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**AGREEMENT FOR  
TITLE REPORTS & RELATED SERVICES**

This Agreement for Title Reports and Related Services (“the Agreement”) is made and entered into this 20<sup>th</sup> day of August, 2024 (“Effective Date”), by and between the County of Fresno, a political subdivision of the State of California, (“the County”); and Fidelity National Title Company, a California corporation, whose address is 7475 N. Palm Avenue, #107, Fresno, Ca 93711 (“the Consultant”).

**Recitals**

A. The County’s Department of Public Works and Planning (“Department”) desires to retain the Consultant to provide on-call preliminary title reports, litigation guarantees, escrow services and any other services deemed necessary for parcels to be acquired for road, bridge, capital and community development projects (“Project(s)”) proposed by the County.

B. The Department will be requiring services for several large-scale projects as well as other projects of a smaller nature that may arise from time to time.

C. The Consultant represents that it is able to provide these title and related services subject to the terms and conditions of this Agreement.

D. The Department has selected Consultant in accordance with the Ordinance Code Fresno County, Chapter 4.10 on the selection of architects, engineers, and other professionals to provide the Real Property services necessary for the Projects, as specified herein; and in accordance with Chapter 10 of the California Department of Transportation’s (CALTRANS) Local Assistance Procedures Manual (LAPM), to provide certain professional services necessary for the County’s Projects.

The parties therefore agree as follows:

**Article 1**

**Consultant’s Services**

1.1 **Scope of Services.** The Consultant shall perform real property services required for the Project(s), as provided in Exhibit A to this Agreement, entitled “Scope of Services,” attached and incorporated by this reference.

1 1.2 **Representation.** The Consultant represents that it is qualified, ready, willing, and  
2 able to perform all of the services provided in this Agreement.

3 1.3 **Compliance with Laws.** The Consultant shall, at its own cost, comply with all  
4 applicable federal, state, and local laws and regulations in the performance of its obligations  
5 under this Agreement, including but not limited to workers compensation, labor, and  
6 confidentiality laws and regulations.

7 1.4 The Consultant's Project team staff shall be as listed in Exhibit B, attached and  
8 incorporated by this reference. Any substitutions of personnel shall be approved by the Contract  
9 Administrator, approval of which shall not be unreasonably withheld. The Consultant shall notify  
10 the Contract Administrator of the names and classifications of employees assigned to each  
11 specific Project and shall not reassign such employees to other projects of the Consultant  
12 without notification to and prior approval by the Contract Administrator.

13 1.5 The Consultant may retain, as subconsultants, specialists as the Consultant requires  
14 to assist in completing the work in accordance with Article 13 "Subconsultants" and Article 18  
15 "Disadvantaged Business Enterprises". The subconsultants shall be listed in Exhibit B, attached  
16 and incorporated by this reference.

17 1.6 The Consultant's services shall be performed as expeditiously as is consistent with  
18 professional skill and the orderly progress of the work, based on schedules for each specific  
19 Project mutually agreed upon in advance by the Contract Administrator and the Consultant, and  
20 consistent with schedules established under Article 3, "Compensation, Invoices, and Payments."

21 1.7 The Consultant shall be fully informed regarding the requirements of 49 CFR, Part 26  
22 and the California Department of Transportation's (Caltrans) Disadvantage Business Enterprise  
23 program developed pursuant to the regulations incorporated herein.

## 24 **Article 2**

### 25 **County's Responsibilities**

26 2.1 The County designates the following individual as the Contract Administrator for this  
27 Agreement on behalf of the County, who shall remain so unless the Consultant is otherwise  
28

1 notified in writing by the County's Director of Public Works and Planning or his/her designee(s)  
2 ("Director"):

3 Erin Haagenson, Program Manager  
4 2220 Tulare Street, 6th Floor, Fresno, CA 93721  
5 559-388-7292  
6 [ehaagenson@fresnocountyca.gov](mailto:ehaagenson@fresnocountyca.gov)

7 2.2 The County shall provide an individual Project Administrator to serve as a  
8 representative of the County who will coordinate and communicate with the Consultant on all  
9 Project technical work, to the extent appropriate, in an effort to facilitate the Consultant's  
10 performance of its obligations in accordance with the provisions of this Agreement.

11 2.3 The County shall issue Task Orders on a project-by-project basis, based on each  
12 Consultant's rates established in Exhibit B. Task Orders will at a minimum include scope of  
13 work, location, and schedule for the Project.

14 2.4 The County shall provide the Consultant with a Project Scope and Schedule, and  
15 compensate the Consultant as provided in this Agreement.

16 2.5 The County shall provide copies of any available existing as-built plans and right-of-  
17 way drawings from the County's files.

18 2.6 The County shall provide all surveying and staking.

19 2.7 The County shall provide design of the Project(s) and prepare legal descriptions.

20 2.8 The County shall prepare right-of-way maps.

21 2.9 The County shall provide list of property owners with addresses for notification of  
22 property owners upon the Consultant's request.

23 2.10 The County shall examine documents submitted and render timely decisions  
24 pertaining to those documents.

25 2.11 The County shall examine documents submitted to the County by the Consultant and  
26 timely render decisions pertaining to those documents.

27 2.12 The County shall give reasonably prompt consideration to all matters submitted for  
28 approval by the Consultant in an effort to assist the Consultant in avoiding any substantial

1 delays in the Consultant's program of work. An approval, authorization or request issued to the  
2 Consultant by the County will be binding upon the County under the terms of this Agreement  
3 only if it is made in writing and signed on behalf of the County by Contract Administrator.  
4

### 5 **Article 3**

#### 6 **Compensation, Invoices, and Payments**

7 3.1 The County agrees to pay, and the Consultant agrees to receive, compensation for  
8 the performance of its services under this Agreement as described in this Article 3.

9 3.2 **Maximum Compensation.** The maximum compensation to be paid under this  
10 Agreement is Three Hundred Thousand Dollars (\$300,000). The Contractor acknowledges that  
11 the County is a local government entity and does so with notice that the County's powers are  
12 limited by the California Constitution and by State law, and with notice that Contractor may  
13 receive compensation under this Agreement only for services performed according to the terms  
14 of this Agreement and while this Agreement is in effect, and subject to the maximum amount  
15 payable under this section. The Contractor further acknowledges that County employees have  
16 no authority to pay the Contractor except as expressly provided in this Agreement.

17 3.3 **Consultant Fee.** The approved Consultant's Cost Proposal is attached as Exhibit B  
18 and incorporated by this reference as though fully set forth herein. If there is any conflict  
19 between the provisions set forth in the text of this Agreement and the approved Cost Proposal  
20 (Exhibit B), this Agreement shall take precedence.

21 3.4 **Invoices.** The Consultant shall submit invoices electronically to  
22 [PWPBusinessOffice@fresnocountyca.gov](mailto:PWPBusinessOffice@fresnocountyca.gov) . The Consultant shall submit each invoice within 60  
23 days after the month in which the Consultant performs services and in any case within 60 days  
24 after the end of the term or termination of this Agreement. Invoices shall clearly identify the  
25 Phase and Task of the work, the Notice to Proceed number and the date(s) on which the work  
26 was performed and shall be submitted with the documentation identified in Article 3, Section 3.8  
27 "Invoice Documentation."  
28



1 satisfactory performance. The extension of this Agreement by the County is not a waiver or  
2 compromise of any default or breach of this Agreement by the Consultant existing at the time of  
3 the extension whether or not known to the County.

4 **Article 5**

5 **Notices**

6 5.1 **Contact Information.** The persons and their addresses having authority to give and  
7 receive notices provided for or permitted under this Agreement include the following:

8 **For the County:**

9 Department of Public Works and Planning  
10 Erin Haagenson, Program Manager  
11 2220 Tulare Street, 6th Floor, Fresno, CA 93721  
12 559-388-7292  
13 [ehaagenson@fresnocountyca.gov](mailto:ehaagenson@fresnocountyca.gov)

14 **For the Consultant:**

15 Andy Kern, County Manager  
16 Fidelity National Title Company  
17 7475 N. Palm Avenue, #107  
18 Fresno, Ca 93711  
19 [andy.kern@fnf.com](mailto:andy.kern@fnf.com)

20 5.2 **Change of Contact Information.** Either party may change the information in section  
21 5.1 by giving notice as provided in section 5.3.

22 5.3 **Method of Delivery.** Each notice between the County and the Consultant provided  
23 for or permitted under this Agreement must be in writing, state that it is a notice provided under  
24 this Agreement, and be delivered either by personal service, by first-class United States mail, by  
25 an overnight commercial courier service, or by Portable Document Format (PDF) document  
26 attached to an email.

27 (A) A notice delivered by personal service is effective upon service to the recipient.

28 (B) A notice delivered by first-class United States mail is effective three County  
business days after deposit in the United States mail, postage prepaid, addressed to the  
recipient.

(C) A notice delivered by an overnight commercial courier service is effective one  
County business day after deposit with the overnight commercial courier service,

1 delivery fees prepaid, with delivery instructions given for next day delivery, addressed to  
2 the recipient.

3 (D) A notice delivered by PDF document attached to an email is effective when  
4 transmission to the recipient is completed (but, if such transmission is completed outside  
5 of County business hours, then such delivery is deemed to be effective at the next  
6 beginning of a County business day), provided that the sender maintains a machine  
7 record of the completed transmission.

8 **5.4 Claims Presentation.** For all claims arising from or related to this Agreement,  
9 nothing in this Agreement establishes, waives, or modifies any claims presentation  
10 requirements or procedures provided by law, including the Government Claims Act (Division 3.6  
11 of Title 1 of the Government Code, beginning with section 810).

## 12 **Article 6**

### 13 **Termination and Suspension**

14 **6.1 Termination for Non-Allocation of Funds.** The terms of this Agreement are  
15 contingent on the approval of funds by the appropriating government agency. If sufficient funds  
16 are not allocated, then the County, upon at least 30 days' advance written notice to the  
17 Consultant, may:

18 (A) Modify the services provided by the Consultant under this Agreement; or

19 (B) Terminate this Agreement.

20 **6.2 Termination for Breach.**

21 (A) Upon determining that a breach (as defined in paragraph (C) below) has  
22 occurred, the County may give written notice of the breach to the Consultant . The  
23 written notice may suspend performance under this Agreement and must provide at  
24 least 30 days for the Consultant to cure the breach.

25 (B) If the Consultant fails to cure the breach to the County's satisfaction within the  
26 time stated in the written notice, the County may terminate this Agreement immediately.

27 (C) For purposes of this section, a breach occurs when, in the determination of the  
28 County, the Consultant has:

- (1) Obtained or used funds illegally or improperly;
- (2) Failed to comply with any part of this Agreement;
- (3) Submitted a substantially incorrect or incomplete report to the County; or
- (4) Improperly performed any of its obligations under this Agreement.

6.3 **Termination without Cause.** In circumstances other than those set forth above, the County may terminate this Agreement by giving at least 30 days advance written notice to the Consultant .

6.4 **No Penalty or Further Obligation.** Any termination of this Agreement by the County under this Article 6 is without penalty to or further obligation of the County.

6.5 **County's Rights upon Termination.** Upon termination for breach under this Article 6, the County may demand repayment by the Consultant of any monies disbursed to the Consultant under this Agreement that, in the County's sole judgment, were not expended in compliance with this Agreement. The Consultant shall promptly refund all such monies upon demand. This section survives the termination of this Agreement.

## **Article 7**

### **Independent Consultant**

7.1 **Status.** In performing under this Agreement, the Consultant, including its officers, agents, employees, and volunteers, is at all times acting and performing as an independent consultant, in an independent capacity, and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the County.

7.2 **Verifying Performance.** When the Consultant is providing regular on-call consultant services hereunder, the County has no right to control, supervise, or direct the manner or method of the Consultant's shall perform its work and function. However, the County shall retain the right to administer this Agreement so as to verify that the Consultant is performing its obligations in accordance with the terms and conditions thereof.

7.3 **Benefits.** Because of its status as an independent Consultant, the Consultant has no right to employment rights or benefits available to County employees. The Consultant is solely responsible for providing to its own employees all employee benefits required by law. The

1 Consultant shall save the County harmless from all matters relating to the payment of  
2 Consultant's employees, including compliance with Social Security withholding and all related  
3 regulations.

4 7.4 **Services to Others.** The parties acknowledge that, during the term of this  
5 Agreement, the Consultant may provide services to others unrelated to the County.

## 6 **Article 8**

### 7 **Indemnity and Defense**

8 8.1 **Indemnity.** The Consultant shall indemnify and hold harmless and defend the  
9 County (including its officers, agents, employees, and volunteers) against all claims, demands,  
10 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and  
11 liabilities of any kind to the County, the Consultant , or any third party that arise from or relate to  
12 the performance or failure to perform by the Consultant (or any of its officers, agents,  
13 subconsultant , or employees) under this Agreement. The County may conduct or participate in  
14 its own defense without affecting the Consultant's obligation to indemnify and hold harmless or  
15 defend the County. Subject to the Coverages Schedule of Exclusions and Guarantee Condition  
16 and Stipulations contained in the company's guarantees and reports in Exhibit K.

17 8.2 **Survival.** This Article 8 survives the termination or expiration of this Agreement.

## 18 **Article 9**

### 19 **Insurance**

20 9.1 The Consultant shall comply with all the insurance requirements in Exhibit C to this  
21 Agreement.

## 22 **Article 10**

### 23 **Cost Principles and Administrative Requirements**

24 10.1 The Consultant agrees that 48 CFR 31, Contract Cost Principles and Procedures,  
25 shall be used to determine the allowability of individual terms of cost.

26 10.2 The Consultant also agrees to comply with Federal procedures in accordance with 2  
27 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for  
28 Federal Awards.

1 10.3 Any costs for which payment has been made to the Consultant that are determined  
2 by subsequent audit to be unallowable under 48 CFR 31 or 2 CFR 200 are subject to repayment  
3 by the Consultant to County.

4 10.4 When a Consultant or Subconsultant is a Non-Profit Organization or an Institution of  
5 Higher Education, the Cost Principles for Title 2 CFR 200, Uniform Administrative  
6 Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

## 7 **Article 11**

### 8 **Inspections, Audits, and Public Records**

9 11.1 **Inspection of Documents.** The Consultant shall make available to the County, and  
10 the County may examine at any time during business hours and as often as the County deems  
11 necessary, all of the Consultant's records and data with respect to the matters covered by this  
12 Agreement, excluding attorney-client privileged communications. The Consultant shall, upon  
13 request by the County, permit the County to audit and inspect all of such records and data to  
14 ensure the Consultant's compliance with the terms of this Agreement.

15 11.2 **State Audit Requirements.** If the compensation to be paid by the County under this  
16 Agreement exceeds \$10,000, the Consultant is subject to the examination and audit of the  
17 California State Auditor, as provided in Government Code section 8546.7, for a period of three  
18 years after final payment under this Agreement. This section survives the termination of this  
19 Agreement.

