



AGENDA REPORT

Meeting Date: April 15, 2008

Item Number: F-16

To: Honorable Mayor & City Council

From: Ara Maloyan, Deputy City Engineer
Kevin Watson, Water Operations Manager

Subject: RESOLUTION OF COUNCIL OF THE CITY OF BEVERLY HILLS
APPROVING AN AGREEMENT BETWEEN THE CITY OF
BEVERLY HILLS AND SOLARBEE, INC. FOR THE
INSTALLATION OF THE SOLARBEE RESERVOIR MIXING
UNIT; AND

APPROVAL OF A PURCHASE ORDER IN THE AMOUNT OF
\$114,502 TO SOLARBEE, INC. FOR THE SERVICES

Attachments:

1. Resolution
2. Agreement
3. SolarBee, Inc. Letter as Manufacturer of this Equipment
and the Sole Licensee of this Technology

RECOMMENDATION

Staff recommends that the City Council adopt the resolution approving an agreement between the City of Beverly Hills and SolarBee, Inc., sole licensee of this technology, for the purchase and installation of the potable water mixing unit and equipment in the amount not to exceed \$114,502; dispense with bidding under Section 3-3-204 of the Beverly Hills Municipal Code; and approve issuance of a purchase order in the not-to-exceed amount of \$114,502 to SolarBee, Inc.

INTRODUCTION

In 2006, staff began researching best technology methods for reservoir mixing to provide uniform water age, eliminate thermal stratification, prevent nitrification, and prevent loss of chlorine residual. Several methods were investigated by staff and references were checked. Through this process, ease of installation, initial costs, maintenance and power consumption, and long-term reliability were taken into consideration. As a result of the research, staff recommends the purchase and installation of the SolarBee mixing units for Greystone Reservoir.

Meeting Date: April 15, 2008

DISCUSSION

As new regulations are created by State and Federal governments as a means to protect the public health, municipalities and water purveyors must use the best management practices to achieve these goals. Sometimes the best management practices can create other problems as is the case of municipalities and water purveyors switching the method of disinfecting water. When the existing water reservoirs were constructed, the type of disinfection used was free residual chlorination. More recently, the best management practice is for the use of chloramines as a disinfection process. The drawback of this method is that nitrification can more readily occur in the reservoirs. It can also result in a loss of chlorine residual that maintains disinfectant properties. The City has not been immune to these challenges. Staff has diligently worked to maintain premium water quality for the public. Maintaining this level of service has resulted in expending many man-hours of intense labor and costs for chlorine to manually add chlorine to the reservoirs on a daily basis during a six month period.

As mentioned above, staff began searching for a solution to this problem in 2006. The solution needed to address the following factors:

- provide uniform water age
- eliminate thermal stratification
- prevent nitrification
- prevent loss of chlorine residual
- ease of installation
- initial costs
- maintenance
- power consumption
- long-term reliability

With these factors evaluated, staff recommends the purchase and installation of the SolarBee mixing units for Greystone Reservoir. Favorable references were received from Las Vegas, NV; San Francisco, CA; Palmdale, CA; Santa Clarita, CA; and Glendale, CA. Each municipality consulted has achieved their goals of providing uniform water age, eliminating thermal stratification, preventing nitrification, and preventing loss of chlorine residual. Many of these Cities had already tried other technologies and spent millions of dollars researching various methods. In every instance, each of the references stated that this was the first technology that met all of their goals at a much reduced cost both initially and long term.

FISCAL IMPACT

The combined not-to-exceed cost of the proposal is \$114,502. According to SolarBee Inc., the cost of power consumption to operate these units is estimated to be equivalent to the costs of a 100 watt light bulb. The funds are available in the Water Enterprise Fund.

Staff estimates that this will help save \$15,000 to \$35,000 per year based upon a cost analysis done during a six month period to manually maintain water quality at high standards was over \$74,500 in labor and chemicals. Staff expects a return on investment within five years.



