

**PROFESSIONAL SERVICES AGREEMENT
FOR MEDICAL REVIEW**

THIS AGREEMENT is made and entered into this 31st day of August, 2012 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and OCCU-MED, LTD, a California Corporation Consultant").

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to coordinate and review medical pre-employment placement exams with candidates and the designated medical facility, making hiring recommendations to the City and review invoices and directly bill the medical facility as more fully described in Consultant's Proposal attached as Exhibit "A"; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in Consultant's Proposal, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. It is understood that in the exercise of every aspect of its role, within the scope of work, consultant will be representing the City of Costa Mesa, and all of its actions, communications, or other work, during its employment, under this contract is under the direction of the department. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City Clerk or her designee. If the quality of work is not satisfactory,

City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

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2.0. COMPENSATION AND BILLING

2.1. Compensation. As compensation for the provision of services outlined in Exhibit "A" and in accordance with this agreement, Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "B," attached hereto and incorporated by reference. Consultant's total compensation shall not exceed Twenty Five Thousand Dollars (\$25,000.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to City supervisor for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction as of the date the invoice is created. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of one year and three months ending on November 30, 2013, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. At the end of the term period, Consultant and City may mutually agree, in writing, to renew the contract for up to four

(4) term periods of one (1) year each.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.

- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant.."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City.
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured

retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

IF TO CITY:

Occu-Med, Ltd.
2121 W. Bullard Avenue
Fresno, CA 93711
Tel: 559-435-2800 X 109
Fax: 559-570-1050
Attn: Kurt Belluomini

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: 714-754-5169
Fax: 714-754-5330
Attn: Lance Nakamoto

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or

indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be

and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent

this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.


6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall


constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation



Chief Executive Officer of Costa Mesa


Department Director

Date: 9/21/12

Date: 9/24/12

CONSULTANT




Signature

Date: 9/13/12


Scott Belluomini, Vice President

Name and Title



Social Security or Taxpayer ID Number

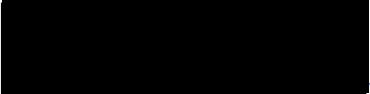
APPROVED AS TO FORM:



City Attorney

Date: 09/07/12

APPROVED AS TO INSURANCE:


Risk Management

Date: 7/19/12

APPROVED AS TO CONTENT:


Project Manager

Date: 8/31/12

EXHIBIT A
CONSULTANT'S PROPOSAL



Occu-Med QA₂ Services

Occu-Med assists employers in assuring that the employees selected for specific jobs are capable of performing those jobs safely. Stated in another way, we evaluate the health status of applicants to determine whether there are any pre-existing medical conditions or physical limitations that would pre-dispose the worker to injury or incapacitation from the performance of the job's essential functions. By identifying these pre-existing medical or physical conditions and addressing them properly, we can dramatically reduce the incidence of worker injuries in a legally defensible manner.

Background

Occu-Med's service has been widely used by public agencies and private employers for nearly 30 years. While challenges to our placement recommendations have been rare, we have prevailed in all of them by providing a methodology that is compliant with the ADA, relevant state regulations and other applicable laws. Further, there have been no challenges to placement decisions resulting from the Occu-Med System since 1996 (with more than 200,000 exams having been reviewed since that time). Occu-Med has been used by more than 3,000 employers to analyze more than 60,000 job classes nationwide, and we have performed more than 600,000 employee/job compatibility assessments, saving literally millions of dollars in employee injury claims.

QA₂ includes:

- Conducting Job analysis and preparation of Job Profiles and Medical Examination Component Profiles;
- Establishing a network of qualified and trained medical providers;
- Orienting client staff in the legal/medical/risk management and human resources aspects of our service;
- Scheduling and harvesting pre-placement medical exams;
- Organizing and managing of return-to-work and fitness-for-duty evaluations;
- Evaluating medical information in relation to the essential duties of jobs in a legally defensible manner;
- Providing a legally defensible placement recommendation for each applicant examined;
- Communicating directly with applicants to obtain the necessary medical information that is needed for clearance for a particular job; and
- Reviewing invoices for all medical exams performed by medical providers.

