

TYLER COUNTY COMMISSIONERS COURT
SPECIAL MEETING
MAY 28, 2013 ---- 8:30 a.m.

THE STATE OF TEXAS ON THIS THE 28th day of May, 2013 the
Commissioners' Court in and for Tyler County, Texas convened in a Special Meeting at
the Commissioners' Courtroom in Woodville, Texas, the following members of the Court
present, to wit:

JACQUES L. BLANCHETTE	COUNTY JUDGE, Presiding
MARTIN NASH	COMMISSIONER, PCT. #1
RUSTY HUGHES	COMMISSIONER, PCT. #2
MIKE MARSHALL	COMMISSIONER, PCT, #3
JACK WALSTON	COMMISSIONER, PCT. #4
DONECE GREGORY	COUNTY CLERK, Ex-Officio

The following were absent: none thereby constituting a quorum. In addition to the above
were:

JACKIE SKINNER	COUNTY AUDITOR
DALE FREEMAN	CONSTABLE PCT.#1/EMERGENCY MNGT.
LOU CLOY	ASST. CRIM. DISTRICT ATTORNEY

Commissioner Nash motioned to authorize the County Judge to sign a **Purchase and Sale Agreement** along with any documents necessary to facilitate the purchase and sale of property. The motion was seconded by **Commissioner Marshall**. All voted yes and none no.

A motion was made by **Commissioner Walston** to adopt the **Tyler County Multi-Jurisdictional Hazard Mitigation Plan**. The motion was seconded by **Commissioner Nash**. All voted yes and none no.

A motion was made by **Judge Blanchette** and seconded by **Commissioner Walston** to approve the Consultant Services Agreement with Sparks Engineering, Inc. for the assessment of the **courthouse structure and foundation**. All voted yes and none no.

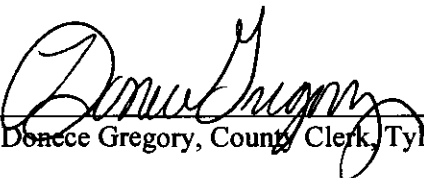
A motion was made by **Commissioner Nash** and seconded by **Commissioner Walston** to enter into Executive Session to discuss potential litigation. All voted yes and none no. No action was taken.

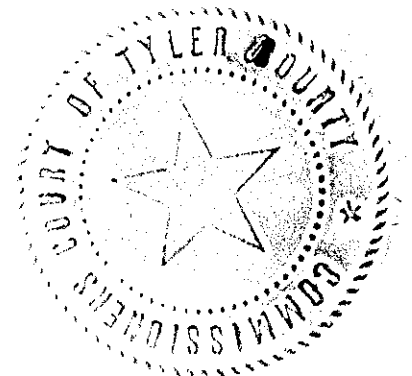
A motion was made by **Commissioner Nash** and seconded by **Commissioner Marshall** for the meeting to adjourn. All voted yes and none no.

THERE BEING NO FURTHER BUSINESS, THE MEETING ADJOURNED: 8:45 a.m.

I, Donece Gregory, County Clerk and ex officio member of the Tyler County Commissioners Court, do hereby certify to the fact that the above is a true and correct record of the Tyler County Commissioners Court session held on May 28, 2013.

Witness my hand and seal of office on this the 9th day of June, 2013.

Attest: 
Donece Gregory, County Clerk, Tyler County, Texas



PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (the "Agreement"), dated as of May 28, 2013 (the "Effective Date"), is by and between DUNCAN-TWO LTD., a Texas limited partnership (the "Seller"), and COUNTY OF TYLER, TEXAS, a Texas governmental entity (the "Buyer").

RECITALS

Seller is the owner of Real Property (as hereinafter defined) in Woodville in Tyler County, Texas, hereinafter more particularly described; and

Buyer desires to purchase from Seller and Seller desires to sell to Buyer the Real Property for the consideration and upon the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the representations, warranties and agreements herein contained, the parties agree as follows:

AGREEMENTS

1. **DEFINITIONS.** The following capitalized terms when used shall have the meaning indicated. Definitions of certain other capitalized terms may be set forth elsewhere in this Agreement.

"**Agreement**" shall mean and refer to this Purchase and Sale Agreement.

"**Authority**" means any governmental, regulatory or administrative body, agency or authority, any court or judicial authority or any public regulatory authority, whether international, national, federal, state or local.

"**Buyer**" shall mean and refer to County of Tyler, Texas, a Texas governmental entity.

"**Claim**" means any claim, lawsuit, demand, suit, litigation, proceeding, arbitration, or other dispute, whether civil, criminal, administrative or otherwise or any hearing, investigation or notice of a violation by an Authority.

"**Closing**" shall mean the event occurring on the Closing Date when the transactions contemplated by this Agreement are consummated and title to the Real Property is transferred by Seller to Buyer pursuant to the terms hereof.

"**Closing Date**" shall mean a date not later than June 12, 2013, or such other date mutually acceptable to the parties.

"Material Adverse Effect" means any circumstances, state of facts or matters which are reasonably expected to be adverse to the Real Property or their current use in a manner that is material to the value of the Real Property taken as whole, provided, however, that any adverse circumstance, state of facts or matter (a) primarily arising out of or resulting primarily from actions contemplated by the parties hereto in connection with this Agreement; or (b) that is primarily attributed to the announcement or performance of this Agreement or the transactions contemplated hereby shall not be deemed in themselves, either alone or in combination, to constitute, and shall not be taken into account in determining whether there has been, a material adverse effect.

"Order" means any decree, order, judgment, injunction, rule, requirement or consent of or by an Authority.

"Permitted Exceptions" means: liens for taxes not yet due and payable; oil, gas and mineral rights and interests vested in other Persons and all burdens on the surface estate associated therewith; any law, ordinance or governmental regulation (including building and zoning ordinances) that restricts, regulates or prohibits the occupancy, use or enjoyment of the Real Property, or regulates the character, dimensions or location of any improvements now or hereafter erected on the Real Property; ad valorem taxes for the year 2013, and subsequent years; and, all matters disclosed in the Commitment not duly objected to pursuant to Paragraph No. 6, below.

"Person" means any corporation, partnership, joint venture, limited partnership, limited liability company, organization, entity, Authority or natural person.

"Real Property" shall have the meaning set forth in Paragraph No. 2 of this Agreement.

"Regulation" means any rule, law, statute, regulation, ordinance, requirement or other binding action of or by an Authority.

"Seller" shall mean and refer to Duncan-Two, Ltd., a Texas limited partnership.

"Title Company" means Tyler County Title, LLC, 318 Dogwood, Woodville, Texas 75979.

2. PURCHASE AND SALE OF REAL PROPERTY.

(a) Upon the terms and subject to the conditions contained herein, Seller agrees to sell, assign, transfer and deliver to Buyer, and Buyer agrees to purchase, acquire and accept from the Seller, the following described real property (the "Real Property"). The Real Property includes: (a) all real estate owned by the Seller situated between N. Charlton St. and N. Village St. and West Dogwood St. and Walt Davis Dr. at the intersection of the same, including all remaining buildings, improvements, fixtures and attachments thereto and thereon; (b) to the extent their transfer is permitted by law or contract, all governmental licenses, permits, approvals, license applications and license amendment applications, if any, related to the real

estate; and (c) any other privileges, easements and other rights related thereto. The Real Property is further described more particularly as follows:

BEING all of Block Twenty (20) of the City of Woodville, Tyler County, Texas as reflected on the official map or plat of the City of Woodville of record in the office of the County Clerk of Tyler County, Texas, record reference to which is hereby made for descriptive purposes and incorporated herein by reference.