20 11.3 **Public Records.** The County is not limited in any manner with respect to its public  
21 disclosure of this Agreement or any record or data that the Consultant may provide to the  
22 County. The County's public disclosure of this Agreement or any record or data that the  
23 Consultant may provide to the County may include but is not limited to the following:

24 (A) The County may voluntarily, or upon request by any member of the public or  
25 governmental agency, disclose this Agreement to the public or such governmental  
26 agency.

27 (B) The County may voluntarily, or upon request by any member of the public or  
28 governmental agency, disclose to the public or such governmental agency any record or

1 data that the Consultant may provide to the County, unless such disclosure is prohibited  
2 by court order.

3 (C) This Agreement, and any record or data that the Consultant may provide to the  
4 County, is subject to public disclosure under the Ralph M. Brown Act (California  
5 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).

6 (D) This Agreement, and any record or data that the Consultant may provide to the  
7 County, is subject to public disclosure as a public record under the California Public  
8 Records Act (California Government Code, Title 1, Division 10, beginning with section  
9 7920.000) ("CPRA").

10 (E) This Agreement, and any record or data that the Consultant may provide to the  
11 County, is subject to public disclosure as information concerning the conduct of the  
12 people's business of the State of California under California Constitution, Article 1,  
13 section 3, subdivision (b).

14 (F) Any marking of confidentiality or restricted access upon or otherwise made with  
15 respect to any record or data that the Consultant may provide to the County shall be  
16 disregarded and have no effect on the County's right or duty to disclose to the public or  
17 governmental agency any such record or data.

18 **11.4 Public Records Act Requests.** If the County receives a written or oral request  
19 under the CPRA to publicly disclose any record that is in the Consultant's possession or control,  
20 and which the County has a right, under any provision of this Agreement or applicable law, to  
21 possess or control, then the County may demand, in writing, that the Consultant deliver to the  
22 County, for purposes of public disclosure, the requested records that may be in the possession  
23 or control of the Consultant. Within five business days after the County's demand, the  
24 Consultant shall (a) deliver to the County all of the requested records that are in the  
25 Consultant's possession or control, together with a written statement that the Consultant, after  
26 conducting a diligent search, has produced all requested records that are in the Consultant's  
27 possession or control, or (b) provide to the County a written statement that the Consultant, after  
28 conducting a diligent search, does not possess or control any of the requested records. The

1 Consultant shall cooperate with the County with respect to any County demand for such  
2 records. If the Consultant wishes to assert that any specific record or data is exempt from  
3 disclosure under the CPRA or other applicable law, it must deliver the record or data to the  
4 County and assert the exemption by citation to specific legal authority within the written  
5 statement that it provides to the County under this section. The Consultant's assertion of any  
6 exemption from disclosure is not binding on the County, but the County will give at least 10  
7 days' advance written notice to the Consultant before disclosing any record subject to the  
8 Consultant's assertion of exemption from disclosure. The Consultant shall indemnify the County  
9 for any court-ordered award of costs or attorney's fees under the CPRA that results from the  
10 Consultant's delay, claim of exemption, failure to produce any such records, or failure to  
11 cooperate with the County with respect to any County demand for any such records.

## 12 **Article 12**

### 13 **Disclosure of Self-Dealing Transactions**

14 12.1 **Applicability.** This Article 12 applies if the Consultant is operating as a corporation  
15 or changes its status to operate as a corporation.

16 12.2 **Duty to Disclose.** If any member of the Consultant's board of directors is party to a  
17 self-dealing transaction, he or she shall disclose the transaction by completing and signing a  
18 "Self-Dealing Transaction Disclosure Form" (Exhibit D to this Agreement) and submitting it to  
19 the County before commencing the transaction or immediately after.

20 12.3 **Definition.** "Self-dealing transaction" means a transaction to which the Consultant is  
21 a party and in which one or more of its directors, as an individual, has a material financial  
22 interest.

## 23 **Article 13**

### 24 **General Terms**

25 13.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this  
26 Agreement may not be modified, and no waiver is effective, except by written agreement signed  
27 by both parties. The Consultant acknowledges that County employees have no authority to  
28 modify this Agreement except as expressly provided in this Agreement.

1       13.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations  
2 under this Agreement without the prior written consent of the other party.

3       13.3 **Governing Law.** The laws of the State of California govern all matters arising from  
4 or related to this Agreement.

5       13.4 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno  
6 County, California. Consultant consents to California jurisdiction for actions arising from or  
7 related to this Agreement, and, subject to the Government Claims Act, all such actions must be  
8 brought and maintained in Fresno County.

9       13.5 **Construction.** The final form of this Agreement is the result of the parties' combined  
10 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be  
11 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement  
12 against either party.

13       13.6 **Days.** Unless otherwise specified, "days" means calendar days.

14       13.7 **Headings.** The headings and section titles in this Agreement are for convenience  
15 only and are not part of this Agreement.

16       13.8 **Severability.** If anything in this Agreement is found by a court of competent  
17 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in  
18 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of  
19 this Agreement with lawful and enforceable terms intended to accomplish the parties' original  
20 intent.

21       13.9 **Nondiscrimination.** During the performance of this Agreement, the Consultant shall  
22 not unlawfully discriminate against any employee or applicant for employment, or recipient of  
23 services, because of race, religious creed, color, national origin, ancestry, physical disability,  
24 mental disability, medical condition, genetic information, marital status, sex, gender, gender  
25 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to  
26 all applicable State of California and federal statutes and regulation.

27       13.10 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation  
28 of the Consultant under this Agreement on any one or more occasions is not a waiver of

1 performance of any continuing or other obligation of the Consultant and does not prohibit  
2 enforcement by the County of any obligation on any other occasion.

3 13.11 **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement  
4 between the Consultant and the County with respect to the subject matter of this Agreement,  
5 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,  
6 publications, and understandings of any nature unless those things are expressly included in  
7 this Agreement. If there is any inconsistency between the terms of this Agreement without its  
8 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving  
9 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the  
10 exhibits.

11 13.12 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to  
12 create any rights or obligations for any person or entity except for the parties.

13 13.13 **Authorized Signature.** The Consultant represents and warrants to the County that:

14 (A) The Consultant is duly authorized and empowered to sign and perform its  
15 obligations under this Agreement.

16 (B) The individual signing this Agreement on behalf of the Consultant is duly  
17 authorized to do so and his or her signature on this Agreement legally binds the  
18 Consultant to the terms of this Agreement.

19 13.14 **Electronic Signatures.** The parties agree that this Agreement may be executed by  
20 electronic signature as provided in this section.

21 (A) An “electronic signature” means any symbol or process intended by an individual  
22 signing this Agreement to represent their signature, including but not limited to (1) a  
23 digital signature; (2) a faxed version of an original handwritten signature; or (3) an  
24 electronically scanned and transmitted (for example by PDF document) version of an  
25 original handwritten signature.

26 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed  
27 equivalent to a valid original handwritten signature of the person signing this Agreement  
28 for all purposes, including but not limited to evidentiary proof in any administrative or

1 judicial proceeding, and (2) has the same force and effect as the valid original  
2 handwritten signature of that person.

3 (C) The provisions of this section satisfy the requirements of Civil Code section  
4 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,  
5 Part 2, Title 2.5, beginning with section 1633.1).

6 (D) Each party using a digital signature represents that it has undertaken and  
7 satisfied the requirements of Government Code section 16.5, subdivision (a),  
8 paragraphs (1) through (5), and agrees that each other party may rely upon that  
9 representation.

10 (E) This Agreement is not conditioned upon the parties conducting the transactions  
11 under it by electronic means and either party may sign this Agreement with an original  
12 handwritten signature.

13 13.15 **Counterparts.** This Agreement may be signed in counterparts, each of which is an  
14 original, and all of which together constitute this Agreement.

## 15 **Article 14**

### 16 **Subconsultants**

17 14.1 The Consultant may retain, as subconsultants, specialists in such disciplines  
18 including, but not limited to, title reports, appraisals, acquisition, and relocation assistance as  
19 the Consultant requires to assist in completing the work. All subconsultants used by the  
20 Consultant shall be approved in writing by the Contract Administrator before they are retained  
21 by the Consultant, approval of which shall not be unreasonably withheld. Those subconsultants  
22 listed in Exhibit B, shall be considered as approved by the Contract Administrator. The  
23 maximum amount of compensation to be paid to the Consultant under Article 5 "Compensation,  
24 Allowable Costs and Payments" shall not be increased by any addition or substitution of  
25 subconsultants.

26 14.2 The Consultant shall be as fully responsible to the County for the negligent acts and  
27 omissions of its consultant and/or subconsultants, and of persons either directly or indirectly  
28 employed by them, in the same manner as persons directly employed by the Consultant.

1 14.3 Nothing contained in this Agreement shall create any contractual relationship  
2 between the County and any of the Consultant's subconsultants, and no subconsultant  
3 agreement shall relieve the Consultant of any of its responsibilities and obligations hereunder.  
4 The Consultant agrees to be as fully responsible to the County for the acts and omissions of its  
5 subconsultants and of persons either directly or indirectly employed by any of them as it is for  
6 the acts and omissions of persons directly employed by the Consultant. The Consultant's  
7 obligation to pay its subconsultants is a separate and independent obligation that is entirely  
8 unrelated to the County's obligation to make payments to the Consultant.

9 14.4 The Consultant shall perform the work contemplated with resources available within  
10 its own organization; and no portion of the work pertinent to this contract shall be subcontracted  
11 without prior written authorization by the Contract Administrator, excepting only those portions of  
12 the work and the responsible subconsultants that are expressly identified in Exhibit B.

13 14.5 Any subcontract in excess of \$25,000 entered into as a result of this Agreement,  
14 shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

15 14.6 The Consultant shall pay its subconsultants within fifteen (15) calendar days from  
16 receipt of each progress payment made to the Consultant by the County.

17 14.7 Any substitution of subconsultant(s) must be approved in writing by the Contract  
18 Administrator in advance of assigning work to a substitute Subconsultant.

## 19 **Article 15**

### 20 **Conflict of Interest**

21 15.1 The Consultant shall comply with the provisions of the Fresno County Department of  
22 Public Works and Planning Conflict of Interest Code, attached as Exhibit E and incorporated by  
23 this reference. Such compliance shall include the filing of annual statements pursuant to the  
24 regulations of the State Fair Political Practices Commission including, but not limited to, portions  
25 of Form 700.

26 15.2 During the term of this Agreement, the Consultant shall disclose any financial,  
27 business, or other relationship with the County that may have an impact upon the outcome of  
28 this Agreement, or any ensuing County construction project. The Consultant shall also list

1 current clients who may have a financial interest in the outcome of this contract, or any ensuing  
2 County construction project, which will follow.

3 15.3 The Consultant certifies that it has disclosed to the County any actual, apparent, or  
4 potential conflicts of interest that may exist relative to the services to be provided pursuant to  
5 this Agreement. The Consultant agrees to advise the County of any actual, apparent or potential  
6 conflicts of interest that may develop subsequent to the date of execution of this Agreement.  
7 The Consultant further agrees to complete any statements of economic interest if required by  
8 either County ordinance or State law.

9 15.4 The Consultant hereby certifies that it does not now have, nor shall it acquire any  
10 financial or business interest that would conflict with the performance of services under this  
11 Agreement. The Consultant hereby certifies that the Consultant or subconsultant and any firm  
12 affiliated with the Consultant or subconsultant that bids on any construction contract or on any  
13 Agreement to provide construction inspection for any construction project resulting from this  
14 Agreement, has established necessary controls to ensure a conflict of interest does not exist.

15 15.5 An affiliated firm is one, which is subject to the control of the same persons, through  
16 joint ownership or otherwise.

## 17 **Article 16**

### 18 **Errors or Omissions Claims and Disputes**

#### 19 16.1 Definitions:

20 (A) "Consultant" is a duly licensed Architect or Engineer, or other provider of  
21 professional services, acting as a business entity (owner, partnership, corporation, joint  
22 venture or other business association) in accordance with the terms of an agreement  
23 with the County.

24 (B) "Claim" is a demand or assertion by one of the parties seeking, as a matter of  
25 right, adjustment or interpretation of contract terms, payment of money, extension of  
26 time, change orders, or other relief with respect to the terms of the contract. The term  
27 "Claim" also includes other disputes and matters in question between the County and  
28 the Consultant arising out of or relating to this Agreement. Claims must be made by

1 written notice. The provisions of Government Code section 901, et seq., shall apply to  
2 every claim made to the County. The responsibility to substantiate claims shall rest with  
3 the party making the claim. The term "Claim" also includes any allegation of an error or  
4 omission by the Consultant.

5 16.2 If the Director believes the Consultant's work under this Agreement includes  
6 negligent errors or omissions, or that the Consultant may otherwise have failed to comply with  
7 the provisions of this Agreement, either generally or in connection with its duties as associated  
8 with a particular Project; and that the cause(s) for a claim by the construction Consultant may be  
9 attributable, in whole or in part, to such conduct on the part of the Consultant. Consultant upon  
10 notice by the Director, the payments to the Consultant for such arguably deficient services shall  
11 be held in suspense by the County until a final determination has been made, of the proportion  
12 that the Consultant's fault bears to the fault of all other parties concerned.

13 (A) Such amounts held in suspense shall not be paid to the Consultant, pending the  
14 final determination as to the Consultant's proportional fault. However, the appropriate  
15 percentage of such amount held in suspense shall be paid to the Consultant, once a  
16 final determination has been made, and the Consultant thereafter submits a proper  
17 invoice to the County. Payment shall be issued in accordance with the procedure  
18 outlined in Article 3 "Compensation, Invoices, and Payments."

## 19 **Article 17**

### 20 **Ownership of Data**

21 17.1 All documents, including preliminary documents, calculations, and survey data,  
22 required in performing services under this Agreement shall be submitted to, and shall remain at  
23 all times the property of the County regardless of whether they are in the possession of the  
24 Consultant or any other person, firm, corporation, or agency.

25 17.2 The Consultant understands and agrees the County shall retain full ownership rights  
26 of the work product of the Consultant for the Project, to the fullest extent permitted by law. In  
27 this regard, the Consultant acknowledges and agrees the Consultant's services are on behalf of  
28 the County and are "works made for hire," as that term is defined in copyright law, by the

1 County; that the work product to be prepared by the Consultant are for the sole and exclusive  
2 use of the County, and that the County shall be the sole owner of all patents, copyrights,  
3 trademarks, trade secrets and other rights and contractual interests in connection therewith  
4 which are developed and compensated solely under this Agreement; that all the rights, title and  
5 interest in and to the work product will be transferred to the County by the Consultant to the  
6 extent the Consultant has an interest in and authority to convey such rights; and the Consultant  
7 will assist the County to obtain and enforce patents, copyrights, trademarks, trade secrets, and  
8 other rights and contractual interests relating to said work product, free and clear of any claim  
9 by the Consultant or anyone claiming any right through the Consultant. The Consultant further  
10 acknowledges and agrees the County's ownership rights in such work product, shall apply  
11 regardless of whether such work product, or any copies thereof, are in possession of the  
12 Consultant, or any other person, firm, corporation, or entity.