Implementation

The phases to implement the Occu-Med System are:

- a) Job Analysis: The development of Job Profiles and Medical Examination Component Profiles via on-site job analysis;
- b) Establish Medical Provider Network in appropriate geographical areas to perform necessary medical examinations; and
- c) Client Orientation: The orientation of designated Human Resources and Risk Management staff in usage of the Occu-Med System.

A. Job Analysis

Job Profiles and Medical Examination Component Profiles are prepared for use in evaluating pre-placement, fitness-for-duty and return-to-work medical examinations by conducting on-site job analysis sessions with a small sample of current employees in selected job classes to collect the information that is needed to administer our medical examination review program.

B. Establish Medical Provider Network

The Occu-Med Medical Provider Network is a nationwide network of more than 1,000 medical providers that have been trained and approved by Occu-Med. By actively seeking out knowledgeable providers in local communities, we are able to meet our client's demands of providers in close proximity to their applicants while still providing high quality medical exams and timely turnaround of exam results. Occu-Med's background in managing our own clinics gives us a unique perspective in establishing cohesive and lasting relationships with quality medical providers.

C. Client Orientation

Client Orientation will be provided on-site for designated staff to explain our service (both the implementation activities and our on-going medical examination review service, which we call EXAMQA) in detail and to explain the philosophy that we will follow in the performance of our duties. We also explain the timeliness/turnaround rules that we place upon ourselves and determine whether there are any special needs or instructions regarding our work for your agency.

Medical Examination Management Service

Occu-Med scheduling staff will manage:

- a) Scheduling of examinations with Occu-Med Network Clinics;
- b) Harvesting of examinations to assure that no delays are experienced as a result of a clinic's failure to forward necessary medical information promptly.

The Occu-Med Medical Examination Management Service addresses:

- Delays in scheduling medical exams by medical providers;
- Delays in submitting completed exams to Occu-Med to review;
- Inability of clients to determine why there are delays or who is causing them;
- Difficulty for clients in managing the performance of medical providers due to limited experiences with such operations;
- Difficulty in negotiating reasonable fees for medical exams and exam components; and

- Difficulty of clients in auditing clinic charges since medical invoicing is notoriously inaccurate (more than 90% of invoices reviewed are inaccurate—and more than three-quarters of these are inaccurate in favor of the clinic).

A. Medical Examination Scheduling

Occu-Med's Exam Scheduling Hotline will be available to receive calls from our client's exam scheduling staff, and the requested medical exams will be scheduled within two (2) business hours of the referral. Exams will be scheduled with the medical provider most convenient to the applicant; however, with the permission of the client, exams will be scheduled at alternative clinic locations if the more proximate clinic is unavailable beyond acceptable time periods or if, for certain exams, the alternative clinic offers significantly better pricing for the particular exam in question (for example, for a safety exam where the alternative clinic offers treadmill stress testing for a significantly reduced fee).

B. Medical Examination Harvesting

Having scheduled the medical exam for our client, and with knowledge of the length of time required to obtain results from the medical testing included in the exam (i.e., PPD test for tuberculosis takes 48 to 72 hours for results), Occu-Med will contact the medical provider to request, or "harvest," the exam at the absolute earliest time that it should be ready for review. This service is currently saving our clients approximately 50% in terms of turnaround time for exam results.

C. EXAMQA

EXAMQA is the service under which Occu-Med staff reviews each applicant's medical examination and provides placement recommendations. Our intake staff is initially responsible for reviewing each medical exam for timeliness, accuracy of medical components performed, thoroughness of medical information provided, correctness in the performance of medical testing and completeness. Occu-Med commits to the submission of a placement recommendation and a written report for each exam submitted by 4 PM on the same day that the complete exam is received. Based upon the exam results, Occu-Med submits its recommendation report to the client that the applicants:

1. Medically Qualified ("MQ");
2. Conditionally Qualified ("CQ") - an applicant may only be placed with work restrictions or accommodations, and we prepare an Employment Agreement for the employee to sign agreeing to abide by the necessary restrictions;
3. Recommendation Delayed for Qualification ("RDQ"/"RDQA") - the designation that we use when our recommendation is that a decision be delayed until certain medical information can be further evaluated. Further, under RDQA, Occu-Med communicates the specific additional medical information needed for clearance directly to the applicant, removing the client from the "middle-man" position whereby they would need to discuss medical matters beyond their training or understanding (i.e., sarcoidosis, Herrington rods, etc.). The report to the client simply states that the RDQA process has begun, and an RDQ letter has been provided directly to the applicant. For both RDQ and RDQA, Occu-Med generates an additional report when the recommendation changes to either qualified or disqualified based upon the information submitted; or
4. Medically Disqualified ("DQ"); - a recommendation of DQ is only appropriate after the RDQ/RDQA step has been completed due to the legal requirement of "individualized assessment" of any medical findings.

D. Fitness-for-Duty Evaluations

Fitness-for-duty evaluations of current employees returning to work following injury or with declining health brought on by injury has become a significant aspect of Occu-Med's service. We evaluate the employee's specific situation and develop a plan to assure that full and adequate medical and job information is available to allow for a correct and legally defensible determination of his/her ability to continue performing the job or to return to the job—either to full or to modified duty.

The fitness-for-duty evaluation usually begins with an assessment of the factors causing the need for the evaluation. In most cases, a Job Profile for the job in question has been developed previously, so there is a thorough understanding of the specific essential duties of the job in question. Occu-Med then prepares a document, to be made available to the appropriate physician or physicians, requesting the specific, appropriate medical information that will be necessary to determine whether the employee continues to be an appropriate placement in the job, with or without restrictions. When such medical information is submitted, our medical staff evaluates it in conjunction with the requirements of the job to make a recommendation to the client. If the recommendation is that the employee be retained in or returned to the job with work accommodations or restrictions, Occu-Med prepares an employment agreement to be signed by the employee setting forth specifically the restrictions to which the employee will be held. Thousands of such fitness-for-duty recommendations have been made to our clients, allowing for the efficient and appropriate transition of employees back into the workplace and resulting in a significant savings in workers' compensation and lost time costs for those clients

E. National and International Examinations

In addition to establishing a network of medical providers to perform employment medical exams, Occu-Med will also schedule exams, as may from time to time become necessary for applicants from other areas throughout the nation (and internationally) through our National and International Medical Provider Network.

F. Blood Chemistry Panels and Drug Screening

1. Occu-Med enables the network of medical providers serving our clients to use Occu-Med supplied laboratory kits for the purposes of collecting only medically useful and legally appropriate blood chemistry panels and urine drug screen specimens to assure the highest quality medical results from these tests.

2. Updated laboratory collection protocols (Occu-Panels) allow for blood draws that are specifically job-related and consistent with business necessity, in compliance with both ADA and other applicable laws. Therefore, no unnecessary private medical information is obtained. Non-negative drug screen specimens immediately receive Medical Review Officer (MRO) analysis. Following this analysis the client can be assured that a disqualification for a positive finding is always legally defensible. Finally, by receiving laboratory results internally at Occu-Med, the reporting time of a final qualification status is held to a minimum.

G. Medical Examination Billing

1. Occu-Med submits a monthly invoice for each medical examination conducted pursuant to a negotiated fee schedule that will show one cost for each job title. This invoicing is a major improvement to the typical clinic invoice which shows pricing for the array of medical components that comprise the medical exam for a particular job class. And, as stated above, inaccurate billings are the norm;

2. Occu-Med reviews the clinic's invoice and pays the accurate charges submitted;
3. Occu-Med reviews the laboratory's invoice and pays the accurate charges submitted.
4. Occu-Med's fee to our clients, even with the additional services provided, is typically no greater than the clinic's usual fee due to our national buying power and our knowledge of which particular charges are inappropriately high.