3. CONSIDERATION

(a) PURCHASE PRICE. The consideration for the purchase of the Real Property shall be TWO HUNDRED SIXTY THOUSAND AND NO/100 U.S. DOLLARS (US\$260,000.00).

(b) DEPOSIT. Buyer shall deposit TWO THOUSAND SIX HUNDRED AND NO/100 U.S. DOLLARS (US\$2,600.00) with the Title Company (to be held in a non-interest bearing account) on or before the Closing Date as an earnest money deposit for this transaction ("Deposit"). On the Closing Date, the Deposit shall be applied to Buyer's obligation to pay the Purchase Price.

(c) PAYMENT. On or before the Closing Date, Buyer shall pay to Seller in cash, in immediately available U.S. funds by wire transfer pursuant to instructions provided by Seller, subject to the credit for the Deposit (which will also be paid to Seller) and the proration of ad valorem taxes on the Real Property as of the Closing Date, a sum equal to the Purchase Price.

(d) CLOSING COSTS AND PRORATIONS. All ad valorem state and local real property taxes and assessments and personal property taxes and assessments, if any, and other charges applicable to the Real Property for the current year, shall be prorated to the Closing Date based on the 2012 tax rate. Buyer shall pay the premium thereon, and all other expenses relating to the acquisition of a title insurance policy and a survey (if required). Furthermore, except as otherwise specifically provided herein, the Seller on the one hand, and the Buyer on the other, shall each pay their respective expenses relating to this transaction including fees and disbursements of their respective counsel, accountants and financial advisors, whether or not the transactions contemplated by this Agreement are consummated.

(e) NO REPRESENTATIONS. BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT (1) EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY CLOSING DOCUMENT REQUIRED HEREBY, SELLER IS TRANSFERRING THE REAL PROPERTY "AS IS, WHERE IS AND WITH ALL FAULTS"; AND (2) EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH HEREIN, OR IN ANY CLOSING DOCUMENT REQUIRED HEREBY, NEITHER SELLER NOR ANY OTHER PERSON IS MAKING, AND BUYER IS NOT RELYING ON, ANY REPRESENTATIONS OR WARRANTIES (EXCEPTING WARRANTIES OF TITLE) OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING ANY OF THE REAL PROPERTY OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO BUYER BY ANY PERSON OTHER THAN SELLER OR OTHERWISE OBTAINED BY

BUYER CONCERNING ANY OF THE REAL PROPERTY OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING ANY REPRESENTATIONS OR WARRANTIES RELATING TO: (i) THE QUALITY, NATURE, HABITABILITY, MERCHANTABILITY, USE, OPERATION, VALUE, MARKETABILITY, ADEQUACY OR PHYSICAL CONDITION OF ANY OF THE REAL PROPERTY OR ANY ASPECT OR PORTION THEREOF, INCLUDING STRUCTURAL ELEMENTS OF ANY BUILDINGS OR IMPROVEMENTS, ACCESS, SEWAGE, WATER AND UTILITY SYSTEMS, APPLIANCES, SOILS, GEOLOGY, SURFACE WATER, OR (ii) THE MAGNITUDE OR DIMENSIONS OF THE REAL PROPERTY; OR (iii) THE DEVELOPMENT OR INCOME POTENTIAL, OR RIGHTS OF OR RELATING TO, THE REAL PROPERTY, OR THE FITNESS, SUITABILITY, VALUE OR ADEQUACY OF THE REAL PROPERTY FOR ANY PARTICULAR PURPOSE.

(f) **NO LIABILITIES ASSUMED.** Buyer shall not assume (and Seller shall indemnify and hold harmless Buyer from and against) any of Seller's liabilities, obligations, litigation, or claims having their inception on or before the Closing Date or arising from any title policy issued, any act occurring, or any omission failing to occur on or before the Closing Date, unless otherwise expressly and specifically provided for under the terms of this Agreement. Further, except as hereafter provided, Buyer shall not assume any of Seller's liabilities or obligations to pay any taxes or assessments levied by, charged by, or accrued to a federal, state, or local government or agency on or before the Closing Date. Provided, however, it is understood and agreed that any and all ad valorem taxes for the year 2013 on the Real Property the subject of this Agreement being sold by Seller to Buyer shall be prorated as of the Closing Date and that the Buyer will be responsible for, and pay, the 2013 ad valorem taxes on all of such Real Property and Buyer further agrees to indemnify and hold harmless the Seller from and against any and all responsibility or liability whatsoever arising out of, or having to do with, the payment of said 2013 ad valorem taxes, unless otherwise agreed to by the parties in writing. An appropriate provision pertaining to the Buyer's agreement to pay such 2013 ad valorem taxes and agreement to indemnify and hold harmless the Seller from and against any and all responsibility or liability whatsoever arising out of, and having to do with, the payment of said 2013 ad valorem taxes will be incorporated into the Warranty Deed referenced in Paragraph No. 7(b)(i).

4. SELLER REPRESENTATIONS AND WARRANTIES.

Seller represents and warrants to Buyer on the Effective Date and on the Closing Date as follows:

(a) **COMPANY ORGANIZATION.** Seller is a limited partnership duly organized, validly existing and in good standing under Texas law and authorized to transact business in the State of Texas, with full power and authority to sell the Real Property.

(b) **AUTHORIZATION.** Seller has full power and authority to enter into this Agreement to which it is a party, to perform its obligations hereunder, and to consummate the transactions contemplated hereby and thereby, including, without limitation, the execution and delivery of this Agreement, general conveyances, assignments, and other documents and instruments evidencing the sale and transfer of the Real Property or delivered in accordance with this

Agreement. Seller has taken all necessary and appropriate company action with respect to the execution and delivery of this Agreement. This Agreement constitutes a valid and binding obligation of Seller and the parties hereto, enforceable in accordance with its terms.

(c) **TITLE AND RELATED MATTERS.** On the Closing Date, Seller will have good and marketable title to the Real Property to be transferred, free and clear of all liens and Claims, other than the Permitted Exceptions.

(d) **LITIGATION.** There is no Claim pending or, to Seller's knowledge, threatened against Seller which, if adversely determined, would have a Material Adverse Effect on Seller's or Buyer's use of the Real Property, nor is there any Order, decree, consent decree, settlement or other similar directive or agreement respecting a dispute outstanding against Seller which would likely have a Material Adverse Effect on Seller's or Buyer's use of the Real Property.

(e) **COMPLIANCE WITH LAW AND APPLICABLE GOVERNMENT REGULATIONS.** To Seller's knowledge, Seller is presently in substantial compliance with all applicable Regulations and Orders in relation to the Real Property. To Seller's knowledge, there are no Claims pending, or threatened, nor has Seller received any written notice regarding any violations of any Regulations and Orders enforced by any Authority claiming jurisdiction over Seller in relation to the Real Property.

(f) **BROKERS.** Seller has not employed any broker or finder or incurred any liability for any brokerage fees, commissions or finders' fees in connection with the transactions contemplated herein. Seller agrees to indemnify and hold harmless Buyer from and against any and all such claims or demands with respect to any brokerage fees or agents' commissions or other compensation asserted by any person, firm or corporation in connection with this Agreement or the transactions contemplated hereby, insofar as any such claim or demand is based upon a contact or commitment of the Seller.

(g) **NO ADVERSE FACTS OR CONDITIONS.** To Seller's knowledge, there is no significant adverse fact or condition relating to the Real Property that has not been specifically disclosed in writing by Seller to Buyer. Specifically, but without limiting the generality of the preceding sentence, Seller has no knowledge of any adverse fact or condition relating to the Real Property that would preclude or adversely affect Buyer's intended use thereof.