13 17.3 If this Agreement is terminated during or at the completion of any Project phase,  
14 electronic and reproducible copies of report(s) or preliminary documents shall be submitted by  
15 the Consultant to the County, which may use them to complete the Project(s) at a future time.

16 17.4 The files provided by the Consultant to the County are submitted for an acceptance  
17 period lasting until the expiration of this Agreement (i.e., throughout the duration of the contract  
18 term, including any extensions). Any defects the County discovers during such acceptance  
19 period shall be reported to the Consultant and shall be corrected as part of the Consultant's  
20 "Basic Scope of Work."

## 21 **Article 18**

### 22 **State Prevailing Wage Rates**

23 18.1 The Consultant shall comply with the State of California's General Prevailing Wage  
24 Rate requirements in accordance with California Labor Code, Section 1770, and all Federal,  
25 State, and local laws and ordinances applicable to the work.

26 18.2 Any subcontract entered into as a result of this Agreement if for more than \$25,000  
27 for public works construction or more than \$15,000 for the alteration, demolition, repair, or  
28 maintenance of public works, shall contain all of the provisions of this Article 18.

1 18.3 No Consultant or Subconsultant may be awarded an Agreement containing public  
2 work elements unless registered with the Department of Industrial Relations (DIR) pursuant to  
3 Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of  
4 this Agreement, including any subsequent amendments.

5 **Article 19**

6 **Disadvantaged Business Enterprises (DBE) Participation**

7 19.1 This Agreement is subject to 49 Code of Federal Regulations (hereinafter referred to  
8 as "49 CFR"), Part 26 Participation by Disadvantaged Business Enterprises in Department of  
9 Transportation Financial Assistance Programs, Disadvantaged Business Enterprise programs  
10 established by other federal agencies and/or the County's Disadvantaged Business Enterprise  
11 Program (all of which are hereinafter referred to as "DBE Program(s)").

12 19.2 The Consultant is responsible for being fully informed regarding the requirements of  
13 49 CFR, Part 26 and the CALTRANS Disadvantaged Business Enterprise program developed  
14 pursuant to the regulations, as detailed in Exhibit F attached and incorporated by this reference.

15 19.3 Any subcontract entered into as a result of this Agreement shall contain all of the  
16 provisions of this Article 19 "DBE Participation" and Exhibit F "DBE Participation."

17 **Article 20**

18 **Rebates, Kickbacks or Other Unlawful Consideration**

19 20.1 The Consultant warrants that this Agreement was not obtained or secured through  
20 rebates, kickbacks or other unlawful consideration, either promised or paid to any County  
21 employee. For breach or violation of this warranty, the County shall have the right, in its  
22 discretion, to terminate this Agreement without liability; or to pay only for the value of the work  
23 actually performed; or to deduct from this Agreement the price or consideration, or otherwise  
24 recover, the full amount of such rebate, kickback or other unlawful consideration.

25 **Article 21**

26 **Prohibition of Expending County State or Federal Funds for Lobbying**

27 21.1 The Consultant hereby certifies to the best of his or her knowledge and belief that:  
28

1       *“No state, federal or County appropriated funds have been paid, or will be paid by or on*  
2       *behalf of the Consultant to any person for influencing or attempting to influence an officer or*  
3       *employee of any state or federal agency; a Member of the State Legislature or United States*  
4       *Congress; an officer or employee of the Legislature or Congress; or any employee of a*  
5       *Member of the Legislature or Congress, in connection with any of the following:*

6             *(A) the awarding of any state or federal contract;*

7             *(B) the making of any state or federal grant;*

8             *(C) the making of any state or federal loan;*

9             *(D) the entering into of any cooperative agreement, or*

10            *(E) the extension, continuation, renewal, amendment, or modification of any state or*  
11            *federal contract, grant, loan, or cooperative agreement.”*

12       21.2    If any funds other than federally appropriated funds have been paid, or will be paid to  
13 any person for influencing or attempting to influence an officer or employee of any federal  
14 agency; a Member of Congress; an officer or employee of Congress, or an employee of a  
15 Member of Congress; in connection with this federal contract, grant, loan, or cooperative  
16 agreement, then the Consultant shall complete and submit Standard Form-LLL, “Disclosure  
17 Form to Report Lobbying” (a copy of which is attached as Exhibit G), in accordance with its  
18 instructions.

19       21.3    The certification required by the provisions of this Article 21 is a material  
20 representation of fact upon which reliance was placed when this transaction was made or  
21 entered into. Submission of this certification is a prerequisite for making or entering into this  
22 transaction imposed by Title 31, U.S. Code Section 1352. Any person who fails to file the  
23 required certification shall be subject to a civil penalty of not less than \$10,000 and not more  
24 than \$100,000 for each such failure.

25       21.4    The Consultant also agrees by signing this document that he or she shall require that  
26 the language of this certification be included in all lower-tier subcontracts, which exceed  
27 \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

28

1 **Article 22**

2 **Non-Discrimination Clause and Statement of Compliance**

3 22.1 The Consultant's signature affixed herein, and dated, shall constitute a certification  
4 under penalty of perjury under the laws of the State of California that the Consultant has, unless  
5 exempt, complied with, the nondiscrimination program requirements of Government Code  
6 §12990 and 2 CCR § 8103.

7 22.2 During the performance of this Agreement, the Consultant and its subconsultants  
8 shall not deny this Agreement's benefits to any person on the basis of race, religious creed,  
9 color, national origin, ancestry, physical disability, mental disability, medical condition, genetic  
10 information, marital status, sex, gender, gender identity, gender expression, age, sexual  
11 orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow  
12 harassment against any employee or applicant for employment because of race, religious  
13 creed, color, national origin, ancestry, physical disability, mental disability, medical condition,  
14 genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual  
15 orientation, or military and veteran status. The Consultant and subconsultants shall ensure that  
16 the evaluation and treatment of their employees and applicants for employment are free from  
17 such discrimination and harassment.

18 22.3 The Consultant and subconsultants shall comply with the provisions of the Fair  
19 Employment and Housing Act (Gov. Code §12990 et seq.) and the applicable regulations  
20 promulgated thereunder (2 CCR §11000 et seq.), the provisions of Government Code §§11135  
21 et seq., and the regulations or standards adopted by the County to implement such provisions.  
22 The applicable regulations of the Fair Employment and Housing Commission implementing  
23 Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the  
24 California Code of Regulations, are incorporated into this Agreement by reference and made a  
25 part hereof as if set forth in full.

26 22.4 Consultant shall permit access by representatives of the Department of Fair  
27 Employment and Housing and the County upon reasonable notice at any time during the normal  
28 business hours, but in no case less than twenty-four (24) hours' notice, to such of its books,

1 records, accounts, and all other sources of information and its facilities as said Department or  
2 the County shall require in order to ascertain compliance with the requirements of this Article 22.

3 22.5 The Consultant and subconsultants shall give written notice of their obligations under  
4 this Article 22 to labor organizations with which they have a collective bargaining or other  
5 agreement.

6 22.6 The Consultant and subconsultants shall include the nondiscrimination and  
7 compliance provisions of this Article 23 in all subcontracts to perform work under this  
8 Agreement.

9 22.7 The Consultant, with regard to the work performed under this Agreement, shall act in  
10 accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI  
11 provides that the recipients of federal assistance will implement and maintain a policy of  
12 nondiscrimination in which no person in the United States shall, on the basis of race, color,  
13 national origin, religion, sex, age, disability, be excluded from participation in, denied the  
14 benefits of or subject to discrimination under any program or activity by the recipients of federal  
15 assistance or their assignees and successors in interest.

16 22.8 The Consultant shall comply with regulations relative to non-discrimination in  
17 federally assisted programs of the U.S. Department of Transportation (49 CFR Part 21 –  
18 Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the Consultant shall not  
19 participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including  
20 employment practices and the selection and retention of Subconsultants.

21 22.9 The Consultant, subrecipient or subconsultant will never exclude any person from  
22 participation in, deny any person the benefits of, or otherwise discriminate against anyone in  
23 connection with the award and performance of any contract covered by 49 CFR 26 on the basis  
24 of race, color, sex, or national origin. In administering the County components of the DBE  
25 Program Plan, the Consultant, subrecipient or subconsultant will not, directly, or through  
26 contractual or other arrangements, use criteria or methods of administration that have the effect  
27 of defeating or substantially impairing accomplishment of the objectives of the DBE Program  
28 Plan with respect to individuals of a particular race, color, sex, or national origin.

1 **Article 23**

2 **Debarment and Suspension Certification**

3 23.1 The Consultant's signature affixed herein, shall constitute a certification under  
4 penalty of perjury under the laws of the State of California, that the Consultant has complied  
5 with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate,  
6 which certifies that the Consultant or any person associated therewith in the capacity of owner,  
7 partner, director, officer, or manager:

8 (A) Is not currently under suspension, debarment, voluntary exclusion, or  
9 determination of ineligibility by any federal agency;

10 (B) Has not been suspended, debarred, voluntarily excluded, or determined ineligible by  
11 any federal agency within the past three (3) years;

12 (C) Does not have a proposed debarment pending; and

13 (D) Has not been indicted, convicted, or had a civil judgment rendered against it by a  
14 court of competent jurisdiction in any matter involving fraud or official misconduct within  
15 the past three (3) years.

16 23.2 Any exceptions to this certification must be disclosed to the County on Exhibit H  
17 "Debarment and Suspension Certification." Exceptions will not necessarily result in denial of  
18 recommendation for award but will be considered in determining Consultant responsibility.  
19 Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

20 23.3 Exceptions to the Federal Government Excluded Parties Listing System maintained  
21 by the General Services Administration are to be determined by the Federal Highway  
22 Administration.

23 **Article 24**

24 **Executive Order N-6-22**

25 24.1 Under Executive Order N-6-22 as a consultant, subconsultant, or grantee,  
26 compliance with the economic sanctions imposed in response to Russia's actions in Ukraine is  
27 required, including with respect to, but not limited to, the federal executive orders identified in  
28 the EO and the sanctions identified on the U.S. Department of the Treasury website

1 ([https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-  
3 nationalsandblocked-persons-list-sdn-human-readable-lists](https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-<br/>2 nationalsandblocked-persons-list-sdn-human-readable-lists)). Failure to comply may result in the  
4 termination of contracts or grants, as applicable.

## 5 **Article 25**

### 6 **Contingent Fees**

7 25.1 The Consultant warrants, by execution of this Agreement that no person or selling  
8 agency has been employed, or retained, to solicit or secure this Agreement upon an agreement  
9 or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona  
10 fide employees, or bona fide established commercial or selling agencies maintained by the  
11 Consultant for the purpose of securing business. For breach or violation of this warranty, the  
12 County has the right to: annul this Agreement without liability, and to pay only for the value of  
13 the work actually performed; or in its discretion to deduct from the Agreement the price or  
14 consideration, or otherwise recover, the full amount of such commission, percentage,  
15 brokerage, or contingent fee.

## 16 **Article 26**

### 17 **Inspection Of Work**

18 26.1 The Consultant and any subconsultant shall permit the County, the state, and the  
19 FHWA to review and inspect the Project activities and files at all reasonable times during the  
20 performance period of this Agreement including review and inspection on a daily basis.

## 21 **Article 27**

### 22 **Safety**

23 27.1 Consultant shall comply with OSHA regulations applicable to Consultant regarding  
24 necessary safety equipment or procedures. Consultant shall comply with safety instructions  
25 issued by the County Safety Officer and other County representatives. Consultant personnel  
26 shall wear hard hats and safety vests at all times while working on any Project-related  
27 construction site.

28 27.2 Pursuant to the authority contained in Vehicle Code §591, the County has  
determined that such areas are within the limits of the Project and are open to public traffic.

1 Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15  
2 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe  
3 operation of its vehicles and the protection of the traveling public from injury and damage from  
4 such vehicles.

5 27.3 Any subcontract entered into as a result of this Agreement shall contain all of the  
6 provisions of this Article 27.

## 7 **Article 28**

### 8 **Confidentiality Of Data**

9 28.1 All financial, statistical, personal, technical, or other data and information relative to  
10 the County's operations, which are designated confidential by the County and made  
11 available to the Consultant in order to carry out this Agreement, shall be protected by  
12 the Consultant from unauthorized use and disclosure.

13 28.2 Permission to disclose information on one occasion, or public hearing held by the  
14 County relating to the contract, shall not authorize the Consultant to further disclose such  
15 information, or disseminate the same on any other occasion.

16 28.3 The Consultant shall not comment publicly to the press or any other media regarding  
17 this Agreement or the County's actions on the same, except to the County's staff, the  
18 Consultant's own personnel involved in the performance of this Agreement, at public hearings or  
19 in response to questions from a Legislative committee.

20 28.4 The Consultant shall not issue any news release or public relations item of any  
21 nature, whatsoever, regarding work performed or to be performed under this Agreement without  
22 prior review of the contents thereof by the County, and receipt of the County's written  
23 permission.

24 28.5 If the Consultant or any of its officers, employees, or subconsultants does voluntarily  
25 provide information in violation of this Agreement, the County has the right to reimbursement  
26 and indemnity from the Consultant for any damages caused by the Consultant's releasing the  
27 information, including, but not limited to, the County's attorney's fees and disbursements,  
28 including without limitation experts' fees and disbursements.

1 **Article 29**

2 **National Labor Relations Board Certification**

3 29.1 In accordance with Public Contract Code Section 10296, the Consultant hereby  
4 states under penalty of perjury that no more than one final unappealable finding of contempt of  
5 court by a federal court has been issued against the Consultant within the immediately  
6 preceding two-year period, because of the Consultant's failure to comply with an order of a  
7 federal court that orders the Consultant to comply with an order of the National Labor Relations  
8 Board.

9 **Article 30**

10 **Evaluation Of The Consultant**

11 30.1 The Consultant's performance will be evaluated by the County. A copy of the  
12 evaluation (Exhibit I) will be sent to the Consultant for comments. The evaluation, together with  
13 the comments, shall be retained as part of the Agreement record.

14 **Article 31**

15 **Funding Requirements**

16 31.1 It is mutually understood between the parties that this Agreement may have been  
17 written before ascertaining the availability of funds or appropriation of funds, for the mutual  
18 benefit of both parties, in order to avoid program and fiscal delays that would occur if the  
19 Agreement were executed after that determination was made.

20 31.2 This Agreement is valid and enforceable only if sufficient funds are made available to  
21 the County for the purpose of this Agreement. In addition, this Agreement is subject to any  
22 additional restrictions, limitations, conditions, or any statute enacted by the Congress, State  
23 Legislature, or the County governing board that may affect the provisions, terms, or funding of  
24 this Agreement in any manner.