Summary

QA₂ covers all work required for our medical examination reviews and reports and for our on-going consultation as listed:

- Medical examination scheduling
- Exam harvesting to minimize delays caused by the failure of clinics to submit exams to Occu-Med in a timely fashion
- Review and evaluation of completed medical examinations (*EXAMQA*) with results sent to you on the same day that the exam is received
- Written reports for each review undertaken for each applicant
- Employment Agreements for any employees placed with accommodations
- Additional reviews for applicants with medical or physical conditions requiring further testing or submission of additional information
- Explanation (by telephone and by letter) to prospective employees of additional medical information necessary for job clearance
- Submission of legally defensible hiring recommendations
- Assistance with reasonable accommodation recommendations
- Consultation relative to pre-placement, return-to-work, and fitness-for-duty issues
- *RDQA* services
- Review of clinic and laboratory invoices for accuracy for exams scheduled with Occu-Med
- Submission of clear and correct invoices to the client for exams scheduled with Occu-Med
- Periodic reports documenting the results of Occu-Med's work upon request.
- Fitness-for-duty evaluations
- Return-to-work (following injury or illness) evaluations
- OSHA compliant medical evaluation programs and administration.

Occu-Med combines:

- a) A thorough knowledge of the essential physical and environmental components of the jobs in question;
- b) The medical expertise to gather all necessary and appropriate medical information upon which to base safe placement, return-to-work and fitness-for-duty recommendations; and
- c) Extensive knowledge of the legal constraints within which such hiring decisions must be made.

As a result, our service provides a legally defensible, cost effective medical screening program for employee hiring and placement to avoid potentially costly mistakes. Occu-Med is the leading provider of such services.

EXHIBIT B
FEE SCHEDULE



James A. Johnson
President & CEO

May 17, 2012

Mr. Kurt D. Belluomini, Vice President
Occu-Med
2121 W. Bullard Avenue
Fresno, CA 93711

Ms. Kasama Lee, Principal Human Resource Analyst
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

RE: Service Fees

Dear Ms. Kasama Lee:

Occu-Med is pleased to extend its current pricing until November 30, 2013 to the City of Costa Mesa. Monthly QA² service fees will remain the same at \$500.00 per month; Job Class Pricing will remain the same pursuant to the enclosed schedule.

If you have any question or concerns please feel free to contact me at 599.435.2800 x109, or at kbell@occu-med.com.

Best Regards,

Kurt D. Belluomini

Enclosure: City of Costa Mesa Job Class Pricing at US Health Works 1/27/2011

City of Costa Mesa Job Class Pricing at US Health Works 1/27/2011

Maintenance Worker/Senior/Lead	Phy	\$	50.00
Equipment Mechanic/Lead	Audio	\$	24.00
	PPD	\$	14.00
	PFT	\$	20.00
	Ven	\$	20.00
	Occu-Panel A	\$	25.50
		\$	153.50
	UDS Collection	\$	16.00
	UDS (DOT)	\$	36.00
		\$	205.50

Water Safety Instructor/Lifeguard	Phy	\$	50.00
	Audio	\$	24.00
	PPD	\$	14.00
	PFT	\$	20.00
	Ven	\$	20.00
	Occu-Panel B	\$	30.50
		\$	158.50

Firefighter Intern	Phy	\$	50.00
	PPD	\$	14.00
	PFT	\$	20.00
	Ven	\$	20.00
	Occu-Panel A	\$	25.50
		\$	129.50

Firefighter/Paramedic/Captain	Phy	\$	50.00
	OSHA Respirator Questionnaire	\$	-
	Audio	\$	24.00
	PPD	\$	14.00
	CXR(X2)	\$	49.00
	PFT	\$	20.00
	Stress EKG	\$	200.00
	Ven	\$	20.00
	Occu-Panel E	\$	40.00
	Hep B&C Screening	\$	83.00
	U/A G&M	\$	12.00
	UDS Collection	\$	16.00
	UDS (NON-DOT)	\$	36.00
		\$	564.00