(h) **CONDITION OF THE REAL PROPERTY.** SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION OR STATE OF REPAIR OF THE REAL PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(i) **BANKRUPTCY/INSOLVENCY.** There is no bankruptcy or insolvency proceeding, voluntary or involuntary, pending against Seller.

(j) **AD VALOREM TAXES.** All ad valorem real property taxes and assessments pertaining to the Real Property for the year 2012 and all prior years have been paid.

5. BUYER REPRESENTATIONS AND WARRANTIES.

Buyer represents and warrants to Seller on the Effective Date and on the Closing Date as follows:

(a) **ORGANIZATION.** Buyer is a Texas governmental entity duly organized, validly existing and in good standing under Texas law and authorized to transact business in the State of Texas, with full power and authority to own the Real Property, subject to the Buyer's acquisition of all requisite licenses, permits and approvals required by any governmental agency, if any. With respect to any such licenses, permits and approvals that may need to be obtained by Buyer, Buyer agrees not to apply for or pursue the acquisition thereof until after the Closing Date.

(b) **AUTHORIZATION.** Pursuant to a resolution approved by the County Commissioners of Tyler County, Texas in a Commissioners' Meeting held on May 6, 2013, Buyer has full power and authority to enter into this Agreement, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby, including, without limitation, the execution and delivery of this Agreement and other documents and instruments evidencing the sale and transfer of the Real Property or delivered in accordance with this Agreement. Buyer has taken all necessary and appropriate action with respect to the execution and delivery of this Agreement. This Agreement constitutes a valid and binding obligation of Buyer and the parties hereto, enforceable in accordance with its terms.

(c) **BROKERS.** Buyer has not employed any broker or finder or incurred any liability for any brokerage fees, commissions or finders' fees in connection with the transactions contemplated herein. Buyer agrees to indemnify and hold harmless Seller from and against any and all such claims or demands with respect to any brokerage fees or agents' commissions or other compensation asserted by any person, firm or corporation in connection with this Agreement or the transactions contemplated hereby, insofar as any such claim or demand is based upon a contract or commitment of the Buyer.

(d) **LITIGATION.** There is no Claim pending or, to Buyer's knowledge, threatened against Buyer which, if adversely determined, would have a Material Adverse Effect on Seller's or Buyer's use of the Real Property, nor is there any Order, decree, consent decree, settlement or other similar directive or agreement respecting a dispute outstanding against Seller which would likely have a Material Adverse Effect on Seller's or Buyer's use of the Real Property.

(e) **FINANCIAL CAPABILITY.** Buyer has sufficient cash or borrowing capacity under existing credit facilities to pay the Purchase Price and otherwise perform its obligations hereunder and to pay all fees, costs and expenses for which it is responsible in connection with the transactions contemplated in this Agreement.

6. TITLE INSURANCE AND SURVEY.

(a) **TITLE REPORT.** Buyer shall obtain, within seven (7) days of the Effective Date, a preliminary commitment (including copies of all exception documents, if desired) for title

insurance for the Real Property from the Title Company ("Commitment"). The Buyer agrees that the Real Property will be conveyed by Seller to Buyer subject to the Permitted Exceptions. If the Commitment discloses any objections to the status or condition of the title to the Real Property, other than the Permitted Exceptions, and Buyer shall have advised Seller of all such objections ("Title Objections") within five (5) business days after Buyer's receipt of the Commitment, Seller may, in its sole judgment, attempt to cure any Title Objections raised by Buyer. In the event Buyer does not make any objections to title by giving Seller written notice thereof within the time period provided for herein, Buyer shall be deemed to have approved the condition of the title as shown in the Commitment. In the event Buyer does make objections to title, but Seller is unable to or does not cure any of Buyer's Title Objections prior to the Closing Date, Buyer may, at its option, either (i) accept title subject to the objections raised by Buyer which remain uncured, without an adjustment in the Purchase Price because of such objections and proceed with the Closing, in which event said objections shall be deemed to be waived for all purposes, or (ii) terminate this Agreement by giving written notice thereof to Seller at or prior to the Closing Date, in which event the Deposit shall immediately be returned to Buyer by the Title Company, this Agreement shall be of no further force or effect and the parties shall have no further rights or obligations one to the other hereunder. Any objections to title that are either accepted or waived by Buyer as aforesaid shall be additional "Permitted Exceptions".

(b) **TITLE INSURANCE**. At the Closing, Buyer shall obtain a Texas standard coverage owner's policy of title insurance issued by the Title Company, insuring to Buyer that title to the Real Property is vested in Buyer in fee simple, free and clear of all liens and encumbrances except the Permitted Exceptions. The policy shall provide loss coverage to Buyer in an amount to be determined by Buyer, in Buyer's sole judgment and discretion.

(c) **SURVEY**. At Buyer's option, no later than seven (7) days prior to the Closing Date, Buyer may obtain a new survey of the Property at Buyer's expense and provide that survey to the Title Company. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.

7. **CLOSING**.

(a) **TIME AND PLACE**. The Closing of the transactions contemplated by this Agreement shall take place at the offices of the Title Company at 10:00 a.m. on the Closing Date, unless the parties agree otherwise.

(b) **DELIVERIES AT THE CLOSING BY THE SELLER**. At the Closing, the Seller shall deliver to the Buyer the following:

(i) A duly executed General Warranty Deed whereby the Real Property is conveyed by Seller to Buyer, subject to the Permitted Exceptions, and otherwise in a form satisfactory and acceptable to Buyer and Seller;

(ii) An affidavit of debts and liens certifying that there are not liens encumbering the property that will not be paid off as part of Closing;

(iii) A corporate resolution for the Seller evidencing that the General Partner for the Seller has authorized the transactions contemplated by this Agreement and further evidencing who is authorized to sign documents on behalf of the General Partner of the Seller;

(iv) A Certificate of Good Standing from the Texas Comptroller of Public Accounts evidencing that the Seller and its General Partner are each, in fact, a company in good standing in the State of Texas;

(v) A "FIRPTA Certification", evidencing that the Seller is not a foreign person as defined in Section 1445(f)(3) of the Internal Revenue Code and the regulations issued thereunder;

(vi) Tax Certificates from the appropriate taxing entities/authorities evidencing that all ad valorem taxes and personal property taxes (if any) on the Real Property for the year 2012, and all prior years, have been paid; and

(vii) Such other and additional documents as are reasonably required by the Title Company or necessary to carry out this Agreement.

(c) **DELIVERIES AT CLOSING BY THE BUYER.** At the Closing the Buyer shall deliver to the Seller the following:

(i) Immediately available funds by wire transfer to Seller, in a sum equal to the Purchase Price to be paid on the Closing Date at the Closing, subject to the credit for the Deposit (which will also be paid to Seller) and the proration of ad valorem taxes on the Real Property as of the Closing Date, as provided in Paragraph No. 3(d) hereof. (Prior to the Closing, Seller shall provide to Buyer specific written wire transfer instructions for this purpose);

(ii) A certificate of the Buyer to the effect that the representations and warranties of the Buyer contained herein were true and correct when made and are true and correct at and as of the Closing Date and that Buyer has performed all obligations and complied with all covenants required by this Agreement to be performed or complied with by Buyer on or prior to the Closing Date;

(iii) A Resolution evidencing that the Tyler County Commissioners Court for the Buyer has authorized the transactions contemplated by this Agreement and further evidencing who is authorized to sign documents on behalf of Buyer; and

(iv) Such other and additional documents as are reasonably required by the Title Company or necessary to carry out this Agreement.