25 31.3 It is mutually agreed that if sufficient funds are not appropriated, this Agreement may  
26 be amended to reflect any reduction in funds.

27 31.4 In the event the Contractor reduces the scope of Consultant's work under the  
28 Agreement for a specific Project (or discontinues a specific Project), whether due to a deficiency

1 in the appropriation of anticipated funding or otherwise, the Consultant will be compensated on  
2 a pro rata basis for actual work completed and accepted by the Contract Administrator in  
3 accordance with the terms of the Agreement.

4 31.5 The County has the option to terminate the Agreement pursuant to Article 6  
5 Termination and Suspension, or by mutual agreement to amend the Agreement to reflect any  
6 reduction of funds.

7 **Article 32**

8 **Title VI Assurances**

9 32.1 The provisions of Title VI are hereby attached, unmodified as part of this Agreement  
10 (Exhibit J). Exhibit J, "Title VI Assurances" Appendices A and E, and if applicable Appendices B,  
11 C, and D, must be inserted, unmodified, in all subcontracts to perform work under the  
12 Agreement.

13 (A) The clauses of Appendix B of this Assurance shall be included as a covenant  
14 running with the land, in any deed from the United States effecting or recording a  
15 transfer of real property, structures, use, or improvements thereon or interest therein to  
16 the County.

17 (B) The clauses set forth in Appendix C and Appendix D of this Assurance shall be  
18 included as a covenant running with the land, in any future deeds, leases, licenses,  
19 permits, or similar instruments entered into by the County with other parties:

20 (1) for the subsequent transfer of real property acquired or improved under the  
21 applicable activity, project, or program; and

22 (2) for the construction or use of, or access to, space on, over, or under real property  
23 acquired or improved under the applicable activity, project, or program.

24 *[SIGNATURE PAGE FOLLOWS]*

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The parties are signing this Agreement on the date stated in the introductory clause.

Fidelity National Title Company]

COUNTY OF FRESNO

*Andy Kern*

Andy Kern, County Manager

Nathan Magsig, Chairman of the Board of Supervisors of the County of Fresno

7475 N. Palm Avenue, #107  
Fresno, Ca 93711]

**Attest:**  
Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By: *Hanane*  
Deputy

For accounting use only:

Org No.: 0130 / 1910 / 1912 / 4360 / 4360 / 4365 / 45104511 / 45104512 / 45104513 /  
45104514 / 7205 / 7910 / 8852 / 8853 / 8861 / 8863 / 8865 / 8867 / 9015 / 9020 / 9026 / 9028 /  
9140

Fund No.: 0001 / 0010 / 0400 / 0700 / 0701 / 0710 / 0720 / 0801

Subclass No.: / 11000 / 15000 / 15001 / 16900 / 10052 / 10053 / 10061 / 10063 / 10065 / 10067

Account No.: 7295

# Exhibit A

## Scope of Services

The Consultant will furnish Title Reports, Escrow Services, Updates and Other Services as requested by the County.

The Consultant will make a good faith effort to deliver Title Reports requested by the County within thirty (30) days following receipt of the request. The Consultant will provide the County with PDF copies of each Report to the person identified in the request. Each Report will include a copy of the vesting paragraph and will recite the exact title as it would appear on a grant deed or other valid instrument of title, followed by the date of recordation and the other recording data of the vesting deed. The Consultant reserves the right to add additional language to the vesting area as it deems necessary. The Report will use the standard ALTA or CLTA format and include, but not be limited to, the following:

- 1) A copy of the vesting deed;
- 2) Legal description of property;
- 3) All liens, encumbrances, easements and right of way record, which would purport to affect the condition of the title at the date of the guarantee or report;
- 4) Assessor's parcel number and valuation;
- 5) APN map with property marked; and
- 6) Names, interest and addresses of all parties of record.
- 7) Permanent hyperlinks embedded for any/all the requested documents listed in the report.

The Consultant will advise the County within three (3) days of receipt of the initial services request if the Consultant will be unable to deliver any of the requested Reports within the thirty (30) day period. Thereafter, if so requested by the County in writing, the Consultant will cease further work on the requested Reports.

The Consultant will provide services which facilitate a transfer of an interest in real

## **Exhibit A**

property (Escrow Services) and in which documents and funds are delivered by the County to Consultant as an escrow holder, pursuant to specific escrow instructions from the County, which includes providing California Land Title Association standard coverage title insurance policy(s) (current form).

Certain requests for Title Reports and/or Title Guarantees may be determined by the Consultant to be beyond the scope of available searching capabilities due to limited title plants, documents, or other unknown factors. The Consultant reserves the right to decline requests that fall into this category and notify the County as soon as such determination is made.

## Exhibit B

1. Participants
  - a. Andy Kern -County Manager
    - i. In the title business for 25 years as a title employee and manager
  - b. Darlene Van Hoose- Escrow Officer
  - c. Irma Garza-Title Production Manager
2. Key Personnel;
  - a. Darlene Van Hoose-Escrow Officer 22 years' experience
  - b. Amanda Sandoval-Escrow Assistant 7 years' experience
  - c. Irma Garza-Title Production Manager 12 years' experience
  - d. Jennifer Godfrey Title Examiner 19 years' experience

### FNF Organizational Chart



## **Exhibit B Continued**

### **Preliminary Report Charges**

Based on the zoning of any property as designated by the County of Fresno Zoning department:

Single Parcel (One APN) Residential Preliminary Report \$750.00

Single Parcel (One APN) Commercial/Agricultural Preliminary Report \$1,000.00

\*Additional Parcel fee for additional APN on any preliminary report request is \$200.00

Hyperlinked Exceptions on any preliminary report \$50.00

Updated Preliminary Report fee: \$50.00

Title Record Search : No charge

Statement of Ownership/Ownership Change: No Charge

Copies of Documents (other than hyperlinks referenced above) No charge

### **Residential Sale Escrow Services**

Unless otherwise indicated in connection with a particular rate, "Residential Sale Escrow Services" shall include the following services:

- 1) Ordering demands and making payoffs on previous secured loans, judgments or similar obligations by either check or wire transfer;
- 2) Other necessary disbursements;
- 3) Document Preparation (including but not limited to the completion of grant deeds, quitclaim deeds, interspousal transfer deeds, reconveyances, powers of attorney, assignments of interest, and any other documents or instruments drawn by the Company that may be generally described to customers as a document preparation fee and/or specifically described to customers with the description of the document or instrument the Company prepared).
- 4) Subordination processing service;
- 5) Standard overnight delivery services within the continental United States;
- 6) Company courier services for which an individual package charge is not assessed; and
- 7) Company-performed in office document signing of transaction documents required for the Residential Sale Escrow Services transactions.

Unless specifically indicated, Residential Sale Escrow Services do NOT include:

- 1) Concurrent Loan Escrow Services;
- 2) Notary fees;
- 3) Third-party or out of office signing services;
- 4) Special purpose messengers/couriers (for which an individual charge is assessed), ordered at the instruction of a party or their representative;
- 5) Overnight delivery fees outside of the continental United States;
- 6) Lender payoff/demand fees;
- 7) Recording fees (including fees for third-party electronic recording services and fees imposed by SB2, The Building Homes and Jobs Act effective January 1, 2018), transfer tax or other governmental fees or charges;
- 8) Additional fee for escrows involving I.R.C § 1031 Exchanges as set forth in Section 1.4 below;
- 9) Fees and charges for check(s) returned due to insufficient funds; and
- 10) Fees and charges for interest bearing account set-up as set forth in Section 4.0 below.

Unless scheduled elsewhere in this Exhibit B, all other sale escrow transactions shall be priced under Commercial Escrow Services.

Residential Sale Escrow Services (Fresno and Kern Counties):

Sale Price	Escrow Rate
\$0 to \$75,000	\$580
\$75,001 to \$85,000	\$625
\$85,001 to \$90,000	\$710
\$90,001 to \$100,000	\$745
\$100,001 to \$300,000	\$745 plus \$11 per \$5,000 over \$100,000
\$300,001 to \$1,000,000	\$1,185 plus \$5.50 per \$5,000 over \$300,000
Over \$1,000,000	Minimum \$1,955. See Section 2.10 for possible additional charges.

Commercial Sale Escrow Services (Fresno and Kern Counties)

Transaction Amount	Fee Charged
Up to \$ 60,000	\$775
\$ 60,001 to \$100,000	\$925
\$100,001 to \$150,000	\$1,000
\$150,001 to \$200,000	\$1,050
\$200,001 to \$250,000	\$1,100
\$250,001 to \$300,000	\$1,150
\$300,001 to \$350,000	\$1,200
\$350,001 to \$400,000	\$1,250
\$400,001 to \$450,000	\$1,300
\$450,001 to \$500,000	\$1,350
\$500,001 to \$550,000	\$1,400
\$550,001 to \$600,000	\$1,450
\$600,001 to \$650,000	\$1,500
\$650,001 to \$700,000	\$1,550
\$700,001 to \$750,000	\$1,600
\$750,001 to \$800,000	\$1,650
\$800,001 to \$850,000	\$1,700
\$850,001 to \$900,000	\$1,750
\$900,001 to \$950,000	\$1,800
\$950,001 to \$1,000,000	\$1,850
\$1,000,001 to \$2,000,000	\$2,350
\$2,000,001 to \$3,000,000	\$2,850
\$3,000,001 and up	Minimum \$2,850. If additional charges are to be made, they will be based on the costs incurred and additional responsibilities assumed by Consultant, and must be agreed to by County in writing. In writing includes County's approval of settlement statement.

**Litigation Guarantee Charges**

**LITIGATION GUARANTEES (OTHER THAN JUDICIAL FORECLOSURE ACTION)**

80% of Insurance Rate Table “R”, (below) based upon the value of the particular estate or interest involved and the type of property. Standard minimum charge applies. If any of the property falls within the definitions contained in Sections 1.18 or 1.19, Part I, all charges are double. Assurance is based on the value of the estate interest involved.

\*\$75.00 for each continuation guarantee over one issued within the period of twenty-four (24) months of the original guarantee to cover the filing of a lis pendens.

**PART II OWNER’S INSURANCE**

**Insurance Rate Table “R”**

(without escrow services) Amount of Insurance	Owners Rate		Amount of Insurance	Residential Owners Rate	
Up to and including \$30,000	\$609		\$550,001-560,000	\$1,666	
\$30,001-40,000	\$609		\$560,001-570,000	\$1,682	
\$40,001-50,000	\$609		\$570,001-580,000	\$1,699	
\$50,001-60,000	\$609		\$580,001-590,000	\$1,716	
\$60,001-70,000	\$609		\$590,001-600,000	\$1,733	
\$70,001-80,000	\$648		\$600,001-610,000	\$1,745	
\$80,001-90,000	\$685		\$610,001-620,000	\$1,761	
\$90,001-100,000	\$729		\$620,001-630,000	\$1,778	
\$100,001-110,000	\$753		\$630,001-640,000	\$1,794	
\$110,001-120,000	\$777		\$640,001-650,000	\$1,811	
\$120,001-130,000	\$802		\$650,001-660,000	\$1,828	
\$130,001-140,000	\$826		\$660,001-670,000	\$1,845	
\$140,001-150,000	\$851		\$670,001-680,000	\$1,861	
\$150,001-160,000	\$875		\$680,001-690,000	\$1,877	
\$160,001-170,000	\$899		\$690,001-700,000	\$1,894	
\$170,001-180,000	\$924		\$700,001-710,000	\$1,907	

\$180,001-190,000	\$947		\$710,001-720,000	\$1,924	
\$190,001-200,000	\$982		\$720,001-730,000	\$1,939	
\$200,001-210,000	\$998		\$730,001-740,000	\$1,956	
\$210,001-220,000	\$1,022		\$740,001-750,000	\$1,973	
\$220,001-230,000	\$1,045		\$750,001-760,000	\$1,990	
\$230,001-240,000	\$1,069		\$760,001-770,000	\$2,007	
\$240,001-250,000	\$1,092		\$770,001-780,000	\$2,023	
\$250,001-260,000	\$1,115		\$780,001-790,000	\$2,039	
\$260,001-270,000	\$1,139		\$790,001-800,000	\$2,056	
\$270,001-280,000	\$1,162		\$800,001-810,000	\$2,083	
\$280,001-290,000	\$1,187		\$810,001-820,000	\$2,100	
\$290,001-300,000	\$1,210		\$820,001-830,000	\$2,116	
\$300,001-310,000	\$1,211		\$830,001-840,000	\$2,134	
\$310,001-320,000	\$1,229		\$840,001-850,000	\$2,149	
\$320,001-330,000	\$1,246		\$850,001-860,000	\$2,165	
\$330,001-340,000	\$1,264		\$860,001-870,000	\$2,181	
\$340,001-350,000	\$1,282		\$870,001-880,000	\$2,197	
\$350,001-360,000	\$1,300		\$880,001-890,000	\$2,213	
\$360,001-370,000	\$1,318		\$890,001-900,000	\$2,229	
\$370,001-380,000	\$1,337		\$900,001-910,000	\$2,249	
\$380,001-390,000	\$1,355		\$910,001-920,000	\$2,265	
\$390,001-400,000	\$1,372		\$920,001-930,000	\$2,281	
\$400,001-410,000	\$1,411		\$930,001-940,000	\$2,296	
\$410,001-420,000	\$1,428		\$940,001-950,000	\$2,313	
\$420,001-430,000	\$1,446		\$950,001-960,000	\$2,329	
\$430,001-440,000	\$1,464		\$960,001-970,000	\$2,345	

\$440,001-450,000	\$1,482		\$970,001-980,000	\$2,360	
\$450,001-460,000	\$1,499		\$980,001-990,000	\$2,376	
\$460,001-470,000	\$1,517		\$990,001-1,000,000	\$2,393	
\$470,001-480,000	\$1,535		\$1,000,001-1,010,000	\$2,406	
\$480,001-490,000	\$1,553		\$1,010,001-1,020,000	\$2,418	
\$490,001-500,000	\$1,571		\$1,020,001-1,030,000	\$2,431	
\$500,001-510,000	\$1,582		\$1,030,001-1,040,000	\$2,443	
\$510,001-520,000	\$1,599		\$1,040,001-1,050,000	\$2,456	
\$520,001-530,000	\$1,616		\$1,050,001-1,060,000	\$2,469	
\$530,001-540,000	\$1,633		\$1,060,001-1,070,000	\$2,481	
\$540,001-550,000		\$1,650			

## Insurance Requirements

### 1. Required Policies

Without limiting the County's right to obtain indemnification from the Consultant or any third parties, Consultant, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Consultant shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Consultant's policy.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Professional Liability.** Professional liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). If this is a claims-made policy, then (1) the retroactive date must be prior to the date on which services began under this Agreement; (2) the Consultant shall maintain the policy and provide to the County annual evidence of insurance for not less than five years after completion of services under this Agreement; and (3) if the policy is canceled or not renewed, and not replaced with another claims-made policy with a retroactive date prior to the date on which services begin under this Agreement, then the Consultant shall purchase extended reporting coverage on its claims-made policy for a minimum of five years after completion of services under this Agreement.