Police Officer	Phy	\$	50.00
	OSHA Respirator Questionnaire	\$	-
	Audio	\$	24.00
	PPD	\$	14.00
	CXR(X1)	\$	33.00
	PFT	\$	20.00
	Stress EKG	\$	200.00
	Ven	\$	20.00
	Occu-Panel E	\$	40.00
	Hep B&C Screening	\$	83.00
	U/A G&M	\$	12.00
	UDS Collection	\$	16.00
	UDS (NON-DOT)	\$	36.00
		\$	548.00

Custody Officer	Phy	\$	50.00
	Audio	\$	24.00
	PPD	\$	14.00
	CXR(X1)	\$	33.00
	PFT	\$	20.00
	Stress EKG	\$	200.00
	Ven	\$	20.00
	Occu-Panel E	\$	40.00
	Hep B&C Screening	\$	83.00
	U/A G&M	\$	12.00
		\$	496.00

Messenger	Phy	\$	50.00
Offset Press Operator	Audio	\$	24.00
	PPD	\$	14.00
		\$	88.00

Engineering Technician	Phy	\$	50.00
Electronics Technician	Audio	\$	24.00
Communications Installer	PPD	\$	14.00
Code Enforcement Officer	Ven	\$	20.00
	Occu-Panel A	\$	25.50
		\$	133.50

Construction Inspector/Chief	Phy	\$	50.00
Community Service Specialist	Audio	\$	24.00
Combination Inspector	PPD	\$	14.00
Chief Electrical Inspector	Ven	\$	20.00
Range Master	Occu-Panel C	\$	30.50
		\$	138.50

Animal Control Officer	Phy	\$	50.00
	Audio	\$	24.00
	PPD	\$	14.00
	PFT	\$	20.00
	Ven	\$	20.00
	Occu-Panel D	\$	35.50
		\$	163.50

Facilities Maintenance Worker	Phy	\$	50.00
	Audio	\$	24.00
	PPD	\$	14.00
	PFT	\$	20.00
	Ven	\$	20.00
	Occu-Panel C	\$	30.50
		\$	158.50

Communications Officer	Phy	\$	50.00
Network Administrator	PPD	\$	14.00
Recreation Coordinator		\$	64.00
Sedentary(Non-Driving)			

Central Services Supervisor	Phy	\$	50.00
Property/Evidence Specialist/Supervisor	PPD	\$	14.00
Purchasing/Storekeeper	Ven	\$	20.00
Sedentary(Driving)	Occu-Panel A	\$	25.50
Video Production Coordinator/Aide		\$	109.50

Fire Protection Analyst/Specialist	Phy	\$	50.00
	PPD	\$	14.00
	Ven	\$	20.00
	Occu-Panel C	\$	30.50
		\$	114.50

EXHIBIT C

CITY COUNCIL POLICY 100-5

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
 1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/21/12

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

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

PRODUCER Agri-Center Insurance Agency 1300 W Shaw #1A Fresno, CA 93711 Anthony Stornetta	559-233-0123 559-266-8858	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL: ADDRESS:	FAX (A/C, No):	
RECEIVED AUG 24 2012 RISK MGMT		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A: Citizens Insurance Co of Amer		31534
		INSURER B: American Casualty Co of Reading		
		INSURER C: Continental Casualty Company		
		INSURER D:		
		INSURER E:		
INSURER F:				