8. CONDITIONS PRECEDENT TO SELLER'S OBLIGATION TO CLOSE. Unless waived by Seller in writing, the obligation of the Seller to complete the Closing of the transactions provided in this Agreement is subject to, and contingent upon, the fulfillment, prior to or on the Closing Date, of each of the following conditions:

- (a) Buyer having paid at Closing the Purchase Price pursuant to Paragraph 3(c);
- (b) There shall have been no material breach by Buyer in the performance of any of its covenants;
- (c) The Buyer's representations and warranties contained or referred to in this Agreement shall be true and correct in all material respects on the Closing Date as if made on the Effective Date; and
- (d) All company action necessary to authorize the execution, delivery and performance of this Agreement by Buyer shall have been duly and validly taken.

If these conditions are not satisfied as of the Closing Date, Seller shall be entitled to terminate this Agreement, the Deposit shall be returned to Buyer and this Agreement shall be of no further force or effect and the parties shall have no further rights or obligations one to the other hereunder.

9. CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE. Unless waived by Buyer in writing, the obligation of Buyer to complete the Closing of the transactions provided in this Agreement is subject to the fulfillment, prior to or on the Preliminary Closing Date, of the following conditions:

- (a) Seller's execution and delivery at the Closing of the General Warranty Deed referenced in Paragraph No. 7(b)(i), above;
- (b) Seller's execution and delivery of an affidavit of debts and liens referenced in Paragraph No. 7(b)(ii);
- (c) There shall have been no material breach by Seller in the performance of any of its covenants;
- (d) The Seller's representations and warranties contained or referred to in this Agreement shall be true and correct in all material respects on the Closing Date as if made on the Effective Date; and
- (e) All company and partnership action necessary to authorize the execution, delivery and performance of this Agreement by Seller shall have been duly and validly taken.

If these conditions are not satisfied as of the Closing Date, Buyer shall be entitled to terminate this Agreement, the Deposit shall be returned to Buyer and this Agreement shall be of no further force or effect and the parties shall have no further rights or obligations one to the other hereunder.

10. CONDEMNATION OR CASUALTY.

(a) In the event all or any portion of the Real Property is taken by the exercise of the power of eminent domain prior to the Closing Date or any such taking is threatened prior to the Closing Date, Seller shall immediately notify Buyer of such taking or threatened taking ("Condemnation(s)") and shall provide Buyer with copies of all documents relating thereto. In the event any such Condemnation(s) involves a value of the Real Property greater than 10% of the Purchase Price (the "Condemnation Value"), Buyer may terminate this Agreement. In such case, the Deposit shall be returned to Buyer, and the parties shall be released from all further obligations and liabilities under this Agreement.

(b) In the event any such Condemnation Value prior to the Closing Date is equal to or less than 10% of the Purchase Price, the transactions contemplated hereby shall, subject to the other terms and conditions of this Agreement, close and all awards or other payments on account of such Condemnation shall belong to Buyer unless this Agreement is otherwise terminated, in which case all awards or other payments on account of such taking shall belong to Seller. Pending Closing, the parties shall cooperate in good faith in advancing the claim against the condemning authority involved. All costs related thereto shall be paid by the party incurring such cost.

(c) If between the date hereof and immediately prior to the Closing Date, the Real Property having a value of greater than 10% of the Purchase Price is destroyed by fire, flood, wind, tornado or Act of God, Buyer shall have the right to terminate this Agreement prior to the Closing Date by written notice to Seller. In such case the Deposit shall be returned to Buyer, and the parties shall be released from all further obligations and liabilities under this Agreement. If any such casualty loss is equal to or less than 10% of the Purchase Price, then the Purchase Price shall be reduced accordingly at the Closing. Risk of loss shall pass from Seller to Buyer on the Closing Date.

11. FAILURE TO CLOSE/DEFAULT.

(a) **SELLER DEFAULT.** If the Closing shall not have occurred due to Seller's default hereunder, Buyer will be entitled, as its sole and exclusive remedy, to cancel this Agreement, recover the Deposit without interest, and the parties shall be released from all further obligations and liabilities under this Agreement.

(b) **BUYER DEFAULT.** If the Closing shall not have occurred due to Buyer's default hereunder, Seller will be entitled, as its sole and exclusive remedy, to cancel this Agreement, retain the Deposit as liquidated damages to compensate Seller for its losses incurred in taking the Real Property off the market, and the parties shall be released from all further obligations and liabilities under this Agreement. Buyer expressly agrees that the retention of the Deposit by Seller represents a reasonable estimation of the damages in the event of Buyer's default, that actual damages may be difficult to ascertain and that this provision does not constitute a penalty.

12. COMMERCIALLY REASONABLE EFFORTS. Subject to the terms and conditions of this Agreement, the parties covenant and agree that they will use their commercially reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement.

13. MISCELLANEOUS.

(a) **NOTICES.** All notices required or permitted to be given hereunder, or given in regard to this Agreement by one party to the other, shall be in writing and the same shall be given and be deemed to have been served, given and received (i) if delivered by hand, facsimile transmission or e-mail, when delivered in person or the transmission or the e-mail is received at the address, facsimile number or e-mail address set forth hereinafter for the party to whom notice is given, or (ii) if mailed, when placed in the United States mail, postage pre-paid, by certified mail, return receipt requested, addressed to the party at the address hereinafter specified. Any party may change its address, facsimile number or e-mail address for notices by giving five days advance written notice to the other party hereto in the manner provided for herein. Until changed in the manner provided herein, the parties' respective addresses, facsimile numbers and e-mail addresses for notices hereunder are as follows:

If to Seller: Duncan-Two, Ltd.
1905 Columbine Dr.
Lufkin, Texas 75904
Attention: Mr. Rufus H. Duncan, Jr.
Telephone:
Facsimile:
E-mail:

If to Buyer: County of Tyler, Texas
Courthouse
100 West Bluff
Woodville, Texas 75979
Telephone:
Facsimile:
E-mail:

(b) **EXPENSES.** Except as otherwise expressly provided herein, each party shall pay any expenses incurred by it incident to this Agreement.

(c) **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of Buyer and Seller and their respective successors and permitted assigns, but shall not be assignable or delegable in whole or in part without the prior written consent of the other party, which shall not be unreasonably withheld.

(d) **WAIVER.** Buyer and Seller by written notice to the other, may (a) extend the time for performance of any of the obligations or other actions of the other under this Agreement; (b)

waive any inaccuracies in the representations or warranties of the other in this Agreement or in any document delivered pursuant to this Agreement; (c) waive compliance with any of the conditions or covenants of the other in this Agreement or (d) waive or modify performance of any of the obligations of the other under this Agreement; however, no party may, without the consent of the other, make or grant such extension of time, waiver of inaccuracies or compliance, or waiver or modification of performance with respect to its own obligations, representations, warranties, conditions, or covenants. Except as provided in the preceding sentence, no action taken pursuant to this Agreement shall be deemed a waiver of compliance with any representations, warranties, covenants or agreements in this Agreement and shall not operate or be construed as a waiver of any subsequent breach.

(e) **ENTIRE AGREEMENT.** This Agreement and the exhibits, which are expressly incorporated herein, supersede any other agreement, whether written or oral, that may have been made or entered into by Seller or Buyer relating to the Real Property. This Agreement constitutes the entire agreement by and between the parties, and there are no other agreements, representations or commitments except as referenced herein.

(f) **AMENDMENTS.** This Agreement may not be modified or amended except by the written agreement of the parties.

(g) **APPLICABLE LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to its conflict of law principles. Furthermore, venue for any cause of action arising out of, or having to do with, this Agreement shall be in Tyler County, Texas.