If the Consultant is a governmental entity, it may satisfy the policy requirements above through a program of self-insurance, including an insurance pooling arrangement or joint exercise of powers agreement.

### 2. Additional Requirements

- (A) **Verification of Coverage.** Within 30 days after the Consultant signs this Agreement, and at any time during the term of this Agreement as requested by the County's Risk Manager or the County Administrative Office, the Consultant shall deliver, or cause its broker or producer to deliver, to the County Risk Manager, at 2220 Tulare Street, 16th

## Exhibit C

Floor, Fresno, California 93721, or [HRRiskManagement@fresnocountyca.gov](mailto:HRRiskManagement@fresnocountyca.gov), and by mail or email to the person identified to receive notices under this Agreement, certificates of insurance and endorsements for all of the coverages required under this Agreement.

- (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the County, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Consultant has waived its right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement and that waiver does not invalidate the insurance policy.
  - (ii) The commercial general liability insurance certificate must also state, and include an endorsement, that the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, are additional insureds insofar as the operations under this Agreement are concerned. The commercial general liability insurance certificate must also state that the coverage shall apply as primary insurance and any other insurance, or self-insurance, maintained by the County shall be excess only and not contributing with insurance provided under the Consultant's policy.
  - (iii) The automobile liability insurance certificate must state that the policy covers any auto used in connection with this Agreement.
  - (iv) The professional liability insurance certificate, if it is a claims-made policy, must also state the retroactive date of the policy, which must be prior to the date on which services began under this Agreement.
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Consultant shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Consultant shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Consultant shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Consultant or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (D) **County's Entitlement to Greater Coverage.** If the Consultant has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Consultant shall deliver, or cause its broker or producer

## Exhibit C

to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.

- (E) **Waiver of Subrogation.** The Consultant waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Consultant is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Consultant's waiver of subrogation under this paragraph is effective whether or not the Consultant obtains such an endorsement.
- (F) **County's Remedy for Consultant's Failure to Maintain.** If the Consultant fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Consultant. The County may offset such charges against any amounts owed by the County to the Consultant under this Agreement.
- (G) **Subconsultants.** The Consultant shall require and verify that all Subconsultants used by the Consultant to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Consultant to provide services under this Agreement using Subconsultants.

## Exhibit D

### SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

*"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"*

The definition above will be utilized for purposes of completing this disclosure form.

#### INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
  - a. The name of the agency/company with which the corporation has the transaction; and
  - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

<b>(1) Company Board Member Information:</b>			
Name:	n/a	Date:	n/a
Job Title:	n/a		
<b>(2) Company/Agency Name and Address:</b>			
n/a			
<b>(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):</b>			
n/a			
<b>(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):</b>			
n/a			
<b>(5) Authorized Signature</b>			
Signature:	<b>Andy Kern</b> <small>Digitally signed by Andy Kern Date: 2024.06.25 07:36:07 -07'00'</small>	Date:	<b>6/25/2024</b>

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**BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF FRESNO  
STATE OF CALIFORNIA**

In the matter of ) No.  
Amendment of Standard Conflict of )  
Interest Code for All County )  
Departments )

**Whereas**, the Political Reform Act, Government Code section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes; and

**Whereas**, the Fair Political Practices Commission has adopted a regulation, Title 2, California Code of Regulations, section 18730, which contains the terms of a standard conflict of interest code, and which may be amended by the Fair Political Practices Commission after public notices and hearings to conform to amendments to the Political Reform Act; and

**Whereas**, any local agency may incorporate this standard conflict of interest code, and thereafter need not amend its code to conform to future amendments to the Political Reform Act or its regulations; and

**Whereas**, the Board of Supervisors may adopt the standard conflict of interest code on behalf of all County departments.

**Now therefore be it resolved**, that the terms of Title 2, California Code of Regulations, section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and, along with the Exhibits A and B approved previously, today, or in the future, by this Board for each County department, in which officers and employees are designated and disclosure categories are set forth, constitute the conflict of interest codes of each County department.

Exhibit E

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Conflict of interest forms shall be filed as follows:

1. As required by Government Code section 87500, subdivision (e), the County Administrative Officer, District Attorney, County Counsel, and Auditor-Controller/Treasurer-Tax Collector shall file one original of their statements with the County Clerk, who shall make and retain a copy and forward the original to the Fair Political Practices Commission, which shall be the filing officer.

2. As required by Government Code section 87500, subdivision (j), all other department heads shall file one original of their statements with their departments. The filing officer of each department shall make and retain a copy and forward the original to the Clerk to the Board of Supervisors, who shall be the filing officer.

3. All other designated employees shall file one original of their statements with their departments.

Adopted at a regular meeting of the Board of Supervisors, held on the 2nd day of October, 2007, by the following vote, to wit:

Ayes: Supervisors Larson, Perea, Anderson, Case and Waterston

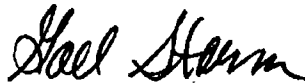
Noes: None

Absent: None



Chairman, Board of Supervisors

Attest:



Clerk



Exhibit E

# Conflict of Interest Code Local Agency Annual / Biennial Report

[\[Email Me\]](#)  
Double click!

In accordance with Government Code Section 87306.5, this department has reviewed its Conflict of Interest Code and has determined that (check one of the following):

- 1.  Our department’s Conflict of Interest Code accurately designates all positions within our department which make or participate in the making of decisions which may foreseeably have a material effect on any financial interest; and the disclosure category assigned to each such position accurately requires the disclosure of all of the specific types of investments, business positions, interests in real property, and sources of income that are reportable under Government Code Section 87302 (“reportable under Government Code Section 87302” means: an investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position); or,
- 2.  Our department’s Conflict of Interest Code is in need of amendment. We have determined that the following amendments are necessary (check applicable items, and refer to Exhibits “A” and “B” for detail if appropriate):
  - A.  Include new positions (including consultants) that must be designated.
  - B.  Include or delete positions because changes in duties.
  - C.  Include positions that manage public investments.
  - D.  Revise disclosure categories.
  - E.  Revise the titles of existing positions.
  - F.  Delete titles of positions that have been abolished.
  - G.  Other (*describe*)

<b>CONTACT PERSON</b> Sam Mann	<b>DEPARTMENT</b> Public Works and Planning
-----------------------------------	--

**I hereby approve the foregoing reported information for our department:**

stwhite 12/13/2021 4:01:37 PM <hr/> Department Head Signature / Date	<a href="#">[Sign]</a> Double click!
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Note: Government Code Section 87306 requires that when an agency (e.g., your department) has determined that amendments or revisions are necessitated by changed circumstances, the amendments or revisions shall be submitted to the code reviewing body within 90 days after the changed circumstances have become apparent.

## Exhibit E

### PUBLIC WORKS AND PLANNING

<u>Classification</u>	<u>Category</u>
Accountant I / II	2
Architect	1
<del>Assistant Director of Public Works &amp; Planning- Planning and Resource Management Official.</del>	1
Building Inspector I / II	1
Building Plans Engineer	1
Chief Building Inspector	1
Chief of Field Surveys	1
Consultant	*
Deputy Director of Public Works	1
Development Services & Capital Projects Manager	1
Director of Public Works and Planning	1
Disposal Site Supervisor	2
Engineer I / II / III	1
Field Survey Supervisor	3
Financial Analyst I / II / III	1
Housing Rehabilitation Specialist I / II	1
Information Technology Analyst I / II / III / IV	2
Landfill Operations Manager	1
Planner I / II / III	1
Principal Accountant	1
Principal Planner	1
Principal Staff Analyst	1
Public Works and Planning Business Manager	1
Public Works and Planning Information Technology Manager	1
Public Works Division Engineer	1
Resources Division Manager	1
Right-of-Way Agent II / III	1
Road Maintenance & Operations Division Manager	1
Road Maintenance Supervisor	1
Road Superintendent	1
Senior Accountant	2
Senior Engineer	1
Senior Engineering Technician	2
Senior Information Technology Analyst	2
Senior Planner	1
Senior Staff Analyst	1

## Exhibit E

<b><u>Classification</u></b>	<b><u>Category</u></b>
Staff Analyst I / II / III	1
Supervising Accountant	1
Supervising Architect	1
Supervising Building Inspector	1
Supervising Engineer	1
Supervising Water/Wastewater Specialist	1
Traffic Maintenance Supervisor	2
Water & Natural Resources Manager	1

- \* Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Director of Public Works and Planning may determine in writing that a particular consultant, although a “designated position”, is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Director of Public Works and Planning’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

## Exhibit F

### DBE Participation

1. The Consultant, subrecipient (the County), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR Part 26). To ensure equal participation of DBEs as provided in 49 CFR Section 26.5, the County specifies a contract goal for DBEs. The Consultant shall make work available to DBEs and allocate portions of the work consistent with available DBE subconsultants and suppliers.
2. The Consultant shall meet the DBE goal shown elsewhere in these special provisions or demonstrate its having made adequate good faith efforts to meet this goal. It is the Consultant's responsibility to verify that the DBE firm is certified as DBE at date of proposal opening and document the record by printing out the California Unified Certification Program (CUCP) data for each DBE firm. A list of DBEs certified by the CUCP can be found at <https://dot.ca.gov/programs/civil-rights/dbe-search>.
3. All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies Consultant purchases from DBEs counts towards the goal in the following manner:
  - 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
  - 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
  - Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR Section 26.55 defines "manufacturer" and "regular dealer."
4. This Agreement is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Any Consultant who enters into a federally funded agreement will assist the County in a good faith effort to achieve California's statewide overall DBE goal.
5. The goal for DBE participation for this Agreement is listed in Exhibit G.2 Notice to Proposers DBE Information. Participation by a DBE Consultant or subconsultants shall be in accordance with information contained in Exhibit 10-O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the Agreement as Exhibit G.3. If a DBE subconsultant is unable to perform, the Consultant must make a good faith effort to replace them with another DBE subconsultant, if the goal is not otherwise met.
6. The Consultant can meet the DBE participation goal by either documenting commitments to DBEs to meet the Agreement goal, or by documenting adequate good faith efforts to meet the Agreement goal. An adequate good faith effort means that the Consultant must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If the Consultant has not met the DBE goal, the Consultant must then complete

## Exhibit F

1 and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document its efforts to  
2 meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith  
efforts to meet the DBE goal.

3 **7. Contract Assurance.** Under 49 CFR Section 26.13(b):

- 4 a. The Consultant, subrecipient or subconsultant shall not discriminate on the basis  
5 of race, color, national origin, or sex in the performance of this contract. The  
6 Consultant shall carry out applicable requirements of 49 CFR Part 26 in the  
award and administration of federal-aid contracts.
- 7 b. Failure by the Consultant to carry out these requirements is a material breach of  
8 this contract, which may result in the termination of this contract or such other  
remedy as the recipient deems appropriate, which may include, but is not limited  
9 to:
- 10 b.1. Withholding monthly progress payments;
  - 11 b.2. Assessing sanctions;
  - 12 b.3. Liquidated damages; and/or
  - 13 b.4. Disqualifying Consultant from future proposing as non-responsible

14 **8. Termination and Substitution of DBE Subconsultants.**

- 15 a. The Consultant shall utilize the specific DBEs listed to perform the work and  
16 supply the materials for which each is listed unless the Consultant or DBE  
subconsultant obtains the County's written consent. The Consultant shall not  
17 terminate or substitute a listed DBE for convenience and perform the work with  
their own forces or obtain materials from other sources without authorization from  
18 the County. Unless the County's consent is provided, the Consultant shall not be  
entitled to any payment for work or material unless it is performed or supplied by  
19 the listed DBE on the Exhibit 10-02 Consultant Contract DBE Commitment form,  
included in the Bid.
- 20 b. The County authorizes a request to use other forces or sources of materials if the  
21 Consultant shows any of the following justifications:
- 22 b.1. Listed DBE fails or refuses to execute a written contract based on plans  
and specifications for the project.
  - 23 b.2. The County stipulated that a bond is a condition of executing the  
24 subcontract and the listed DBE fails to meet the County's bond  
requirements.
  - 25 b.3. Work requires a consultant's license and listed DBE does not have a valid  
26 license under Contractors License Law.
  - 27 b.4. Listed DBE fails or refuses to perform the work or furnish the listed  
28 materials (failing or refusing to perform is not an allowable reason to  
remove a DBE if the failure or refusal is a result of bad faith or  
discrimination).

## Exhibit F

- 1 b.5. Listed DBE's work is unsatisfactory and not in compliance with the  
2 contract.
- 3 b.6. Listed DBE is ineligible to work on the project because of suspension or  
4 debarment.
- 5 b.7. Listed DBE becomes bankrupt or insolvent.
- 6 b.8. Listed DBE voluntarily withdraws with written notice from the Contract
- 7 b.9. Listed DBE is ineligible to receive credit for the type of work required.
- 8 b.10. Listed DBE owner dies or becomes disabled resulting in the inability to  
9 perform the work on the Contract.
- 10 b.11. The County determines other documented good cause.
- 11 c. The Consultant shall notify the original DBE of the intent to use other forces or  
12 material sources and provide the reasons and provide the DBE with 5 days to  
13 respond to the notice and advise the Consultant and the County of the reasons  
14 why the use of other forces or sources of materials should not occur.
- 15 d. The Consultant's request to use other forces or material sources must include:
  - 16 d.1. One or more of the reasons listed in the preceding paragraph.
  - 17 d.2. Notices from the Consultant to the DBE regarding the request.
  - 18 d.3. Notices from the DBEs to the Consultant regarding the request.
- 19 e. If a listed DBE is terminated or substituted, the Consultant must make good faith  
20 efforts to find another DBE to substitute for the original DBE. The substitute DBE  
21 must perform at least the same amount of work as the original DBE under the  
22 contract to the extent needed to meet or exceed the DBE goal.