Scott Miller
Finance Approval



David Gustavson
Approved By

4/2/2008

Attachment 1

Resolution

RESOLUTION NO. 08-R-

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND SOLARBEE, INC. FOR THE INSTALLATION OF THE SOLARBEE RESERVOIR MIXING UNIT

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. The City desires to purchase and install two SolarBee Reservoir mixing units. After thorough study and investigation of the reservoir mixing technologies on the market, City has determined that the SolarBee mixing unit has been utilized by other municipalities for over five years and has a proven track record. In addition, the SolarBee Reservoir mixing unit is the most economical system on the market as to the power consumption required. It has been reported that one SolarBee Reservoir mixing unit will consume only the amount of electricity as a single light bulb. The unit can be installed without taking the reservoir out of service. When installed the SolarBee Reservoir mixing unit will meet all of the City's requirements for reservoir mixing that results in a uniform water age, eliminates thermal stratification, prevents nitrification, and prevents loss of chlorine residual. SolarBee, Inc. is the manufacturer of this equipment and the sole licensee of this technology. The SolarBee model SB5000v12-PW, 5, 000 gallon per minute 115V grid powered long-distance circulation equipment is only available through SolarBee, Inc. of Dickinson, North Dakota. To our knowledge there is no known competitive product. Accordingly, in order to purchase the best product which has been thoroughly tested, the City did not obtain other bids in connection with the purchase and installation of the reservoir mixing unit. The City desires to enter into an agreement with SolarBee, Inc. to purchase and install two SolarBee Reservoir mixing units.

Section 2. Pursuant to Beverly Hills Municipal Code ("Municipal Code") Section 3-3-204, the City Council hereby determines that conformance with the purchasing

procedures for the purchase and installation of the SolarBee Reservoir mixing units would be contrary to the best interests of the City of Beverly Hills in that: (i) the SolarBee Reservoir mixing units are the best product available on the market which can provide uniform water age, eliminate thermal stratification, prevent nitrification, prevent loss of chlorine residual, ease of installation without taking the reservoir out of service, lower initial cost, lower maintenance cost, lower power consumption, and proven long term reliability, and SolarBee, Inc. is the only distributor of these reservoir mixing units.

Section 3. For the reasons set forth in Section 2 above, the City Council hereby waives the purchasing procedures set forth in Municipal Code Section 3-3-204.

Section 4. That certain Agreement, dated _____, and identified as Contract No. _____, a copy of which is on file in the office of the City Clerk, between the City of Beverly Hills and SolarBee, Inc. for purchase and installation of the SolarBee Reservoir mixing units is hereby approved.

Section 5. The Mayor is authorized and directed to execute said Agreement on behalf of the City and the City Clerk is directed to attest thereto.

Section 6. The City Manager or his designee shall administer the terms of the Agreement on behalf of the City.

Section 7. The City Clerk shall furnish a copy of said Agreement after it has been approved and fully executed by the City, along with a copy of this resolution, to: SolarBee, Inc., 530 25th Ave. E, P.O. Box 1930 Dickinson, ND 58602, Attention, Linda M. Steve, Secretary/Chief Financial Officer.

Section 8. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

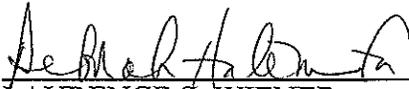
Adopted:

BARRY BRUCKER
Mayor of the City of Beverly Hills, California

ATTEST:

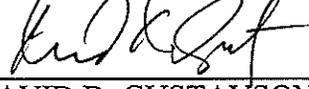
(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

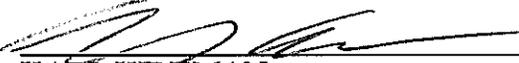


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



DAVID D. GUSTAVSON
Director of Public Works & Transportation



KARL KIRKMAN
Risk Manager

Attachment 2

Agreement

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND SOLARBEE, INC. FOR THE INSTALLATION OF THE
SOLARBEE RESERVOIR MIXING UNIT

NAME OF CONTRACTOR: SOLARBEE, INC.

RESPONSIBLE PRINCIPAL OF CONTRACTOR: Sandra Walker, California Regional Manager

CONTRACTOR'S ADDRESS: P.O. Box 1930
Dickinson, North Dakota 58602

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Ara Maloyan
Deputy City Engineer

COMMENCEMENT DATE: Upon receipt of written Notice to Proceed

TERMINATION DATE: Upon satisfactory completion of all services

CONSIDERATION: Not to exceed \$114,502, based on the unit costs set forth in Exhibit B-1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND SOLARBEE, INC. FOR THE INSTALLATION OF THE
SOLARBEE RESERVOIR MIXING UNIT

THIS AGREEMENT is made by and between the City of Beverly Hills, a municipal corporation (hereinafter called "CITY"), and SolarBee, Inc., a North Dakota corporation (hereinafter called "CONTRACTOR").

RECITALS

A. CITY desires to have certain services provided (the "services") as set forth in Exhibit A, attached hereto and incorporated herein.

B. CONTRACTOR represents that it is qualified and able to perform the services.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONTRACTOR's Services. CONTRACTOR shall perform the services as described in Exhibit A to the full satisfaction of CITY.