(h) **EXECUTION IN COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Facsimile and electronic copies of signatures shall be deemed as effective as original signatures.

(i) **ATTORNEY'S FEES.** If any legal action or other proceeding is brought by any party against the other party for the enforcement of this Agreement or because of an alleged dispute, death or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover from the other party its actual attorneys' fees, expert fees and other costs incurred in that action or proceeding, or on any appeal, in addition to any other relief to which it may be entitled. The prevailing party will be deemed to be the party to have won on the issues with the greatest value as determined by the court(s).

(j) **SEVERABILITY.** If any provision, phrase or other portion of this Agreement shall be deemed by any court of competent jurisdiction to be invalid, illegal, or unenforceable, in whole or in part, and such determination should become final, such provision, phrase or other portion shall be deemed to be severed or limited, but only to the extent required to render the remaining provisions hereof enforceable, provided that the severing of any such provision will not materially change the substance of this Agreement as so amended, this Agreement shall be enforced to the fullest extent possible to give effect to the intention of the parties expressed herein.

(k) **NO THIRD-PARTY BENEFICIARIES.** Nothing in this Agreement shall be construed to create any rights in any third party against either Seller or Buyer.

(l) **FURTHER ASSURANCES.** Each party shall at any time after Closing execute and deliver to the other party all such additional instruments of conveyance and assignment, certificates or other documents as such other party may reasonably request in order to further the intent of this Agreement.

(m) **HEADINGS AND CAPTIONS.** Subject headings and captions are included for convenience purposes only and shall not affect the interruption of this Agreement.

(n) **GENDER AND PRONOUNS.** Throughout this Agreement, the masculine shall include the feminine and neuter and the singular shall include the plural and vice versa as the context requires.

(o) **CONFIDENTIALITY.** To the fullest extent permitted under applicable law, the parties hereto shall keep the non-public terms, conditions and provisions of this Agreement confidential; however, the parties may release information as required by applicable law, and to their respective lenders, partners, employees, attorneys, consultants and contractors so long as any such party is made aware of the provisions of this subparagraph.

(p) **TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement.

(q) **SURVIVAL OF COVENANTS AND AGREEMENTS.** Notwithstanding any presumption to the contrary, but subject to any provision relating to survival set forth elsewhere in this Agreement, covenants, conditions, representations and warranties contained in this Agreement, which, by their nature, impliedly or expressly involve performance in any particularity after Closing, or which cannot reasonably be ascertained to have been fully performed until after Closing, shall survive Closing and be fully enforceable thereafter.

[SIGNATURE PAGE TO FOLLOW]

EXECUTED this _____ day of _____, 2013.

SELLER:

Duncan-Two, Ltd.

By: _____
Rufus H. Duncan, Jr., sole manager of D2 GP, LLC,
acting as the General Partner of Duncan-Two, Ltd.

EXECUTED this 28th day of May, 2013.

BUYER:

County of Tyler, Texas

By: Jacques L. Blanchette
Jacques L. Blanchette, as County Judge



CHICAGO TITLE INSURANCE COMPANY

Policy No.: TX3359-46-13-7317-2013.7239843-89246339

OWNER'S POLICY OF TITLE INSURANCE (T-1)

Issued by
CHICAGO TITLE INSURANCE COMPANY

Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from:
 - (a) A defect in the Title caused by:
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.
 - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
 - (d) Any statutory or constitutional mechanic's, contractor's, or materialman's lien for labor or materials having its inception on or before Date of Policy.
3. Lack of good and indefeasible Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting or relating to:
 - (a) the occupancy, use or enjoyment of the Land;
 - (b) the character, dimensions or location of any improvement erected on the Land;
 - (c) subdivision of land; or
 - (d) environmental protectionif a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective:
 - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency or similar creditors' rights laws; or
 - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy,

state insolvency or similar creditors' rights laws by reason of the failure of its recording in the Public Records:

(i) to be timely, or

(ii) to impart notice of its existence to a purchaser for value or a judgment or lien creditor.

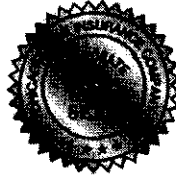
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

CHICAGO TITLE INSURANCE COMPANY

By:

Marivel Fortenberry



Agnes M. [Signature]
ATTEST President

[Signature] Secretary

Authorized Signatory

Marivel Fortenberry

TX3359 13-7317
Tyler County Title, LLC
318 W Dogwood St
Woodville, TX 75979-4834
Tel: (409) 283-2582
Fax: (409) 283-3777

OWNER'S POLICY OF TITLE INSURANCE

Issued by

Chicago Title Insurance Company

SCHEDULE A

Name and Address of Title Insurance Company:
CHICAGO TITLE INSURANCE COMPANY
601 Riverside Ave., Jacksonville, 32204

File No.: 13-7317

Policy No.: 7239843-89246339

Address for Reference only: 200 N. Charlton, Woodville, TX 75979

Amount of Insurance: \$260,000.00

Premium: \$1,761.00

Date of Policy: June 13, 2013, at 4:00 pm

1. Name of Insured: County of Tyler, Texas
2. The estate or interest in the Land that is insured by this policy is: **Fee Simple** subject to, and the Company does not insure title to, and excepts from the description of the Land, coal, lignite, oil, gas and other minerals in, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto.
3. Title is insured as vested in: County of Tyler, Texas
4. The Land referred to in this policy is described as follows:

Being all of Block Twenty (20) of the City of Woodville, Tyler County, Texas, as reflected on the official Map or Plat of the City of Woodville of record in the Office of the County Clerk of Tyler County, Texas, reference to which Map or Plat is herein made for all pertinent purposes. Said City of Woodville being situated in the Josiah Wheat Survey, Abstract No. 657.

NOTE: The Company is prohibited from insuring the area or quantity of land described herein. Any statement in the above legal description of the area or quantity of land is not a representation that such area or quantity is correct, but is made only for informational and/or identification purposes and does not override Item 2 of Schedule B hereof.

OWNER'S POLICY OF TITLE INSURANCE

Issued by

Chicago Title Insurance Company

SCHEDULE B

File No.: 13-7317

Policy No.: 7239843-89246339

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 the terms and conditions of leases and easements, if any, shown in Schedule A, and the following matters:

1. ~~The following restrictive covenants of record itemized below (the Company must either insert specific recording data or delete this exception):~~
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Homestead or community property or survivorship rights, if any, of any spouse of any Insured.
4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,
 - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
 - b. to lands beyond the line of harbor or bulkhead lines as established or changed by any government, or
 - c. to filled-in lands, or artificial islands, or
 - d. to statutory water rights, including riparian rights, or
 - e. to the area extending from the line of mean low tide to the line of vegetation, or the right of access to that area or easement along and across that area.
5. Standby fees, taxes and assessments by any taxing authority for the year 2013, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, *Texas Tax Code*, or because of improvements not assessed for a previous tax year.
6. The following matters and all terms of the documents creating or offering evidence of the matters (The Company must insert matters or delete this exception.):
 - a. **Rights of parties in possession.**
 - b. **Subject to any Lease Agreement between the Owners and any Co-Tenants in possession of the herein described tract of land.**
 - c. **Subject to all Sanitary Sewer Easements, Telephone Easement or Underground Telephone Easement, any Utility Easements, Water Line Easements, Power Poles, Electric Power Lines, etc., located on the herein described tract of land, as reflected on Plat dated June 6, 2013, prepared by Area Surveying & Mapping, Lyle Rainey, R. P. L. S. No. 4800.**
 - d. **Subject to the Overhead Electric Power Lines crossing the herein described tract of land, as reflected on Plat dated June 6, 2013, prepared by Area Surveying & Mapping, Lyle Rainey, R. P. L. S. No. 4800.**