### 9. Commitment and Utilization

- 23 a. The County's DBE program must include a monitoring and enforcement  
24 mechanism to ensure that DBE commitments reconcile to DBE utilization.
- 25 b. The County shall request the Consultant to:
  - 26 b.1. Notify the County's contract administrator or designated representative of  
27 any changes to its anticipated DBE participation
  - 28 b.2. Provide this notification before starting the affected work
  - 29 b.3. Maintain records including:
    - Name and business address of each 1st-tier subconsultant
    - Name and business address of each DBE subconsultant, DBE vendor, and DBE  
trucking company, regardless of tier

## Exhibit F

- 1           •       Date of payment and total amount paid to each business (see Exhibit 9-F  
2                   Monthly Disadvantaged Business Enterprise Payment)
- 3           c.       If the Consultant is a DBE Consultant, it shall include the date(s) of work  
4                   performed by its own forces and the corresponding value of all such work. If a  
5                   DBE is decertified before completing its work, the DBE must notify Consultant in  
6                   writing of the decertification date. If a business becomes a certified DBE before  
7                   completing its work, the business must notify the Consultant in writing of the  
8                   certification date. The Consultant shall submit the notifications to the County. On  
9                   work completion, the Consultant shall complete a Disadvantaged Business  
10                  Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the  
11                  form to the County within 30 days of contract acceptance.
- 12           d.       Upon work completion, the Consultant shall complete Exhibit 17-F Final Report –  
13                   Utilization of Disadvantaged Business Enterprises (DBE), First-Tier  
14                   Subcontractors and submit it to the County within 90 days of contract  
15                   acceptance. The County will withhold \$10,000 until the form is submitted. The  
16                   County will release the withhold upon submission of the completed form. In the  
17                   County's reports of DBE participation to Caltrans, the County must display both  
18                   commitments and attainments.
- 19       10. **Eligibility** - A DBE is only eligible to be counted toward the Agreement goal if it performs a  
20           commercially useful function (CUF) on the Agreement. CUF must be evaluated on an  
21           agreement-by-agreement basis. A DBE performs a Commercially Useful Function (CUF)  
22           when it is responsible for execution of the work of the Agreement and is carrying out its  
23           responsibilities by actually performing, managing, and supervising the work involved. To  
24           perform a CUF, the DBE must also be responsible, with respect to materials and supplies  
25           used on the Agreement, for negotiating price, determining quality and quantity, ordering the  
26           material and installing (where applicable), and paying for the material itself. To determine  
27           whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry  
28           practices, whether the amount the firm is to be paid under the Agreement is commensurate  
          with the work it is actually performing, and other relevant factors.
11. A DBE does not perform a CUF if its role is limited to that of an extra participant in a  
transaction, Agreement, or project through which funds are passed in order to obtain the  
appearance of DBE participation. In determining whether a DBE is such an extra participant,  
examine similar transactions, particularly those in which DBEs do not participate.
12. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the  
total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion  
of the work of the Agreement than would be expected on the basis of normal industry  
practice for the type of work involved, it will be presumed that it is not performing a CUF.
13. The Consultant shall maintain records of materials purchased or supplied from all  
subcontracts entered into with certified DBEs. The records shall show the name and  
business address of each DBE or vendor and the total dollar amount actually paid each  
DBE or vendor, regardless of tier. The records shall show the date of payment and the total  
dollar figure paid to all firms. DBE Consultants shall also show the date of work performed  
by their own forces along with the corresponding dollar value of the work.

## Exhibit F

1 14. If a DBE subconsultant is decertified during the life of the Agreement, the decertified  
2 subconsultant shall notify Consultant in writing with the date of decertification. If a  
3 subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant  
4 shall notify the Consultant in writing with the date of certification. Any changes should be  
5 reported to County's Contract Administrator within thirty (30) calendar days.

6 15. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later  
7 than the 10th of the following month, the Consultant shall complete and email the Exhibit 9-  
8 F: Disadvantaged Business Enterprise Running Tally of Payments to  
9 [business.support.unit@dot.ca.gov](mailto:business.support.unit@dot.ca.gov) with a copy to the County.  
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**EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION**

(Federally funded projects only)

The Agency has established a DBE goal for this Contract of \_\_\_\_\_

**1. TERMS AS USED IN THIS DOCUMENT**

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

**2. AUTHORITY AND RESPONSIBILITY**

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

**3. SUBMISSION OF DBE INFORMATION**

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards [meeting](#) the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included in [best qualified consultant’s executed consultant contract](#). Even if no DBE participation will be reported, the successful proposer must execute and return the form.

**4. DBE PARTICIPATION GENERAL INFORMATION**

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
  - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
  - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
  - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

## 5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Civil Rights [website](#)
  - 1. Click on the link titled Disadvantaged Business Enterprise;
  - 2. Click on Search for a DBE Firm link;
  - 3. Click on [Access to the DBE Query Form](#) located on the first line in the center of the page.

Searches can be performed by one or more criteria. Follow instructions on the screen.

## 6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.



**INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to: subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
11. Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04

## Exhibit H

### DEBARMENT AND SUSPENSION CERTIFICATION TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The **consultant**, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, and manager:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

N/A

For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

#### Notes:

Providing false information may result in criminal prosecution or administrative sanctions.

Signature: Andy Kern Digitally signed by Andy Kern  
Date: 2024.06.25 07:38:50  
-07'00' Date: 6/25/2024

**Exhibit 10-S Consultant Performance Evaluation**

1. PROJECT DATA		2. CONSULTANT DATA					
1a.	Project (include title, location, and Activity/CIP No.)	2a.	Consultant Name and Address				
1b.	Brief Description of Project (design, study, etc.)	2b.	Consultant's Manager				
1c.	Budget Cost for Project: \$ _____	2c.	Phone: _____				
3. AGENCY DEPARTMENT/SECTION RESPONSIBLE							
3a.	Department (include section and division)		3b. Agency Project Manager (name & phone)				
4. CONTRACT DATA (Engineering Services)							
4a.	Contract No.: _____		Termination date: _____		Base Fee: \$ _____		
	Agreement date: _____		Date terminated: _____		Contingency: \$ _____		
4b.	Amendment \$ _____ / # _____ (Total Value) (Initiated by Agency)	\$ _____ / # _____ (Total Value) (Initiated by Agency)					
4c.	Change Order \$ _____ / # _____ (Total Value) (Initiated by Agency)	\$ _____ / # _____ (Total Value) (Initiated by Agency)					
4d.	Total Fee per Agreement (4a. + 4b. + 4c.) \$ _____ (Do not include Contingency Listed in 4a.)			Total Fee Paid \$ _____			
4e. Type of Services (Design, study, etc.)	4f. Historical Record of Key Submittal Dates (enter date or n/a if not applicable)						
		Preliminary	30%	70%	90%	100%	Final
	Per Agreement						
	Delivery Date						
Acceptance Date							
4g. Notice To Proceed _____ (date)	4j. Reasons for Change Orders: (Indicate total for each reason)						
			Errors/Omissions \$ _____		% of Base Fee _____		
			Unforeseen Conditions \$ _____		% of Base Fee _____		
4h. Number of Days _____ (number)			Changed Scope \$ _____		% of Base Fee _____		
			Changed Quantities \$ _____		% of Base Fee _____		
4i. Actual Number of Days _____ (number)			Program Task Options \$ _____		% of Base Fee _____		
5. OVERALL RATING (Complete Section II on reverse, include comments as appropriate.)							
		Outstanding	Above Average	Average	Below Average	Poor	N/A
5a.	Plans/Specifications accuracy						
5b.	Consistency with budget						
5c.	Responsiveness to Agency Staff						
5d.	Overall Rating						
6. AUTHORIZING SIGNATURES							
6a.	Agency Design Team Leader	_____	Date: _____				
6b.	Agency Project Manager	_____	Date: _____				
6c.	Agency Public Works Manager	_____	Date: _____				
6d.	Consultant Representative	_____	Date: _____				

See Reverse Side

Consultant Performance Evaluation

PLANS/SPECIFICATIONS	Outstanding	Above Avg.	Avg.	Below Avg.	Poor	N/A	Responsiveness To Staff	Outstanding	Above Avg.	Avg.	Below Avg.	Poor	N/A
ACCURACY													
Plans Specifications clear and concise							Timely Responses						
Plans/Specs Coordination							Attitude toward Client and review bodies						
Plans/Specs properly formatted							Follows directions and Chain of responsibility						
Code Requirements covered							Work product delivered on time						
Adhered to Agency Standard Drawings/Specs							Timeliness in notifying Agency of major problems						
Drawings reflect existing conditions							Resolution of field Problems						
As-Built Drawings							Consistency with budget						
Quality Design							Reasonable Agreement negotiation						
Change Orders due to design deficiencies are minimized							Adherence to fee schedule						
							Adherence to project Budget						

**Section III** **EXPLANATIONS AND SUPPLEMENTAL INFORMATION**  
(Attach additional documentation as needed)

Item \_\_\_\_\_ : \_\_\_\_\_  
\_\_\_\_\_

Item \_\_\_\_\_ : \_\_\_\_\_  
\_\_\_\_\_

Item \_\_\_\_\_ : \_\_\_\_\_  
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Item \_\_\_\_\_ : \_\_\_\_\_  
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Item \_\_\_\_\_ : \_\_\_\_\_  
\_\_\_\_\_

Item \_\_\_\_\_ : \_\_\_\_\_  
\_\_\_\_\_

\*Indicates supporting documentation attached.

**TITLE VI ASSURANCES****APPENDIX A**

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

- a. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of CONSULTANT'S noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
  - i. cancellation, termination or suspension of the Agreement, in whole or in part.
- f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT

may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

**APPENDIX B**  
**CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

**(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto the recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

**APPENDIX C**  
**CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE**  
**ACTIVITY, FACILITY, OR PROGRAM**

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the recipient pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations(as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

**APPENDIX D**  
**CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE**  
**ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the recipient pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in

this Assurance.

- B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

## APPENDIX E

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority

Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C.1681 et seq).

# CLTA STANDARD COVERAGE POLICY OF TITLE INSURANCE

Issued By:



**Fidelity National Title**  
Insurance Company

Policy Number:

**FFOM-2012200021**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, FIDELITY NATIONAL TITLE INSURANCE COMPANY, a Florida corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
  2. Any defect in or lien or encumbrance on the title;
  3. Unmarketability of the title;
  4. Lack of a right of access to and from the land;
- and in addition, as to an insured lender only:
5. The invalidity or unenforceability of the lien of the insured mortgage upon the title;
  6. The priority of any lien or encumbrance over the lien of the insured mortgage, said mortgage being shown in Schedule B in the order of its priority;
  7. The invalidity or unenforceability of any assignment of the insured mortgage, provided the assignment is shown in Schedule B, or the failure of the assignment shown in Schedule B to vest title to the insured mortgage in the named insured assignee free and clear of all liens.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title or the lien of the insured mortgage, as insured, but only to the extent provided in the Conditions and Stipulations.

IN WITNESS WHEREOF, FIDELITY NATIONAL TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

Issued By:

**Fidelity National Title Company**  
2540 West Shaw Lane, Suite 112  
Fresno, CA 93711  
Phone: (559)492-4223  
Email: eamadrigal@fnf.com

**Fidelity National Title Insurance Company**

By:

Michael J. Nolan, President

Countersigned By:

Andy Kern  
Authorized Officer or Agent



Attest:

Marjorie Nemzura, Secretary

### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land, (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

### CONDITIONS AND STIPULATIONS

#### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors. The term "insured" also includes:
  - (i) the owner of the indebtedness secured by the insured mortgage and each successor in ownership of the indebtedness except a successor who is an obligor under the provisions of Section 12(c) of these Conditions and Stipulations (reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor insured, unless the successor acquired the indebtedness as a purchaser for value without knowledge of the asserted defect, lien, encumbrance, adverse claim or other matter insured against by this policy as affecting title to the estate or interest in the land);
  - (ii) any governmental agency or governmental instrumentality which is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage, or any part thereof, whether named as an insured herein or not;
  - (iii) the parties designated in Section 2(a) of these Conditions and Stipulations.
  - (iv) Subject to any rights or defenses the Company would have had against the named insured, (A) the spouse of an insured who receives title to the land because of dissolution of marriage, (B) the trustee or successor trustee of a trust or any estate planning entity created for the insured to whom or to which the insured transfers title to the land after the Date of Policy or (C) the beneficiaries of such a trust upon the death of the insured.
- (b) "insured claimant": an insured claiming loss or damage.
- (c) "insured lender": the owner of an insured mortgage.
- (d) "insured mortgage": a mortgage shown in Schedule B, the owner of which is named as an insured in Schedule A.
- (e) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.
- (f) "land": the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.
- (g) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (h) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.

(continued)

- (i) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A or the insured mortgage to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

## 2. CONTINUATION OF INSURANCE

### (a) After Acquisition of Title by Insured Lender.

If this policy insures the owner of the indebtedness secured by the insured mortgage, the coverage of this policy shall continue in force as of Date of Policy in favor of (i) such insured lender who acquires all or any part of the estate or interest in the land by foreclosure, trustee's sale, conveyance in lieu of foreclosure, or other legal manner which discharges the lien of the insured mortgage; (ii) a transferee of the estate or interest so acquired from an insured corporation, provided the transferee is the parent or wholly-owned subsidiary of the insured corporation, and their corporate successors by operation of law and not by purchase, subject to any rights or defenses the Company may have against any predecessor insureds; and (iii) any governmental agency or governmental instrumentality which acquires all or any part of the estate or interest pursuant to a contract of insurance or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage.

### (b) After Conveyance of Title by an Insured.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from an insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to an insured.

### (c) Amount of Insurance.

The amount of insurance after the acquisition or after the conveyance by an insured lender shall in neither event exceed the least of:

- (i) The amount of insurance stated in Schedule A;
- (ii) The amount of the principal of the indebtedness secured by the insured mortgage as of Date of Policy, interest thereon, expenses of foreclosure, amounts advanced pursuant to the insured mortgage to assure compliance with laws or to protect the lien of the insured mortgage prior to the time of acquisition of the estate or interest in the land and secured thereby and reasonable amounts expended to prevent deterioration of improvements, but reduced by the amount of all payments made; or
- (iii) The amount paid by any governmental agency or governmental instrumentality, if the agency or the instrumentality is the insured claimant, in the acquisition of the estate or interest in satisfaction of its insurance contract or guaranty.

## 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

An insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest or the lien of the insured mortgage, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest or the lien of the insured mortgage, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to that insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

## 4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE

- (a) Upon written request by an insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of such insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of such insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by an insured in the defense of those causes of action which allege matters not insured against by this policy.
- (b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured, or to prevent or reduce loss or damage to an insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.
- (d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, an insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such insured for this purpose. Whenever requested by the Company, an insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured. If the Company is prejudiced by the failure of an insured to furnish the required cooperation, the Company's obligations to such insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(continued)

**5. PROOF OF LOSS OR DAMAGE**

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by each insured claimant shall be furnished to the Company within ninety (90) days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of an insured claimant to provide the required proof of loss or damage, the Company's obligations to such insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, an insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by an insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of an insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that insured for that claim.

**6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY**

In case of a claim under this policy, the Company shall have the following additional options:

**(a) To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness.**

- (i) to pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay; or
- (ii) in case loss or damage is claimed under this policy by the owner of the indebtedness secured by the insured mortgage, to purchase the indebtedness secured by the insured mortgage for the amount owing thereon together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of purchase and which the Company is obligated to pay.

If the Company offers to purchase the indebtedness as herein provided, the owner of the indebtedness shall transfer, assign, and convey the indebtedness and the insured mortgage, together with any collateral security, to the Company upon payment therefor.