COVERAGES				CERTIFICATE NUMBER:		REVISION NUMBER:				
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.										
INSR LTR	TYPE OF INSURANCE			ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY					OBF926284701	08/13/12	08/13/13	EACH OCCURRENCE	\$ 2,000,000
	<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
	<input type="checkbox"/>	CLAIMS-MADE	<input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$ 5,000
	<input type="checkbox"/>								PERSONAL & ADV INJURY	\$ 2,000,000
	<input type="checkbox"/>								GENERAL AGGREGATE	\$ 4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:								PRODUCTS - COMP/OP AGG	\$ 4,000,000
	<input type="checkbox"/>	POLICY	<input type="checkbox"/> PRO-JECT	<input type="checkbox"/> LOC						\$
	<input type="checkbox"/>									
A	AUTOMOBILE LIABILITY					OBF92684701	08/13/12	08/13/13	COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000
	<input type="checkbox"/>	ANY AUTO							BODILY INJURY (Per person)	\$
	<input type="checkbox"/>	ALL OWNED AUTOS	<input type="checkbox"/>	SCHEDULED AUTOS					BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/>	HIRED AUTOS	<input checked="" type="checkbox"/>	NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/>									\$
	<input type="checkbox"/>									\$
A	<input checked="" type="checkbox"/>	UMBRELLA LIAB		<input checked="" type="checkbox"/>	OCCUR	OBF926284701	08/13/12	08/13/13	EACH OCCURRENCE	\$
	<input type="checkbox"/>	EXCESS LIAB		<input type="checkbox"/>	CLAIMS-MADE				AGGREGATE	\$ 4,000,000
	<input type="checkbox"/>	DED	<input type="checkbox"/>	RETENTION \$					\$	
	<input type="checkbox"/>									
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC 430785701	06/06/12	06/06/13	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	<input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)			<input type="checkbox"/> Y / N	E.L. EACH ACCIDENT				\$ 1,000,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below			N / A	E.L. DISEASE - EA EMPLOYEE				\$ 1,000,000	
					E.L. DISEASE - POLICY LIMIT				\$ 1,000,000	
C	Professional Liab					425437058	08/22/12	08/22/13	Limit/Agg	5,000,000
	Claims Made								Retention	25,000

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

CERTIFICATE HOLDER

COSTAME

City of Costa Mesa
TERRI CASSIDY
PO BOX 1200
Costa Mesa, CA 92628

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Anthony Stornetta

BUSINESSOWNERS LIABILITY SPECIAL BROADENING ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies Insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SUMMARY OF COVERAGES

	Limits	Page
1. Additional Insured by Contract, Agreement or Permit		1
2. Additional Insured - Broad Form Vendors		2
3. Alienated Premises		2
4. Bodily Injury Redefined		2
5. Broad Form Property Damage - Borrowed Equipment, Customers Goods and Use of Elevators		2
6. Incidental Malpractice (Employed Nurses, EMT's and Paramedics)		3
7. Personal and Advertising Injury - Broad Form		3
8. Product Recall Expense	\$25,000 Occurrence \$50,000 Aggregate	3
9. Unintentional Failure to Disclose Hazards		5
10. Unintentional Failure to Notify		5

This endorsement amends coverages provided under the Businessowners Coverage Form through new coverages and broader coverage grants. This coverage is subject to the provisions applicable to the Businessowners Coverage Form, except as provided below.

1. Additional Insured by Contract, Agreement or Permit

Under SECTION II - LIABILITY, C. Who Is An Insured, Paragraph 4. Is added as follows:

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional Insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,
but only with respect to:
- (3) "Your work" for the additional Insured(s) at the location designated in the contract, agreement or permit; or
- (4) Premises you own, rent, lease, control or occupy.

This Insurance applies on a primary basis if that is required by the written contract, agreement or permit.

b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage" or "personal and advertising injury";
- (2) To any person or organization included as an insured by an endorsement issued by us and made part of this Policy;
- (3) To any person or organization included as an Insured under Item 1.a.2. of this endorsement;
- (4) To any lessor of equipment:
 - (a) After the equipment lease expires; or
 - (b) If the "bodily injury", "property damage" or "personal and advertising injury" arises out of the sole negligence of the lessor;

(5) To any:

(a) Owners or other interests from whom land has been leased which takes place after the lease for that land expires; or

(b) Managers or lessors of premises if:

(i) The occurrence takes place after you cease to be a tenant in that premises; or

(ii) The "bodily injury", "property damage" or "personal and advertising injury" arises out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or

(6) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services.

c. Additional Insured coverage provided by this provision will not be broader than coverage provided to any other Insured.

d. All other insuring agreements, exclusions, and conditions of the policy apply.

