in full satisfaction for such services, a sum not to exceed the Consideration set forth above and more particularly described in Exhibit B, attached hereto and incorporated herein, based on the hourly rates set forth in Exhibit B.

If compensation is based on a flat fee

CITY agrees to compensate CONSULTANT for the services and/or goods provides under this Agreement, and CONSULTANT agrees to accept in full satisfaction for such services, a sum not to exceed the Consideration set forth above and more particularly described in Exhibit B.

(b) Expenses [check applicable provision]

If no reimbursable expenses

The amount set forth in paragraph (a) shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement (including, but not limited to, all labor, materials, delivery, tax, assembly, and installation, as applicable). There shall be no claims for additional compensation for reimbursable expenses.

If CITY reimburses for certain expenses in addition to compensation

CONSULTANT shall be entitled to reimbursement only for those expenses expressly set forth in Exhibit B. Any expenses incurred by CONSULTANT which are not expressly authorized by this Agreement will not be reimbursed by CITY.

(c) Additional Services. CITY may from time to time require CONSULTANT to perform additional services not included in the Scope of Services. Such requests for additional services shall be made by CITY in writing and agreed upon by both parties in writing.

Section 4. Method of Payment. Unless otherwise provided for herein, CONSULTANT shall submit to CITY a detailed invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall pay CONSULTANT said Consideration in accordance with the schedule of payment set forth in Exhibit B.

Section 5. Independent Contractor. CONSULTANT is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's employees, except as herein set forth. CONSULTANT shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 6. Assignment. This Agreement shall not be assigned in whole or in part, by CONSULTANT without the prior written approval of CITY. Any attempt by CONSULTANT to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 7. Responsible Principal(s).

(a) CONSULTANT's Responsible Principal set forth above shall be principally responsible for CONSULTANT's obligations under this Agreement and shall serve as

principal liaison between CITY and CONSULTANT. Designation of another Responsible Principal by CONSULTANT shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 8. Personnel. CONSULTANT represents that it has, or shall secure at its own expense, all personnel required to perform CONSULTANT's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

Section 9. Permits and Licenses. CONSULTANT shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 10. Interests of Consultant. CONSULTANT affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONSULTANT.

Section 11. Insurance.

(a) CONSULTANT shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONSULTANT.

(2) A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by CONSULTANT in performing the Scope of Work required by this Agreement.

(3) Workers' compensation insurance as required by the State of California.

(4) Professional Liability Insurance [check if applicable]

A policy or policies of Professional Liability Insurance (errors and omissions) with minimum limits of One Million Dollars (\$1,000,000) per claim and in the aggregate. Any deductibles or self-insured retentions attached to such policy or policies must be declared to and be approved by CITY. Further, CONSULTANT agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

(b) CONSULTANT shall require each of its sub-consultants to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(d) CONSULTANT agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONSULTANT's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONSULTANT shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONSULTANT shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(f) The insurance provided by CONSULTANT shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(g) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, CONSULTANT shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONSULTANT shall procure a bond guaranteeing payment of losses and expenses.

Section 12. Indemnification. CONSULTANT agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, the Beverly Hills Unified School District ("DISTRICT"), and every officer, employee and agent of CITY and DISTRICT, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT or any person employed by CONSULTANT in the performance of this Agreement.

Section 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to CONSULTANT. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY, due to no fault or failure of performance by CONSULTANT, CONSULTANT shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to CONSULTANT for the full performance of the services required by this Agreement. CONSULTANT shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 14. CITY's Responsibility. CITY shall provide CONSULTANT with all pertinent data, documents, and other requested information as is available for the proper performance of CONSULTANT's Scope of Work.

Section 15. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONSULTANT and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Records and Inspections. CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of five (5) years. CITY shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies and transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

Section 17. Changes in the Scope of Work. CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONSULTANT must be made in writing and approved by both parties.

Section 18. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 19. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 20. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONSULTANT, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONSULTANT.

Section 21. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 22. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 23. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

Section 24. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any

of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the 26th day of December 2014, at Beverly Hills, California.

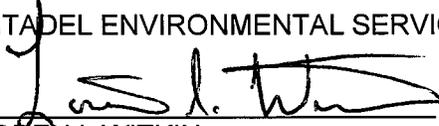
CITY OF BEVERLY HILLS
A Municipal Corporation

LILI BOSSE
Mayor of the City of Beverly Hills, California

ATTEST:

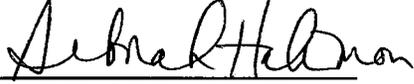
BYRON POPE
City Clerk

CITADEL ENVIRONMENTAL SERVICES, INC.



LOREN I. WITKIN
President and Secretary

APPROVED AS TO FORM:



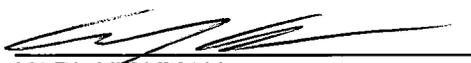
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT

JEFFREY C. KOLIN
City Manager

For 

SUSAN HEALY KEENE
Director of Community Development



KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF WORK

CONSULTANT shall provide the following environmental compliance monitoring services in connection with the 9876 Wilshire Boulevard project ("Project"):

PROVIDE ENVIRONMENTAL COMPLIANCE MONITORING SERVICES

CONSULTANT will provide a full-time Environmental Compliance Monitor who is deemed qualified by the Director of Community Development, the City of Beverly Hills ("CITY"), and the Beverly Hills Unified School District ("DISTRICT"). The Environmental Compliance Monitor shall have a field office accessible to the District, parents and local residents that is to be provided by the Developer.