- e. Subject to the protrusion of the Pipe Rail Fence the protrudes onto N. Charlton Street, as reflected on Plat dated June 6, 2013, prepared by Area Surveying & Mapping, Lyle Rainey, R. P. L. S. No. 4800.
- f. Subject to the Concrete Paving and Parking, as reflected on Plat dated June 6, 2013, prepared by Area Surveying & Mapping, Lyle Rainey, R. P. L. S. No. 4800.
- g. Subject to any rights and claims of co-tenants in and to the land, both surface and mineral estates and of those persons claiming under co-tenants, including but not limited to, rights of partition, claims for improvements, claims for reimbursement, owelty or partition and agreements between co-tenants.
- h. Subject to any part of the herein described tract of land, including without limitation, the edge of payment, which lies within the boundary or right of way of Charlton Street, Dogwood Street, Village Street and Walt Davis Drive, as reflected on Plat dated June 6, 2013, prepared by Area Surveying & Mapping, Lyle Rainey, R. P. L. S. No. 4800.
- i. Any visible or apparent easements or roadways across, over, or on the subject property, the existence of which does not appear of record, including, but not limited to, any public utility easements above or below the surface of the herein described property possessed by any private or public utility companies or municipalities.
- j. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
- k. Any matters that would be reflected on a current survey of the property, including but not limited to easements, electric lines, water lines, fences, protrusions, encroachments, or any part of the property that lies within the boundary of a road, street, highway, or other thoroughfare.
- l. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.
- m. Any interest in the mineral estate based on a lease, unitization, reservation and/or conveyance affecting the surface estate of the subject property, including any assignments of such interest or any other matters or right of any parties pertaining to any such interest.
- n. There is expressly excluded from coverage hereunder, and this Company does not insure title to oil, gas and other minerals of every kind and character, in, on and under the property herein described. This policy does not insure against loss sustained by the owner of the surface of said property through the exercise of the right of ingress and egress and/or any other right or privilege incident to the ownership of said mineral estate.
- o. Subject to all the terms, conditions and stipulations as set out in that certain No Drilling Ordinance as set out in Ordinance No. 20060814-1, an Amendment to the Code Chapter 27 of Ordinances of the City of Woodville, Texas passed and approved by the City Council of the City of Woodville, Texas on the 14th day of August, 2006.
- p. Subject to all the terms, conditions and stipulations as set out in that certain Mandatory Water and Sewer Service Ordinance as set out in Ordinance No. 20110523, an amendment to Chapter 66 of the Code of Ordinances of the City of Woodville, Texas passed and approved by the City Council of the City of Woodville, Texas on the 23rd day of May, 2011.

Chicago Title Insurance Company

Owner's Policy No.: 7239843-89246339

Premium Amount	Rate Rules	Property Type	County Code	Liability	Date	7	8
1 \$1,761.00	2 1000	3 40	4 457	5 \$260,000.00	6 06/13/2013	7	8

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) 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.
6. The refusal of any person to purchase, lease or lend money on the estate or interest covered hereby in the land described in Schedule A because of Unmarketable Title.

CONDITIONS

1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

- (a) "Amount of Insurance": the amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company or other similar legal entity.
- (d) "Insured": the Insured named in Schedule A.
 - (i) The term "Insured" also includes:
 - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives or next of kin;
 - (B) successors to an Insured by dissolution, merger, consolidation, distribution or reorganization;
 - (C) successors to an Insured by its conversion to another kind of Entity;
 - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title:
 - (1) If the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
 - (2) If the grantee wholly owns the named Insured,
 - (3) If the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
 - (4) If the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.
 - (ii) With regard to (A), (B), (C) and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant": an Insured claiming loss or damage.
- (f) "Knowledge" or "Known": actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land": the land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matter relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the

clerk of the United States District Court for the district where the Land is located.

- (j) "Title": the estate or interest described in Schedule A.
- (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation 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 warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

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

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) below, or (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

When, after the Date of the Policy, the Insured notifies the Company as required herein of a lien, encumbrance, adverse claim or other defect in Title insured by this policy that is not excluded or excepted from the coverage of this policy, the Company shall promptly investigate the charge to determine whether the lien, encumbrance, adverse claim or defect or other matter is valid and not barred by law or statute. The Company shall notify the Insured in writing, within a reasonable time, of its determination as to the validity or invalidity of the Insured's claim or charge under the policy. If the Company concludes that the lien, encumbrance, adverse claim or defect is not covered by this policy, or was otherwise addressed in the closing of the transaction in connection with which this policy was issued, the Company shall specifically advise the Insured of the reasons for its determination. If the Company concludes that the lien, encumbrance, adverse claim or defect is valid, the Company shall take one of the following actions: (i) institute the necessary proceedings to clear the lien, encumbrance, adverse claim or defect from the Title as insured; (ii) indemnify the Insured as provided in this policy; (iii) upon payment of appropriate premium and charges therefor, issue to the Insured Claimant or to a subsequent owner, mortgagee or holder of the estate or interest in the Land insured by this policy, a policy of title insurance without exception for the lien, encumbrance, adverse claim or defect, said policy to be in an amount equal to the current value of the Land or, if a loan policy, the amount of the loan; (iv) indemnify another title insurance company in connection with its issuance of a policy(ies) of title insurance without exception for the lien, encumbrance, adverse claim or defect; (v) secure a release or other document discharging the lien, encumbrance, adverse claim or defect; or (vi) undertake a combination of (i) through (v) herein.

4. PROOF OF LOSS.

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 Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance or other matter insured against by this policy 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.

5. DEFENSE AND PROSECUTION OF ACTIONS.

- (a) Upon written request by the Insured, and subject to the options contained in Sections 3 and 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It 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 the Insured in the defense of those causes of action that allege matters not insured against by this policy.
- (b) The Company shall have the right, in addition to the options contained in Sections 3 and 7, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.
- (c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE.

- (a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the 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.
- (b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, emails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that 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 of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the 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 the Insured Claimant to submit for examination under oath, produce any reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. 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.

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 that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, 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. In addition, the Company will pay any costs, attorneys' fees and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that 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 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 subsections (b)(i) or (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.

8. 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.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of:

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 3 or 5 and is unsuccessful in establishing the Title, as insured:

(i) the Amount of Insurance shall be increased by 10%; and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. 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, all as insured, or takes action in accordance with Section 3 or 7, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(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, adverse to the Title, as insured.

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

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE.

The Amount of Insurance shall be reduced by any amount the Company pays 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 executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS.

When liability and the extent of loss or damage have been definitely fixed in

accordance with these Conditions, the payment shall be made within 30 days.

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT.

- (a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. 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 and remedies. If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.
- (b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. ARBITRATION.

Either the Company or the Insured 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 Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured, unless the Insured is an individual person (as distinguished from an Entity). All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.

- (a) This policy together with all endorsements, if any, attached to it 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 that arises out of the status of the Title or by any action asserting such claim, shall be restricted to this policy.
- (c) Any amendment of or endorsement to this policy must be in writing and

authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

- (d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy or (iv) increase the Amount of Insurance. Each Commitment, endorsement or other form, or provision in the Schedules to this policy that refers to a term defined in Section 1 of the Conditions shall be deemed to refer to the term regardless of whether the term is capitalized in the Commitment, endorsement or other form, or Schedule.

Each Commitment, endorsement or other form, or provision in the Schedules that refers to the Conditions and Stipulations shall be deemed to refer to the Conditions of this policy.