Section 2. Time of Performance. CONTRACTOR shall perform the services on or by the Termination Date set forth above.

Section 3. Compensation. CITY agrees to compensate CONTRACTOR, and CONTRACTOR agrees to accept in full satisfaction for the services required by this Agreement an amount not to exceed the Consideration set forth above. Said Consideration shall constitute reimbursement of CONTRACTOR's fee for the services as well as the actual cost of any equipment, materials, and supplies necessary to provide the services (including all labor, materials, delivery, tax, assembly, and installation, as applicable). CITY shall pay CONTRACTOR said Consideration in accordance with the schedule of payment set forth in Exhibit B, attached hereto and incorporated herein.

Section 4. Independent Contractor. CONTRACTOR 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 CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR 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 5. Assignment. This Agreement may not be assigned in whole or in part by either party, without the prior written consent of CITY.

Section 6. Responsible Principal.

(a) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible Principal by CONTRACTOR shall not be made without the 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 7. Personnel. CONTRACTOR represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. All personnel engaged in the work shall be qualified to perform such services.

Section 8. Interests of CONTRACTOR. CONTRACTOR 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 services contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONTRACTOR.

Section 9. Insurance.

(a) CONTRACTOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, 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 CONTRACTOR.

(b) CONTRACTOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, 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 Contractor in performing the services required by this Agreement.

(c) CONTRACTOR agrees to maintain in force at all times during the performance of work under this Agreement workers' compensation and employer's liability insurance as required by law.

(d) CONTRACTOR shall require each of its sub-consultants or sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(e) 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.

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

(g) At all times during the term of this Agreement, CONTRACTOR 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. CONTRACTOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The policies of insurance

required by this Agreement 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.

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

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

Section 10. Indemnification. CONTRACTOR agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, 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 CONTRACTOR or any person employed by CONTRACTOR in the performance of this Agreement.

Section 11. Termination.

(a) CITY may cancel this Agreement at any time upon five (5) days written notice to CONTRACTOR. CONTRACTOR 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 CONTRACTOR, CONTRACTOR shall be paid full compensation for all services performed by CONTRACTOR, in an amount to be determined as follows: For work done in accordance with all of the terms and provisions of this Agreement, CONTRACTOR shall be paid an amount equal to the amount of services performed prior to the effective date of termination or cancellation based on the rates set forth in Exhibit A, provided, in no event shall the amount of money paid under the foregoing provisions of this paragraph exceed the amount which would be paid CONTRACTOR for the full performance of the services required by this Agreement.

Section 12. Notice. Any notice required to be given to CONTRACTOR shall be deemed duly and properly given upon delivery, if sent to CONTRACTOR postage prepaid to the CONTRACTOR's address set forth above or personally delivered to CONTRACTOR at such address or other address specified to CITY in writing by CONTRACTOR.

Any notice required to be given to CITY shall be deemed duly and properly given upon delivery, if sent to CITY postage prepaid to CITY's address set forth above or personally delivered to CITY at such address or other address specified to CONTRACTOR in writing by CITY.

Section 13. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONTRACTOR, 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 CONTRACTOR.

Section 14. Attorney's Fees. In the event that CITY or CONTRACTOR commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover its costs of suit, including reasonable attorney's fees.

Section 15. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 16. 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 _____ day of _____, 200____, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

BARRY BRUCKER
Mayor of the City of Beverly Hills,
California

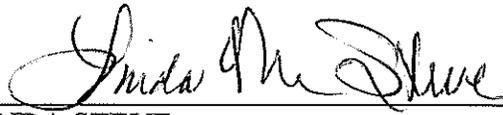
ATTEST:

(SEAL)
BYRON POPE
City Clerk

CONTRACTOR: SOLARBEE, INC.



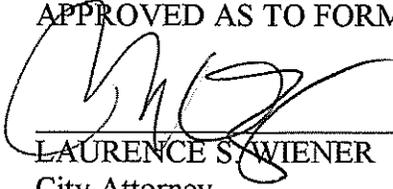
JOEL BLETH
President



LINDA STEVE
Secretary, Chief Executive Officer
Financial

[Signatures continue]

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD
City Manager



DAVID D. GUSTAVSON
Director of Public Works & Transportation



KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF SERVICES

CONTRACTOR shall provide the following:

1. Equipment. CONTRACTOR shall install two SB5000v12PW units with brushless motor and battery system with connection to grid and powered with 110 vac, 40 ft long 16" inch diameter intake hose (the "units"). Said units shall include potable water intake chamber with ½" inch chemical injection ports and two chemical hoses running from the intake to the top of the tank, and terminated at the top ready for customer connection.