The Environmental Compliance Monitor ("ECM") will maintain a daily log and provide monthly reports to the CITY and DISTRICT, as well as conduct a weekly meeting with the project construction manager(s) and invite CITY and DISTRICT representatives to attend all meetings. The ECM will oversee that the developer implements all mitigation measures, as outlined in the Mitigation Monitoring Plan.

PROVIDE ENVIRONMENTAL COMPLIANCE CONSULTATION, MEETINGS, REPORTS & NEWSLETTER

CONSULTANT will provide as needed environmental compliance consultation for environmental compliance services. Service categories may include:

- ❖ Review of hazardous materials reports, abatement submittals, environmental permits, and any other plans;
- ❖ Assistance in the preparation of four (4) Quarterly Community Newsletter per year (with a total of eight (8) newsletters); and
- ❖ Attendance at community meetings (up to 4 meetings). Cost of attendance of additional meetings shall be provided on a time and a materials basis, under a separate cover.

EXHIBIT B

SCHEDULE OF PAYMENT AND RATES

CITY shall compensate CONSULTANT for the satisfactory performance of the work described in this Agreement in an amount not to exceed Four Hundred Two Thousand and Eighty-Three Dollars (\$402,088.00) based on the rates set forth in this Exhibit.

Schedule of Fees

ENVIRONMENTAL COMPLIANCE MONITORING SERVICES	<u>Not to Exceed</u>
2015 Daily Shift Rate (8.0 hour shift)	\$700.00
244 shifts, for 2015 at \$700.00/shift	\$170,800.00
2016 Daily Shift Rate (8.0 hour shift)	\$743.00
254 shifts, for 2016 at \$743.00/shift	\$188,722.00
2017 Daily Shift Rate (8.0 hour shift)	\$743.00
12 shifts, for 2017 at \$743.00/shift	<u>\$8,916.00</u>
TOTAL (Jan 15, 2015 - Jan 15, 2017)	\$368,438.00

ENVIRONMENTAL COMPLIANCE CONSULTATION, MEETINGS, REPORTS & NEWSLETTER

<u>Labor</u>	<u>Not to Exceed</u>
Environmental Compliance Manager/Consultation (2015) 60.0 Hours at \$143.00/hour	\$8,580.00
Administration/Data Entry (2015) 96.0 Hours at \$58.00/hour	\$5,568.00
2015 Reimbursables (parking, printings, mailings, supplies, etc.)	\$2,000.00
Environmental Compliance Manager/Consultation (2016-2017) 60.0 Hours at \$152.50/hour	\$9,150.00
Administration/Data Entry (2016-2017) 96.0 Hours at \$62.00/hour	\$5,952.00
2016-2017 Reimbursables (parking, printings, mailings, supplies, etc.)	<u>\$2,400.00</u>
TOTAL	\$33,650.00
PROJECT TOTAL (Jan 15, 2015 - Jan 15, 2017)	\$402,088.00

Daily Shift Rate includes:

- Certified Staff (as necessary)
- Necessary personal protective equipment
- Electronics (cell phone, laptop/computer, camera)
- 8 hours per shift
- Mileage to and from site
- Minimum of 4-hours per shift; any hours worked >4 constitutes a full 8-hour shift.
- Anticipated project start date = January 15, 2015
- Excludes public holidays

Reimbursable Expenses

CITY shall reimburse CONSULTANT for the following expenses reasonably incurred in the performance of the Agreement: Parking, priority mailings and supplies.

Schedule of Payment

CONSULTANT shall submit an itemized statement to CITY for its services performed, which shall include documentation setting forth in detail a description of the services rendered, hours of service, and reimbursable expenses. CITY shall pay CONSULTANT the amount of such billing within thirty (30) days receipt of the same.

EXHIBIT C

CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below :

NAMED INSURED

COMPANIES AFFORDING COVERAGE

ADDRESS

- A.
- B.
- C.

COMPANY (A.B.C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY					
	<input type="checkbox"/> GENERAL LIABILITY					
	<input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS					
	<input type="checkbox"/> BLANKET CONTRACTUAL					
	<input type="checkbox"/> CONSULTANT'S PROTECTIVE					
	<input type="checkbox"/> PERSONAL INJURY					
	<input type="checkbox"/> EXCESS LIABILITY					
	<input type="checkbox"/> WORKER'S COMPENSATION					

It is hereby understood and agreed that the City of Beverly Hills, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: Contractor agrees to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the wrongful or negligent actions of contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the City of Beverly Hills.

In the event of cancellation or material change in the above coverage, the company will give 30 days' written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance 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.

DATE : _____ BY : _____

 Authorized Insurance Representative

TITLE : _____
 AGENCY : _____ Address : _____