2. Additional Insured - Broad Form Vendors

Under **SECTION II - LIABILITY, C. Who Is An Insured**, paragraph 5. is added as follows:

5. Any person or organization with whom you agreed, because of a written contract or written agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

The insurance afforded the vendor does not apply to:

a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

b. Any express warranty unauthorized by you;

c. Any physical or chemical change in the product made intentionally by the vendor;

d. Repackaging, unless unpacked solely for the purpose of inspection,

demonstration, testing, or the substitution of parts under instruction from the manufacturer, and then repackaged in the original container;

e. Any failure to make such inspection, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the distribution or sale of the product;

f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any thing or substance by or for the vendor; or

h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in paragraphs 5.d. or 5.f.; or

(2) Such inspections, adjustments, test or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

3. Alienated Premises

Under **SECTION II - LIABILITY, B. Exclusions**, paragraph 1.k.(2) is replaced in its entirety with the following:

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises and occurred from hazards that were known by you, or should have reasonably been known by you, at the time the property was transferred or abandoned.

4. Bodily Injury Redefined

Under **SECTION II - LIABILITY, F. Liability and Medical Expenses Definitions**, definition 4. is replaced in its entirety by the following:

4. "Bodily injury" means bodily injury, disability, sickness or disease sustained by a person, including death resulting from any of these at any time. "Bodily Injury" includes mental anguish or other mental injury resulting from "bodily injury".
5. **Broad Form Property Damage - Borrowed Equipment, Customers Goods, Use of Elevators**
 - a. Under SECTION II - LIABILITY, B. Exclusions, paragraph 1.k., the following is added:
Paragraph (4) does not apply to "property damage" to borrowed equipment while at a jobsite and not being used to perform operations.
Paragraph (3), (4) and (6) do not apply to "property damage" to "customers goods" while on your premises nor to the use of elevators.
 - b. Under SECTION II - LIABILITY, F. Liability and Medical Expenses Definitions, the following additional definition is added:
"Customers goods" means property of your customer on your premises for the purpose of being:
 - a. Worked on; or
 - b. Used in your manufacturing process.
 - c. The insurance afforded under this provision is excess over any other valid and collectible property insurance (including deductible) available to the insured whether primary, excess, contingent or on any other basis.
6. **Incidental Malpractice - Employed Nurses, EMT's and Paramedics**
Under SECTION II - LIABILITY, C. Who Is An Insured, paragraph 2.a.(1)(d) does not apply to a nurse, emergency medical technician or paramedic employed by you if you are not engaged in the business or occupation of providing medical, paramedical, surgical, dental, x-ray or nursing services.
7. **Personal and Advertising Injury - Broad Form**
Under SECTION II - LIABILITY, F. Liability and Medical Expenses Definitions, definition 15, "Personal and Advertising Injury", paragraph h. is added as follows:
 - h. Discrimination or humiliation (unless insurance thereof is prohibited by law) that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:
 - (1) Not done intentionally by or at the direction of:
 - (a) The insured; or
 - (b) Any officer of the corporation, director, stockholder, partner or member of the insured; and
 - (2) Not directly or indirectly related to an "employee", nor to the employment, prospective employment or termination of any person or persons by an insured.
8. **Product Recall Expense**
 - a. Under SECTION II - LIABILITY, B. Exclusions, Paragraph 1. o. is replaced in its entirety by the following:
 - o. Recall of Products, Work or Impaired Property
Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:
 - (1) "Your product";
 - (2) "Your work"; or
 - (3) "Impaired property";
If such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it, but this exclusion does not apply to "product recall expenses" that you incur for the "covered recall" of "your product". The exception to the exclusion does not apply to "product recall expenses" resulting from:
 - (1) Failure of any products to accomplish their intended purpose;
 - (2) Breach of warranties of fitness, quality, durability or performance;
 - (3) Loss of customer approval, or any cost incurred to regain customer approval;
 - (4) Redistribution or replacement of "your product" which has been recalled by like products or substitutes;
 - (5) Caprice or whim of the insured;
 - (6) A condition likely to cause loss of which any insured knew or had reason to know at the inception of this insurance;
 - (7) Asbestos, including loss, damage or clean-up resulting from asbestos or asbestos containing materials; or