The units installed shall come with SCADA ready control box with the Modbus Communication connection to the CONTRACTOR exterior electronic control box.

2. Performance. The units shall be able to circulate 5,000 gallons per minute (gpm) at full speed.

3. Installation. CONTRACTOR shall be responsible for the installation and startup of the units. CONTRACTOR will not be responsible for installing any conduit outside the tank. In addition, CONTRACTOR will not be responsible in hardwiring to CITY's Fiber Optic system.

4. Training. CONTRACTOR shall be responsible for training CITY staff in the operation and maintenance of the units.

5. Delivery. CONTRACTOR shall deliver the units within 4-8 weeks from the order date.

EXHIBIT B-1

RATES or UNIT COSTS

EQUIPMENT	COST
SB5000v12PW with brushless motor and battery system with connection to grid and powered with 110 vac (no solar panels), 40ft long 16" inch diameter intake hose. Circulating 5,000 gallons per minute at full speed	\$84,410.00

Includes: Potable water intake chambers with two ½' inch chemical injection ports and two chemical hoses run from the intake to the top of the tank, terminated at the top ready for customer connection. Any conduit to be run outside the tank to be done by others. Maintenance instructions regarding the equipment will be mailed to the CITY and shall be available in the internet.

SCADA ready control box with the Modbus Communication connection to CONTRACTOR exterior electronic control box. Hardwire serial (RS 232) connection. Includes RTU/PLC Programming protocol document. CONTRACTOR motor rpm, motor direction, and battery voltage at CONTRACTOR exterior control box.

Hardwiring to CITY's Fiber Optic system to be supplied by others.

CA Sales Tax	\$6,964.00
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Delivery, Installation, Start-up and Training	\$22,128.00
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Assumes 36" inch x 36" inch hatch size, clear of obstructions.

Miscellaneous Equipment Required by CITY	Not to exceed \$1,000.00
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Total Not to Exceed	\$114,502.00
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Maximum Dollar Amount. The total amount CITY shall pay CONTRACTOR for all services required under this Agreement shall not exceed One Hundred and Fourteen Thousand Five Hundred and Two Dollars (\$114,502).

EXHIBIT B-2

SCHEDULE OF PAYMENT

CONTRACTOR shall submit an itemized statement to the CITY for its services performed on a form approved by CITY, which shall include documentation setting forth in a detail of the services rendered and the hours of service, if applicable. CITY shall pay CONTRACTOR the amount of such billing within thirty (30) days of 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

- A.
- B.
- C.

ADDRESS

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"/> CONTRACTOR'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKERS' COMPENSATION <input type="checkbox"/>					

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

AGENCY: _____

TITLE: _____
ADDRESS: _____

Attachment 3

SolarBee, Inc. Letter as Manufacturer
of this Equipment and the Sole License
of this Technology



"Quality Water, Naturally"
<http://www.solarbee.com>

Main Office and Service Center
SolarBee, Inc.
530 25th Ave E, PO Box 1930, Dickinson, ND 58602
(866) 437-8076 • (701) 225-4495 • Fax (701) 225-0002

January 24, 2008 (e-mailed today to kwatson@beverlyhills.org, original in US Mail)

Kevin Watson
Beverly Hills, City Of
345 N. Foothill Rd.
Beverly Hills, CA 90210

Dear Kevin,

This letter is to certify that the SolarBee Model SB5000v12-PW, 5,000 gallon per minute 115V grid powered long-distance circulation equipment, which the City of Beverly Hills is considering purchasing for its potable water tanks, is only available through SolarBee, Inc. of Dickinson, ND. SolarBee, Inc. is the manufacturer of this equipment and the sole licensee of this technology. To our knowledge there is no known competitive product.

The purchase price presented in the open quotation for this equipment is the same price charged to all U.S. agencies and other organizations, after allowing for small differences in delivery and installation charges based on quantity and mileage differences between projects.

Sincerely,

SolarBee, Inc.

Printed Name and Title: Linda M. Steve, VP

SHERRY J PLUMMER
NOTARY PUBLIC, STATE OF NORTH DAKOTA
MY COMMISSION EXPIRES SEPTEMBER 6, 2011

(Notary Seal)

The above individual signed this letter in my presence on Jan 24, 2008.

Attested to by Sherry J Plummer, Notary Public, Stark County, State of North Dakota.