16. SEVERABILITY.

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

17. CHOICE OF LAW; FORUM.

- (a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy 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 policies of title insurance 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 against the Title that are adverse to the Insured, and in interpreting and enforcing the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of laws principles to determine the applicable law.
- (b) Choice of Forum: Any litigation or other proceeding brought by the Insured 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.

18. NOTICES, WHERE SENT.

Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at National Claims Administration, P.O. Box 45023, Jacksonville, Florida 32232-5023.

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Chicago Title Insurance Company's toll-free telephone number for information or to make a complaint at:

1-800-442-7067

You may also write to Chicago Title Insurance Company at:

8750 N. Central Expwy., Suite 950
Dallas, Texas 75231

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis Compania de Seguros de Título de Chicago Title para informacion o para someter una queja al:

1-800-442-7067

Usted tambien puede escribir a Compania Seguros de Título de Chicago Title

8750 N. Central Expwy., Suite 950
Dallas, Texas 75231

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS O RECLAMOS:

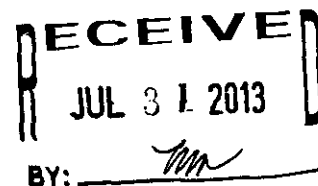
Si tiene una disputa concierne a su prima o a un reclamo, debe comunicarse con el (la compania) primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA:

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

TYLER COUNTY TITLE

318 WEST DOGWOOD
WOODVILLE, TEXAS 75979
(409) 283-2582
FAX (409) 283-3777
WWW.TYLERCOUNTYTITLE.COM



County of Tyler, Texas
100 West Bluff
Woodville, TX 75979

RE: GF#13-7317 purchase from Duncan-Two Ltd.

Dear Judge Blanchette:

In connection with the transaction recently handled by us for you, we are pleased to enclose your Owner's Title Policy. If you have not already received it, the original Deed will be sent to you from our office or directly from the Tyler County Clerk's Office.

A special file has been set up on your property, and therefore, we are in a position to render you excellent service in future transactions. In the event you desire to sell or mortgage your property, contact us immediately and we will expeditiously handle your title insurance.

The taxes for the previous year have been paid and you will be responsible for this year's taxes and subsequent years. **You should insure that the property is assessed in your name at the Tyler County Appraisal District office located at 806 West Bluff Street, Woodville, Texas 75979 in order to receive your tax statements.**

We appreciate the opportunity to be of service to you and if we can be of further assistance now or in the future, please do not hesitate to contact us.

Sincerely,

Marivel Fortenberry

Marivel Fortenberry
Escrow Officer

Enclosure

County of Tyler



NO. _____ TIME 11:50am

Martin Nash
Commissioner
Precinct 1

Rusty Hughes
Commissioner
Precinct 2

Jacques L. Blanchette
County Judge
Tyler County Courthouse, Room 102
100 West Bluff
Woodville, TX 75979

MAY 28 2013
DONECE GREGORY, COUNTY CLERK
TYLER COUNTY, TEXAS
By Jack Walston
Jack Walston
Commissioner
Precinct 4

Mike Marshall
Commissioner
Precinct 3

COMMISSIONERS COURT RESOLUTION ADOPTING THE TYLER COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

WHEREAS, Tyler County is subject to hurricanes, flooding, drought and other natural disasters having the potential to cause damage to people, property and the natural environment, and desires to reduce future losses from such events; and,

WHEREAS, under the Disaster Mitigation Act of 2000 FEMA requires local jurisdictions have in place a FEMA-approved Hazard Mitigation Plan as a condition of receipt future federal mitigation assistance funding; and,

WHEREAS, Tyler County has entered into the Tyler County Multi-Jurisdictional Hazard Mitigation Plan (HMP) with other participating county jurisdictions for the purpose of developing the plan; and,

WHEREAS, the strategy set forth in the HMP must be implemented, monitored and evaluated in the future; and,

WHEREAS, the members of Tyler County have adopted a resolution wherein providing administrative and technical support services necessary for future updates to the HMP.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF TYLER COUNTY, TEXAS, that Tyler County hereby adopt the Tyler County Multi-Jurisdictional Hazard Mitigation Plan; and, vested with the responsibility, authority and the means to:

1. That the Emergency Management Coordinator of Tyler County, as the Hazard Mitigation Coordinator of the HMP, be vested with the responsibility, authority and the means to:
 - a. Inform all concerned parties of this action,
 - b. Ensure the HMP is submitted to the Commissioners Court for approval following approval by the Federal Emergency Management Agency,
 - c. Ensure the HMP is reviewed at least annually and after ever significant natural disaster affecting the County.
 - d. Collect and maintain records necessary to update the HMP on a five year revision cycle.
2. That to the extent permitted under the laws and the Constitution of the State of Texas, the Tyler County Judge shall ensure that the mitigation strategy is reviewed, and where appropriate, incorporated into other land use and planning mechanism.
3. That the Commissioners Court aggress to take such other official action as may reasonably be necessary to carry out the objectives of the HMP.

DULY ADOPTED BY VOTE OF THE COMMISSIONERS COURT OF TYLER COUNTY, TEXAS, ON THE 28th DAY OF MAY, 2013.

Martin Nash
Martin Nash
Commissioner, Precinct 1

Jacques L. Blanchette
Jacques L. Blanchette
Tyler County Judge

Rusty Hughes
Rusty Hughes
Commissioner, Precinct 2

Mike Marshall
Mike Marshall
Commissioners, Precinct 3

Jack Walston
Jack Walston
Commissioners, Precinct 4

ATTEST:
Donece Gregory
Donece Gregory, County Clerk

SPARKS ENGINEERING, INC.

Consulting Services Agreement

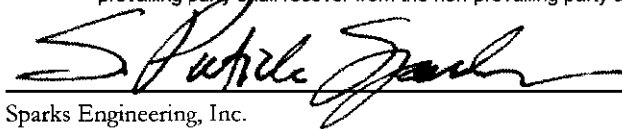
Sparks Engineering, Inc. (Consultant) is an independent consultant and agrees to perform the Scope of Services as described below:

Scope of Services

Preliminary structural evaluation of the Tyler County Courthouse in Woodville, Texas to evaluate the reported wall movement. Services will include a single site visit, observations of accessible areas, and development of written opinions and recommendations regarding major structural issues. Our fee for these services will be \$2,800 Lump Sum (includes expenses). Additional services, if requested, can be provided on an hourly basis per our fee schedule.