Upon the exercise by the Company of the option provided for in paragraph a(i), all liability and obligations to the insured under this policy, other than to make the payment required in that paragraph, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

Upon the exercise by the Company of the option provided for in paragraph a(ii) the Company's obligation to an insured Lender under this policy for the claimed loss or damage, other than the payment required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

**(b) To Pay or Otherwise Settle with Parties Other than the Insured or With the Insured Claimant.**

- (i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or
- (ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs b(i) or b(ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

**7. DETERMINATION AND EXTENT OF LIABILITY**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

**(a) The liability of the Company under this policy to an insured lender shall not exceed the least of:**

- (i) the Amount of Insurance stated in Schedule A, or, if applicable, the amount of insurance as defined in Section 2(c) of these Conditions and Stipulations;
- (ii) the amount of the unpaid principal indebtedness secured by the insured mortgage as limited or provided under Section 8 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage insured against by this policy occurs, together with interest thereon; or
- (iii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

**(b) In the event the insured lender has acquired the estate or interest in the manner described in Section 2(a) of these Conditions and Stipulations or has conveyed the title, then the liability of the Company shall continue as set forth in Section 7(a) of these Conditions and Stipulations.****(c) The liability of the Company under this policy to an insured owner of the estate or interest in the land described in Schedule A shall not exceed the least of:**

- (i) the Amount of Insurance stated in Schedule A; or,

(continued)

(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(d) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

#### 8. LIMITATION OF LIABILITY

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, or otherwise establishes the lien of the insured mortgage, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, or, if applicable, to the lien of the insured mortgage, as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

(d) The Company shall not be liable to an insured lender for: (i) any indebtedness created subsequent to Date of Policy except for advances made to protect the lien of the insured mortgage and secured thereby and reasonable amounts expended to prevent deterioration of improvements; or (ii) construction loan advances made subsequent to Date of Policy, except construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the land which at Date of Policy were secured by the insured mortgage and which the insured was and continued to be obligated to advance at and after Date of Policy.

#### 9. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

(a) All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of insurance pro tanto. However, as to an insured lender, any payments made prior to the acquisition of title to the estate or interest as provided in Section 2(a) of these Conditions and Stipulations shall not reduce pro tanto the amount of insurance afforded under this policy as to any such insured, except to the extent that the payments reduce the amount of the indebtedness secured by the insured mortgage.

(b) Payment in part by any person of the principal of the indebtedness, or any other obligation secured by the insured mortgage, or any voluntary partial satisfaction or release of the insured mortgage, to the extent of the payment, satisfaction or release, shall reduce the amount of insurance pro tanto. The amount of insurance may thereafter be increased by accruing interest and advances made to protect the lien of the insured mortgage and secured thereby, with interest thereon, provided in no event shall the amount of insurance be greater than the Amount of Insurance stated in Schedule A.

(c) Payment in full by any person or the voluntary satisfaction or release of the insured mortgage shall terminate all liability of the Company to an insured lender except as provided in Section 2(a) of these Conditions and Stipulations.

#### 10. LIABILITY NONCUMULATIVE

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

The provisions of this Section shall not apply to an insured lender, unless such insured acquires title to said estate or interest in satisfaction of the indebtedness secured by an insured mortgage.

#### 11. PAYMENT OF LOSS

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

#### 12. SUBROGATION UPON PAYMENT OR SETTLEMENT

(a) **The Company's Right of Subrogation.**

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated (i) as to an insured owner, to all rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss; and (ii) as to an insured lender, to all rights and remedies of the insured claimant after the insured claimant shall have recovered its principal, interest, and costs of collection.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(continued)

**(b) The Insured's Rights and Limitations.**

Notwithstanding the foregoing, the owner of the indebtedness secured by an insured mortgage, provided the priority of the lien of the insured mortgage or its enforceability is not affected, may release or substitute the personal liability of any debtor or guarantor, or extend or otherwise modify the terms of payment, or release a portion of the estate or interest from the lien of the insured mortgage, or release any collateral security for the indebtedness.

When the permitted acts of the insured claimant occur and the insured has knowledge of any claim of title or interest adverse to the title to the estate or interest or the priority or enforceability of the lien of an insured mortgage, as insured, the Company shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

**(c) The Company's Rights Against Non-insured Obligors.**

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

The Company's right of subrogation shall not be avoided by acquisition of an insured mortgage by an obligor (except an obligor described in Section 1(a)(ii) of these Conditions and Stipulations) who acquires the insured mortgage as a result of an indemnity, guarantee, other policy of insurance, or bond and the obligor will not be an insured under this policy, notwithstanding Section 1(a)(i) of these Conditions and Stipulations.

**13. ARBITRATION**

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is One Million And No/100 Dollars (\$1,000,000) or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of One Million And No/100 Dollars (\$1,000,000) shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

**14. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

- (a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- (b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the lien of the insured mortgage or of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.
- (c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

**15. SEVERABILITY**

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

**16. NOTICES, WHERE SENT**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at:

Fidelity National Title Insurance Company  
P.O. Box 45023  
Jacksonville, FL 32232-5023  
Attn: Claims Department

**END OF CONDITIONS AND STIPULATIONS**

**CONDITION OF TITLE**

Issued By:



**Fidelity National Title**  
Insurance Company

Guarantee Number:

**FFOM-TO24000471**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, AND THE GUARANTEE CONDITIONS ATTACHED HERETO AND MADE A PART OF THIS GUARANTEE,

**FIDELITY NATIONAL TITLE INSURANCE COMPANY**  
a corporation, herein called the Company

**GUARANTEES**

the Assured named in Schedule A of this Guarantee

against loss or damage not exceeding the Amount of Liability stated in Schedule A sustained by the Assured by reason of any incorrectness in the Assurances set forth in Schedule A.

Fidelity National Title Company  
7475 N. Palm Avenue, Ste 107  
Fresno, CA 93711

Countersigned By:

*Andy Kern*

Authorized Officer or Agent



**Fidelity National Title Insurance Company**

By:

*Michael J. Nolan*

Michael J. Nolan, President

Attest:

*Marjorie Nemzura*

Marjorie Nemzura, Secretary

**EXCLUSIONS FROM COVERAGE**

Except as expressly provided by the assurances in Schedule A, the Company assumes no liability for loss or damage by reason of the following:

- (a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the Land.
- (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the Public Records (1) that are created, suffered, assumed or agreed to by one or more of the Assureds; or (2) that result in no loss to the Assured.
- (c) Defects, liens, encumbrances, adverse claims or other matters not shown by the Public Records.
- (d) The identity of any party shown or referred to in any of the schedules of this Guarantee.
- (e) The validity, legal effect or priority of any matter shown or referred to in any of the schedules of this Guarantee.
- (f) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or (2) proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the Public Records.
- (g) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the Public Records.

**GUARANTEE CONDITIONS****1. DEFINITION OF TERMS**

The following terms when used in the Guarantee mean:

- (a) the "Assured": the party or parties named as the Assured in Schedule A, or on a supplemental writing executed by the Company.
- (b) "Land": the Land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "Land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- (c) "Mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (d) "Public Records": those records established under California statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- (e) "Date of Guarantee": the Date of Guarantee set forth in Schedule A.
- (f) "Amount of Liability": the Amount of Liability as stated in Schedule A.

**2. NOTICE OF CLAIM TO BE GIVEN BY ASSURED**

The Assured shall notify the Company promptly in writing in case knowledge shall come to the Assured of any assertion of facts, or claim of title or interest that is contrary to the assurances set forth in Schedule A and that might cause loss or damage for which the Company may be liable under this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of the Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

**3. NO DUTY TO DEFEND OR PROSECUTE**

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

**4. COMPANY'S OPTION TO DEFEND OR PROSECUTE ACTIONS; DUTY OF ASSURED TO COOPERATE**

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

- (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in Paragraph 4 (b), or to do any other act which in its opinion may be necessary or desirable to establish the correctness of the assurances set forth in Schedule A or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (b) If the Company elects to exercise its options as stated in Paragraph 4 (a) the Company shall have the right to select counsel of its choice (subject to the right of the Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
- (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
- (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, the Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the Assured for this purpose. Whenever requested by the Company, the Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the correctness of the assurances set forth in Schedule A or to prevent or reduce loss or damage to the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

(continued)

**5. PROOF OF LOSS OR DAMAGE**

- (a) In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Assured furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.
- (b) In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this paragraph shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

**6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS: TERMINATION OF LIABILITY**

In case of a claim under this Guarantee, the Company shall have the following additional options:

- (a) To pay or tender payment of the Amount of Liability together with any costs, attorneys' fees, and expenses incurred by the Assured that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.
- (b) To pay or otherwise settle with the Assured any claim assured against under this Guarantee. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Assured that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay; or
- (c) To pay or otherwise settle with other parties for the loss or damage provided for under this Guarantee, together with any costs, attorneys' fees, and expenses incurred by the Assured that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in 6 (a), (b) or (c) of this paragraph the Company's obligations to the Assured under this Guarantee for the claimed loss or damage, other than the payments required to be made, shall terminate, including any duty to continue any and all litigation initiated by the Company pursuant to Paragraph 4.

**7. LIMITATION OF LIABILITY**

- (a) This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in Schedule A and only to the extent herein described, and subject to the Exclusions From Coverage of this Guarantee.
- (b) If the Company, or the Assured under the direction of the Company at the Company's expense, removes the alleged defect, lien, or encumbrance or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.
- (c) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom.
- (d) The Company shall not be liable for loss or damage to the Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

**8. REDUCTION OF LIABILITY OR TERMINATION OF LIABILITY**

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the Amount of Liability under this Guarantee pro tanto.

**9. PAYMENT OF LOSS**

- (a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
- (b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions, the loss or damage shall be payable within thirty (30) days thereafter.

**10. SUBROGATION UPON PAYMENT OR SETTLEMENT**

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

(continued)

**11. ARBITRATION**

Either the Company or the Assured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision, or to any other controversy or claim arising out of the transaction giving rise to this Guarantee. All arbitrable matters when the amount of liability is Two Million And No/100 Dollars (\$2,000,000) or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of Two Million And No/100 Dollars (\$2,000,000) shall be arbitrated only when agreed to by both the Company and the Assured. Arbitration pursuant to this Guarantee and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

**12. LIABILITY LIMITED TO THIS GUARANTEE; GUARANTEE ENTIRE CONTRACT**

- (a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
- (b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
- (c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

**13. SEVERABILITY**

In the event any provision of this Guarantee, in whole or in part, is held invalid or unenforceable under applicable law, the Guarantee shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

**14. CHOICE OF LAW; FORUM**

- (a) Choice of Law: The Assured acknowledges the Company has underwritten the risks covered by this Guarantee and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of Guaranties of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims that are adverse to the Assured and to interpret and enforce the terms of this Guarantee. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

- (b) Choice of Forum: Any litigation or other proceeding brought by the Assured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

**15. NOTICES, WHERE SENT**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at:

Fidelity National Title Insurance Company  
P.O. Box 45023  
Jacksonville, FL 32232-5023  
Attn: Claims Department

**END OF CONDITIONS**

**CLTA LITIGATION**

Issued By:



**Fidelity National Title**  
Insurance Company

Guarantee Number:

**FFOM-TO24000395**

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, AND THE GUARANTEE CONDITIONS ATTACHED HERETO AND MADE A PART OF THIS GUARANTEE,

**FIDELITY NATIONAL TITLE INSURANCE COMPANY**  
a corporation, herein called the Company

**GUARANTEES**

the Assured named in Schedule A of this Guarantee

against loss or damage not exceeding the Amount of Liability stated in Schedule A sustained by the Assured by reason of any incorrectness in the Assurances set forth in Schedule A.

**Fidelity National Title Company**  
7475 N. Palm Avenue, Ste 107  
Fresno, CA 93711

**Fidelity National Title Insurance Company**

By:

Michael J. Nolan, President

Countersigned By:

Andy Kern  
Authorized Officer or Agent



Attest:

Marjorie Nemzura, Secretary

**EXCLUSIONS FROM COVERAGE**

Except as expressly provided by the assurances in Schedule A, the Company assumes no liability for loss or damage by reason of the following:

- (a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the Land.
- (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the Public Records (1) that are created, suffered, assumed or agreed to by one or more of the Assureds; or (2) that result in no loss to the Assured.
- (c) Defects, liens, encumbrances, adverse claims or other matters not shown by the Public Records.
- (d) The identity of any party shown or referred to in any of the schedules of this Guarantee.
- (e) The validity, legal effect or priority of any matter shown or referred to in any of the schedules of this Guarantee.
- (f) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or (2) proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the Public Records.
- (g) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the Public Records.

**GUARANTEE CONDITIONS****1. DEFINITION OF TERMS**

The following terms when used in the Guarantee mean:

- (a) the "Assured": the party or parties named as the Assured in Schedule A, or on a supplemental writing executed by the Company.
- (b) "Land": the Land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "Land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- (c) "Mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (d) "Public Records": those records established under California statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- (e) "Date of Guarantee": the Date of Guarantee set forth in Schedule A.
- (f) "Amount of Liability": the Amount of Liability as stated in Schedule A.

**2. NOTICE OF CLAIM TO BE GIVEN BY ASSURED**

The Assured shall notify the Company promptly in writing in case knowledge shall come to the Assured of any assertion of facts, or claim of title or interest that is contrary to the assurances set forth in Schedule A and that might cause loss or damage for which the Company may be liable under this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of the Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

**3. NO DUTY TO DEFEND OR PROSECUTE**

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

**4. COMPANY'S OPTION TO DEFEND OR PROSECUTE ACTIONS; DUTY OF ASSURED TO COOPERATE**

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

- (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in Paragraph 4 (b), or to do any other act which in its opinion may be necessary or desirable to establish the correctness of the assurances set forth in Schedule A or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (b) If the Company elects to exercise its options as stated in Paragraph 4 (a) the Company shall have the right to select counsel of its choice (subject to the right of the Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
- (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
- (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, the Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the Assured for this purpose. Whenever requested by the Company, the Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the correctness of the assurances set forth in Schedule A or to prevent or reduce loss or damage to the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

(continued)

**5. PROOF OF LOSS OR DAMAGE**

- (a) In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Assured furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.
- (b) In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this paragraph shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

**6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS: TERMINATION OF LIABILITY**

In case of a claim under this Guarantee, the Company shall have the following additional options:

- (a) To pay or tender payment of the Amount of Liability together with any costs, attorneys' fees, and expenses incurred by the Assured that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.
- (b) To pay or otherwise settle with the Assured any claim assured against under this Guarantee. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Assured that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay; or
- (c) To pay or otherwise settle with other parties for the loss or damage provided for under this Guarantee, together with any costs, attorneys' fees, and expenses incurred by the Assured that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in 6 (a), (b) or (c) of this paragraph the Company's obligations to the Assured under this Guarantee for the claimed loss or damage, other than the payments required to be made, shall terminate, including any duty to continue any and all litigation initiated by the Company pursuant to Paragraph 4.