- (8) Recall of "your products" that have no known or suspected defect solely because a known or suspected defect in another of "your products" has been found.
- b. Under **SECTION II - LIABILITY, C. Who Is An Insured**, paragraph 4.c. is added as follows:
- c. "Bodily injury" or "property damage" do not apply to "product recall expense" arising out of any withdrawal or recall that occurred before you acquired or formed the organization.
- c. Under **SECTION II - LIABILITY, E. Liability and Medical Expense General Conditions, 2. Duties In the Event of Occurrence, Offense, Claim or Suit**, paragraph e. is added as follows:
- e. You must see to it that the following are done in the event of an actual or anticipated "covered recall" that may result in "product recall expense":
- (1) Give us prompt notice of any discovery or notification that "your product" must be withdrawn or recalled. Include a description of "your product" and the reason for the withdrawal or recall;
 - (2) Cease any further release, shipment, consignment or any other method of distribution of like or similar products until it has been determined that all such products are free from defects that could be a cause of loss under this Insurance.
- d. Under **SECTION II - LIABILITY, F. Liability and Medical Expenses Definitions**, the following additional definitions are added:
- "Covered recall" means a recall made necessary because you or a government body has determined that a known or suspected defect, deficiency, inadequacy, or dangerous condition in "your product" has resulted or will result in "bodily injury" or "property damage".
- "Product recall expense(s)" means:
- a. Necessary and reasonable expenses for:
 - (1) Communications, including radio or television announcements or printed advertisements including stationary, envelopes and postage;
 - (2) Shipping the recalled products from any purchaser, distributor or user to the place or places designated by you;
 - (3) Remuneration paid to your regular "employees" for necessary overtime;
 - (4) Hiring additional persons, other than your regular "employees";
 - (5) Expenses incurred by "employees" including transportation and accommodations;
 - (6) Expenses to rent additional warehouse or storage space;
 - (7) Disposal of "your product", but only to the extent that specific methods of destruction other than those employed for trash discarding or disposal are required to avoid "bodily injury" or "property damage" as a result of such disposal,
- you incur exclusively for the purpose of recalling "your product"; and
- b. Your lost profit resulting from such "covered recall".
- e. Under **SECTION II - LIABILITY, D. Liability and Medical Expenses Limits of Insurance**, the following is added:
5. The Limits of Insurance and rules stated below fix the most that we will pay under this Product Recall Expense Coverage.
- (1) The Aggregate Limit is the most that we will reimburse you for the sum of all "product recall expenses" incurred for all "product recall expenses" initiated during the policy period.
 - (2) The Occurrence Limit shown on the Summary of Coverages is the most we will pay in connection with any one defect or deficiency.
 - (a) All "product recall expenses" in connection with substantially the same general harmful condition will be deemed to arise out of the same defect or deficiency and considered one "occurrence".

- (b) Any amount reimbursed for "product recall expenses" in connection with any one "occurrence" will reduce the amount of the Aggregate Limit available for reimbursement of "product recall expenses" in connection with any other defect or deficiency.
- (c) If the Aggregate Limit has been reduced by reimbursement of "product recall expenses" to an amount that is less than the Occurrence Limit, the remaining Aggregate Limit is the most that will be available for reimbursement of "product recall expenses" in connection with any other defect or deficiency.

6. A deductible of \$500 applies per each "Occurrence".

9. Unintentional Failure to Disclose Hazards

Under SECTION II - LIABILITY, E. Liability and Medical Expenses General Conditions, paragraph 6. is added as follows:

6. Representations

We will not disclaim coverage under this Coverage Form if you fail to disclose all hazards existing as of the inception date of the policy provided such failure is not intentional.

10. Unintentional Failure to Notify

Under SECTION II - LIABILITY, E. Liability and Medical Expenses General Conditions, 2. Duties in the Event of Occurrence, Offense, Claim or Suit, paragraph f. is added as follows:

- f. Your rights afforded under this Coverage Form shall not be prejudiced if you fail to give us notice of an "occurrence", offense, claim or "suit", solely due to your reasonable and documented belief that the "bodily injury" or "property damage" is not covered under this Policy.