Terms and Conditions

1. **Fee:** Unless otherwise defined in the Scope of Services, the fee for consulting services will be based on actual time expended and expenses incurred, in accordance with the attached Fee Schedule.
2. **Standard of Care:** Consultant's services will be performed using that degree of care and skill ordinarily exercised under similar conditions by reputable members of the engineering profession practicing in the same or similar locality at the time of service. No warranty, express or implied, is made or intended by this proposal or by oral or written reports or designs.
3. **Professional Liability:** To the fullest extent permitted by applicable law, Client agrees that Consultant's liability, and that of each of its employees, agents and subcontractors, to Client, any Secondary Clients, or any third party, due to Consultant's breach of contract or negligent professional acts, errors or omissions will be limited to an aggregate of \$50,000 or the total fees paid by Client to Consultant, whichever is greater.
4. **Site Responsibility:** Consultant's services do not include supervision or direction of the means, methods or actual work of contractor(s) not retained by Consultant. The presence of Consultant's representatives will not relieve the contractor(s) of its responsibility to perform the work in accordance with the contract documents. Consultant will not be responsible for job or site safety or security, other than for Consultant's employees.
5. **Opinions of Cost:** Opinions of Cost for construction prepared by Consultant are intended to provide information on the magnitude of such costs and are not a quotation or guarantee of actual costs. Client understands that the actual cost of construction is beyond Consultant's control and may vary significantly from Consultant's opinion of cost.
6. **Ownership of Documents:** The Client acknowledges that all reports, drawings, specifications, computer files, field data, notes and other original documents prepared by Consultant, including electronic files, are instruments of professional service. Nevertheless, the final documents prepared under this Agreement shall become the property of the Client upon completion of the services and payment in full of all monies due to the Consultant. The Client shall not reuse or make any modification to these final documents without the prior written authorization of the Consultant. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way connected with the unauthorized reuse or modification of the final documents by the Client or any person or entity that acquires or obtains the final documents from or through the Client without the written authorization of the Consultant.
7. **Priority over Form Agreements:** These terms and conditions shall govern over any Form Agreements such as Purchase Orders or Work Orders or other form writings issued by the Client, without altering the terms hereof, regardless of any contrary language appearing in the Form Agreement.
8. **Payment:** Invoice terms are monthly based on percent complete for fee based projects and time spent for hourly projects. Invoices are due upon receipt and will accrue interest in the amount of 0.75% per month for every month they are not paid. If payment is not received within 60 days of invoice date, Consultant reserves the right to suspend work efforts until all outstanding invoices are paid in full.
9. **Disputes:** If a dispute arises with regard to this agreement, it shall be enforceable in Williamson County, Texas, and the prevailing party shall recover from the non-prevailing party all reasonable attorney's fees and expenses incurred.



President

May 24, 2013

Sparks Engineering, Inc.


Title

Date

Authorization

To authorize these services, please sign below and return one signed original.

Client Name Tyler County Attention Judge Jacques L. Blanchette
Address 100 W. Bluff, Rm. 101 Tel. 409-283-2141 Fax 409-331-0028
City Woodville State Texas Zip 75979

 Judge 5-28-13
Signature and printed name of authorized representative Title Date

2013 Fee Schedule

Personnel

The following hourly rates (plus expenses¹) apply for time spent in evaluation, field investigation, analysis, design, project management, consultation or meetings, site visits, travel time, sampling, review and analysis of field and laboratory data, report preparation and review, etc.

A.	Professional		
	Principal Engineer		\$ 165.00/hr
	Senior Engineer		\$ 135.00/hr
	Project Manager		\$ 135.00/hr
	Project Engineer		\$ 110.00/hr
	Expert Witness ²		\$ 248.00/hr
B.	Support Personnel		
	Administrative Assistant		\$ 50.00/hr
	CAD Operator/Drafter		\$ 70.00/hr
	Technician		\$ 80.00/hr

Expenses

A.	Travel Expenses ³		
	1. Company or personal vehicle:	Per mile at the Current Federal Rate	
	2. Airfare or other travel:	At cost	
	3. Per Diem expenses:	Meals & Incidentals shall be \$39 per day	
	4. Lodging:	At cost when required to remain overnight or on full-time projects outside metropolitan area of the home office.	
B.	Special equipment or supplies, permits, shipping charges, special printing or other items not customarily provided will be charged at cost.		
C.	Drawing plots and copies, as follows:		
	1. Bond:		\$ 3.00/sheet
	2. Translucent Bond:		\$ 5.00/sheet
	3. Vellum:		\$10.00/sheet

Subcontracts

- A. Subcontract services (if required) will be invoiced at cost. Administrative and professional fees for coordination and administration of the subcontract will be included in our proposed fee.

Our hourly billing rates are subject to change on an annual basis. When this occurs, our invoices for hourly projects will reflect our latest billing rates. However, previously established lump-sum fees and non-to-exceed fees will be unaffected by any rate changes.

g:\proposals\13-0524 tyler cch evaluation.docx

¹ All fees and expenses are portal to portal.

² Expert witness fees apply to testimony in trial, arbitration, or deposition.

³ When possible, we will pro-rate travel expenses among active projects involving travel to the same general area.



TYLER COUNTY COMMISSIONERS COURT

County Courthouse, Room 101 / Woodville, Texas

Tuesday
May 28, 2013
8:30 AM

MARTIN NASH
Commissioner, Pct. 1

RUSTY HUGHES
Commissioner, Pct. 2

JACQUES L. BLANCHETTE
County Judge

MIKE MARSHALL
Commissioner, Pct. 3

JACK WALSTON
Commissioner, Pct. 4

NOTICE Is hereby given that a *Special Meeting* of the Tyler County Commissioners Court will be held on the date stated above, at which time the following subjects will be discussed;

Amended Agenda

"No man is above the law, and no man is below it."
Theodore Roosevelt

➤ **CALL TO ORDER**

- Establish quorum

I. **CONSIDER/APPROVE**

- Authorization** for Judge to sign Purchase and Sales Agreement and any and all documents necessary to facilitate said purchase and sale property – *Joe Smith, District Attorney*
- Resolution** adopting the Tyler County Multi-Jurisdictional Hazard Mitigation Plan – *Dale Freeman, Emergency Management*
- Consulting Services** from Sparks Engineering, Inc. for the assessment of the Courthouse structure and foundation – *J. Blanchette*

II. **EXECUTIVE SESSION**

Consult with District Attorney and/or his legal staff in executive session held in accordance with Texas Government Codes 555.071(1)(A), (2) regarding pending and/or contemplated litigation, and/or 551.074, regarding personnel matters, and/or property acquisition.

➤ **ADJOURN**

I do hereby certify that the above Notice of Meeting of the Tyler County Commissioners Court is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice at the Tyler County Courthouse in a place readily accessible to the general public at all times and that said Notice remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting, as is required by Section 551.002 & 551.041.

Executed on May 24 2013 Time 4:50

Donece Gregory, County Clerk/Ex Officio Member of Commissioners Court

By: *July Whitehead* (Deputy)



TYLER COUNTY COMMISSIONERS COURT
County Courthouse, Room 101 / Woodville, Texas

*+ Rusty Absent
+ Dale, Jack, for i Jerry
MAH*

Tuesday
May 28, 2013
8:30 AM

MARTIN NASH
Commissioner, Pct. 1

RUSTY HUGHES
Commissioner, Pct. 2

JACQUES L. BLANCHETTE
County Judge

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*"No man is above the law, and no man is below it."
Theodore Roosevelt*

➤ **CALL TO ORDER**

- Establish quorum

I. CONSIDER/APPROVE

N/m A. **Authorization** for Judge to sign Purchase and Sales Agreement and any and all documents necessary to facilitate said purchase and sale property – *Joe Smith, District Attorney*

All yes

Nash added to hire Architect

w/n B. **Resolution** adopting the Tyler County Multi-Jurisdictional Hazard Mitigation Plan – *Dale Freeman, Emergency Management*

J/w C. **Consulting Services** from Sparks Engineering, Inc. for the assessment of the Courthouse structure and foundation – *J. Blanchette*

w/ to enter 8:40AM

potential litigation

II. EXECUTIVE SESSION

Consult with District Attorney and/or his legal staff in executive session held in accordance with Texas Government Codes 555.071(1)(A), (2) regarding pending and/or contemplated litigation, and/or 551.074, regarding personnel matters, and/or property acquisition.

> ADJOURN

m/w
N/m 8!

I do hereby certify that the above Notice of Meeting of the Tyler County Commissioners Court is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice at the Tyler County Courthouse in a place readily accessible to the general public at all times and that said Notice remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting, as is required by Section 551.002 & 551.041.

Executed on _____ 2013 Time _____

Donece Gregory, County Clerk/Ex Officio Member of Commissioners Court

By: _____ (Deputy)