**7. LIMITATION OF LIABILITY**

- (a) This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in Schedule A and only to the extent herein described, and subject to the Exclusions From Coverage of this Guarantee.
- (b) If the Company, or the Assured under the direction of the Company at the Company's expense, removes the alleged defect, lien, or encumbrance or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.
- (c) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom.
- (d) The Company shall not be liable for loss or damage to the Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

**8. REDUCTION OF LIABILITY OR TERMINATION OF LIABILITY**

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the Amount of Liability under this Guarantee pro tanto.

**9. PAYMENT OF LOSS**

- (a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
- (b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions, the loss or damage shall be payable within thirty (30) days thereafter.

**10. SUBROGATION UPON PAYMENT OR SETTLEMENT**

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

(continued)

**11. ARBITRATION**

Either the Company or the Assured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision, or to any other controversy or claim arising out of the transaction giving rise to this Guarantee. All arbitrable matters when the amount of liability is Two Million And No/100 Dollars (\$2,000,000) or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of Two Million And No/100 Dollars (\$2,000,000) shall be arbitrated only when agreed to by both the Company and the Assured. Arbitration pursuant to this Guarantee and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

**12. LIABILITY LIMITED TO THIS GUARANTEE; GUARANTEE ENTIRE CONTRACT**

- (a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
- (b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
- (c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

**13. SEVERABILITY**

In the event any provision of this Guarantee, in whole or in part, is held invalid or unenforceable under applicable law, the Guarantee shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

**14. CHOICE OF LAW; FORUM**

- (a) Choice of Law: The Assured acknowledges the Company has underwritten the risks covered by this Guarantee and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of Guaranties of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims that are adverse to the Assured and to interpret and enforce the terms of this Guarantee. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

- (b) Choice of Forum: Any litigation or other proceeding brought by the Assured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

**15. NOTICES, WHERE SENT**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at:

Fidelity National Title Insurance Company  
P.O. Box 45023  
Jacksonville, FL 32232-5023  
Attn: Claims Department

**END OF CONDITIONS**

 **Fidelity National Title Company**

**PRELIMINARY REPORT**

*In response to the application for a policy of title insurance referenced herein, Fidelity National Title Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.*

*The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.*

*This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.*

*The policy(ies) of title insurance to be issued hereunder will be policy(ies) of Fidelity National Title Insurance Company, a Florida corporation.*

*Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.*

*It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.*

**Fidelity National Title Insurance Company**

By:



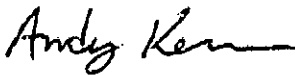
Michael J. Nolan, President

Attest:



Marjorie Nemzura, Secretary

Countersigned By:



Authorized Officer or Agent



## ATTACHMENT ONE

### CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990 (11-09-18)

#### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

#### EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.  
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material unless such lien is shown by the public records at Date of Policy.

#### EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART II

*(Variable exceptions such as taxes, easements, CC&R's, etc., are inserted here)*

**ATTACHMENT ONE  
(CONTINUED)**

**CALIFORNIA LAND TITLE ASSOCIATION  
STANDARD COVERAGE OWNER'S POLICY (02-04-22)  
EXCLUSIONS FROM COVERAGE**

The following matters are excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
  - i. the occupancy, use, or enjoyment of the Land;
  - ii. the character, dimensions, or location of any improvement on the Land;
  - iii. the subdivision of land; or
  - iv. environmental remediation or protection.
- b. any governmental forfeiture, police, regulatory, or national security power.
- c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.  
Exclusion 1 does not modify or limit the coverage provided under Covered Risk 5 or 6.
2. Any power of eminent domain. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7.
3. Any defect, lien, encumbrance, adverse claim, or other matter:
  - a. created, suffered, assumed, or agreed to by the Insured Claimant;
  - b. not Known to the Company, not recorded in the Public Records at the Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - c. resulting in no loss or damage to the Insured Claimant;
  - d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 9 or 10); or
  - e. resulting in loss or damage that would not have been sustained if consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser had been given for the Title at the Date of Policy.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that the transaction vesting the Title as shown in Schedule A is a:
  - a. fraudulent conveyance or fraudulent transfer;
  - b. voidable transfer under the Uniform Voidable Transactions Act; or
  - c. preferential transfer:
    - i. to the extent the instrument of transfer vesting the Title as shown in Schedule A is not a transfer made as a contemporaneous exchange for new value; or
    - ii. for any other reason not stated in Covered Risk 9.b.
5. Any claim of a PACA-PSA Trust. Exclusion 5 does not modify or limit the coverage provided under Covered Risk 8.
6. Any lien on the Title for real estate taxes or assessments imposed or collected by a governmental authority that becomes due and payable after the Date of Policy.  
Exclusion 6 does not modify or limit the coverage provided under Covered Risk 2.b.
7. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

**EXCEPTIONS FROM COVERAGE**

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This policy treats any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document are excepted from coverage.

This policy does not insure against loss or damage and the Company will not pay costs, attorneys' fees, or expenses resulting from the terms and conditions of any lease or easement identified in Schedule A, and the following matters:

**PART I**

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records at Date of Policy but that could be (a) ascertained by an inspection of the Land, or (b) asserted by persons or parties in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records at Date of Policy.
4. Any encroachment, encumbrance, violation, variation, easement, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records at Date of Policy.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor, material or equipment unless such lien is shown by the Public Records at Date of Policy.
7. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, uranium, clay, rock, sand, and gravel located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exception, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interests or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.

**PART II**

*(Variable exceptions such as taxes, easements, CC&R's, etc., are inserted here)*

**ATTACHMENT ONE  
(CONTINUED)**

**CLTA/ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (7-01-21)  
EXCLUSIONS FROM COVERAGE**

The following matters are excluded from the coverage of this policy and We will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
    - i. the occupancy, use, or enjoyment of the Land;
    - ii. the character, dimensions, or location of any improvement on the Land;
    - iii. the subdivision of land; or
    - iv. environmental remediation or protection.
  - b. any governmental forfeiture, police, or regulatory, or national security power.
  - c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.
- Exclusion 1 does not modify or limit the coverage provided under Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23, or 27.
2. Any power to take the Land by condemnation. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 17.
  3. Any defect, lien, encumbrance, adverse claim, or other matter:
    - a. created, suffered, assumed, or agreed to by You;
    - b. not Known to Us, not recorded in the Public Records at the Date of Policy, but Known to You and not disclosed in writing to Us by You prior to the date You became an Insured under this policy;
    - c. resulting in no loss or damage to You;
    - d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 5, 8.f., 25, 26, 27, 28, or 32); or
    - e. resulting in loss or damage that would not have been sustained if You paid consideration sufficient to qualify You as a bona fide purchaser of the Title at the Date of Policy.
  4. Lack of a right:
    - a. to any land outside the area specifically described and referred to in Item 3 of Schedule A; and
    - b. in any street, road, avenue, alley, lane, right-of-way, body of water, or waterway that abut the Land.

Exclusion 4 does not modify or limit the coverage provided under Covered Risk 11 or 21.
  5. The failure of Your existing structures, or any portion of Your existing structures, to have been constructed before, on, or after the Date of Policy in accordance with applicable building codes. Exclusion 5 does not modify or limit the coverage provided under Covered Risk 14 or 15.
  6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that the transfer of the Title to You is a:
    - a. fraudulent conveyance or fraudulent transfer;
    - b. voidable transfer under the Uniform Voidable Transactions Act; or
    - c. preferential transfer:
      - i. to the extent the instrument of transfer vesting the Title as shown in Schedule A is not a transfer made as a contemporaneous exchange for new value; or
      - ii. for any other reason not stated in Covered Risk 30.
  7. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake, or subsidence.
  8. Negligence by a person or an entity exercising a right to extract or develop oil, gas, minerals, groundwater, or any other subsurface substance.
  9. Any lien on Your Title for real estate taxes or assessments, imposed or collected by a governmental authority that becomes due and payable after the Date of Policy. Exclusion 9 does not modify or limit the coverage provided under Covered Risk 8.a or 27.
  10. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

**LIMITATIONS ON COVERED RISKS**

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19 and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$ 10,000.00
Covered Risk 18:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 19:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 21:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$ 5,000.00

**ATTACHMENT ONE  
(CONTINUED)**

**CLTA/ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (12-02-13)  
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
  - a. building;
  - b. zoning;
  - c. land use;
  - d. improvements on the Land;
  - e. land division; and
  - f. environmental protection.This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
  - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
  - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.This Exclusion does not limit the coverage described in Covered Risk 11 or 21.
7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.
8. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake or subsidence.
9. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.

**LIMITATIONS ON COVERED RISKS**

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19 and 21, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$ 10,000.00
Covered Risk 18:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 19:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 21:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$ 5,000.00

## ATTACHMENT ONE (CONTINUED)

### ALTA OWNER'S POLICY (07-01-2021)

#### EXCLUSIONS FROM COVERAGE

The following matters are excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
    - i. the occupancy, use, or enjoyment of the Land;
    - ii. the character, dimensions, or location of any improvement on the Land;
    - iii. the subdivision of land; or
    - iv. environmental remediation or protection.
  - b. any governmental forfeiture, police, regulatory, or national security power.
  - c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.
- Exclusion 1 does not modify or limit the coverage provided under Covered Risk 5 or 6.
2. Any power of eminent domain. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7.
  3. Any defect, lien, encumbrance, adverse claim, or other matter:
    - a. created, suffered, assumed, or agreed to by the Insured Claimant;
    - b. not Known to the Company, not recorded in the Public Records at the Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
    - c. resulting in no loss or damage to the Insured Claimant;
    - d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 9 or 10); or
    - e. resulting in loss or damage that would not have been sustained if consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser had been given for the Title at the Date of Policy.
  4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that the transaction vesting the Title as shown in Schedule A is a:
    - a. fraudulent conveyance or fraudulent transfer;
    - b. voidable transfer under the Uniform Voidable Transactions Act; or
    - c. preferential transfer:
      - i. to the extent the instrument of transfer vesting the Title as shown in Schedule A is not a transfer made as a contemporaneous exchange for new value; or
      - ii. for any other reason not stated in Covered Risk 9.b.
  5. Any claim of a PACA-PSA Trust. Exclusion 5 does not modify or limit the coverage provided under Covered Risk 8.
  6. Any lien on the Title for real estate taxes or assessments, imposed or collected by a governmental authority that becomes due and payable after the Date of Policy. Exclusion 6 does not modify or limit the coverage provided under Covered Risk 2.b.
  7. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

#### EXCEPTIONS FROM COVERAGE

**Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This policy treats any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document are excepted from coverage.**

This policy does not insure against loss or damage and the Company will not pay costs, attorneys' fees, or expenses resulting from the terms and conditions of any lease or easement identified in Schedule A, and the following matters:

*NOTE: The 2021 ALTA Owner's Policy may be issued to afford either Standard Coverage or Extended Coverage. In addition to variable exceptions such as taxes, easements, CC&R's, etc., the Exceptions from Coverage in a Standard Coverage policy will also include the Western Regional Standard Coverage Exceptions listed as 1 through 7 below:*

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records at Date of Policy but that could be (a) ascertained by an inspection of the Land or (b) asserted by persons or parties in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records at Date of Policy.
4. Any encroachment, encumbrance, violation, variation, easement, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records at Date of Policy.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor, material or equipment unless such lien is shown by the Public Records at Date of Policy.
7. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, uranium, clay, rock, sand, and gravel located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exception, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interests or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.

**ATTACHMENT ONE  
(CONTINUED)**

**2006 ALTA OWNER'S POLICY (06-17-06)**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

*NOTE: The 2006 ALTA Owner's Policy may be issued to afford either Standard Coverage or Extended Coverage. In addition to variable exceptions such as taxes, easements, CC&R's, etc., the Exceptions from Coverage in a Standard Coverage policy will also include the Western Regional Standard Coverage Exceptions listed below as 1 through 7 below:*

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records at Date of Policy but that could be (a) ascertained by an inspection of the Land, or (b) asserted by persons or parties in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records at Date of Policy.
4. Any encroachment, encumbrance, violation, variation, easement, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records at Date of Policy.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor, material or equipment unless such lien is shown by the Public Records at Date of Policy.]
7. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, uranium, clay, rock, sand, and gravel located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exception, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interests or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.

## Notice of Available Discounts

Pursuant to Section 2355.3 in Title 10 of the California Code of Regulations Fidelity National Financial, Inc. and its subsidiaries ("FNF") must deliver a notice of each discount available under our current rate filing along with the delivery of escrow instructions, a preliminary report or commitment. Please be aware that the provision of this notice does not constitute a waiver of the consumer's right to be charged the filed rate. As such, your transaction may not qualify for the below discounts.

You are encouraged to discuss the applicability of one or more of the below discounts with a Company representative. These discounts are generally described below; consult the rate manual for a full description of the terms, conditions and requirements for such discount. These discounts only apply to transactions involving services rendered by the FNF Family of Companies. This notice only applies to transactions involving property improved with a one-to-four family residential dwelling.

Not all discounts are offered by every FNF Company. The discount will only be applicable to the FNF Company as indicated by the named discount.

### FNF Underwritten Title Companies

CTC - Chicago Title Company  
CLTC - Commonwealth Land Title Company  
FNTC - Fidelity National Title Company of California  
FNTCCA - Fidelity National Title Company of California  
TICOR - Ticor Title Company of California  
LTC - Lawyer's Title Company  
SLTC - ServiceLink Title Company

### Underwritten by FNF Underwriters

CTIC - Chicago Title Insurance Company  
CLTIC - Commonwealth Land Title Insurance Company  
FNTIC - Fidelity National Title Insurance Company  
FNTIC - Fidelity National Title Insurance Company  
CTIC - Chicago Title Insurance Company  
CLTIC - Commonwealth Land Title Insurance Company  
CTIC - Chicago Title Insurance Company

### Available Discounts

#### **DISASTER LOANS (CTIC, CLTIC, FNTIC)**

The charge for a Lender's Policy (Standard or Extended coverage) covering the financing or refinancing by an owner of record, within twenty-four (24) months of the date of a declaration of a disaster area by the government of the United States or the State of California on any land located in said area, which was partially or totally destroyed in the disaster, will be fifty percent (50%) of the appropriate title insurance rate.

#### **CHURCHES OR CHARITABLE NON-PROFIT ORGANIZATIONS (CTIC, FNTIC)**

On properties used as a church or for charitable purposes within the scope of the normal activities of such entities, provided said charge is normally the church's obligation the charge for an owner's policy shall be fifty percent (50%) to seventy percent (70%) of the appropriate title insurance rate, depending on the type of coverage selected. The charge for a lender's policy shall be forty percent (40%) to fifty percent (50%) of the appropriate title insurance rate, depending on the type of coverage selected.