

**CONSULTING AGREEMENT FOR PROFESSIONAL
GEOTECHNICAL ENGINEERING AND TESTING**

Term and Supply Contract

THIS AGREEMENT, made and entered into this 17th day of March, 2014, by and between the **JACKSON COUNTY, MISSOURI** hereinafter referred to as "County" and **KANSAS CITY TESTING & ENGINEERING, LLC**, 1308 Adams Street, Kansas City, KS 66103, hereinafter referred to as "Engineer."

WITNESSETH:

WHEREAS, the County solicited requests for qualifications for the furnishing of on-call professional geotechnical engineering and testing services on RFQ 62-13 and received six responses thereon; and,

WHEREAS, the Engineering Division of the Public Works Department evaluated the qualifications and has recommended award of a term and supply contract to Kansas City Testing & Engineering, LLC, as the most qualified; and,

WHEREAS, Engineer has agreed to perform on-call engineering and testing services as aforementioned; and,

WHEREAS, Engineer represents that the firm is equipped, competent, and able to undertake such an assignment;

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, IT IS HEREBY AGREED by the parties hereto as follows:

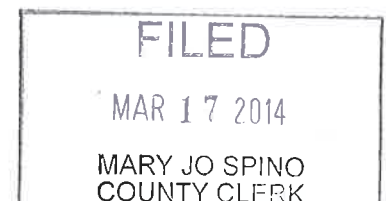
ARTICLE I – SCOPE OF SERVICE TO BE PROVIDED BY THE ENGINEER:

Engineer, upon receipt of written notice from the County that this Agreement has been approved, will furnish on-call professional geotechnical engineering and testing services as further described in the excerpt from the County's RFQ 62-13, paragraph 3.3, attached hereto as Exhibit A and incorporated herein by reference.

ARTICLE II - SCOPE OF SERVICES TO BE PROVIDED BY THE COUNTY:

The County agrees to furnish information and have work done without cost to the Engineer as follows:

1. Make available to the Engineer existing records, maps, plans, and other data possessed by County when such are necessary, advisable, or helpful to the Engineer in the completion of his work under this Agreement. The County shall furnish a copy of property ownership information from County tax records.



2. Provide all necessary title work, deeds, plats, etc., as required for the completion of the project and the preparation of the required documents.
3. Provide Standard County forms and/or standard plans as required including contractual sections for bid documents.
4. Designate a representative who will serve as Engineer's primary point of contact and who will be authorized to act for and on behalf of the County throughout completion of the services covered by this Agreement.
5. Examine all studies and drafts developed by the Engineer, obtain reviews by other agencies involved, and render decisions thereon in a prompt manner so as not to delay the Engineer.

ARTICLE III - TERM OF AGREEMENT:

The term of this Agreement shall be effective upon execution, and extend for twenty-four months. Consultant or County may terminate this Agreement by giving 30 days' written notice to the other party. This agreement may be renewed at the acceptance of both parties for two additional twelve-month terms.

ARTICLE IV - COVENANT AGAINST CONTINGENT FEES:

The Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Engineer, to solicit or secure this Agreement and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement the price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee plus reasonable attorney's fees.

ARTICLE V - SUBLETTING ASSIGNMENT:

No portion of the work covered by this Agreement, except as provided herein, shall be sublet or transferred without the written consent of the County. The subletting of the work shall in no way relieve the Engineer of its primary responsibility for the quality and performance of the work.

ARTICLE VI - PROFESSIONAL ENDORSEMENT:

All plans, specifications and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the Professional Engineer endorsing the work.

ARTICLE VII - MISCELLANEOUS PROVISIONS:

The following miscellaneous provisions are agreed to by both parties to this Agreement.

1. Inspection of Documents.

The Engineer shall maintain all records, notes, design documents, cost and accounting records, construction records and other records pertaining to this Agreement and to the project covered by this Agreement, for a period of not less than three (3) years following final payment. An authorized representative of the County shall have access to the records for inspection, during regular working hours at the Engineer's place of business. County shall have the right to audit and inspect Engineer's records and accounts covering costs hereunder at all reasonable times during the performance of the Services and for a period of three (3) years after the acceptance thereof. Engineer shall not be required to keep records of or provide access to those of its costs expressed as fixed rates, a lump sum, or of costs, which are expressed in terms of percentages of other costs.

2. Conferences, Visits to Site, Inspection of Work.

A representative of the County shall have the privilege of inspecting and reviewing the work being done by the Engineer and consulting with its staff at any time. Conferences are to be held at the request of the County or the Engineer.

3. Accuracy of Work. The Engineer shall be responsible for the accuracy of the work and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of the Engineer without additional compensation. Acceptance of the work by the County will not relieve the Engineer of the responsibility for subsequent correction of any such errors and the clarification of any ambiguities during construction. The Engineer shall give immediate attention to these revisions or corrections so there will be a minimum of delay to the project or to the contractor.

4. Relationship with Others. The Engineer shall cooperate fully with others working on adjacent projects, municipalities, local government officials, public utility companies, and others as may be directed by the County. This shall include attendance at meetings, discussions and hearings, as may be requested by the County; furnishing plans and other data as may be requested from time to time by the County, and compliance with all directives issued by the County.

5. Ownership of Documents. Plans, electronic data, and maps and specifications prepared under this Agreement shall be delivered to and become the property of the County upon termination or completion of work. Basic survey notes, design computations and other data prepared under this Agreement shall be made available to the County upon request. All such information produced under this Agreement shall be available for use by the County without restriction or limitation on its use. If the County incorporates any portion of the work into a project other than that for which it was performed, the County shall save the Engineer harmless from any claims and liabilities resulting from such use.

6. Termination. Engineer or the County may terminate this Agreement by giving written notice to the other party. Termination of this Agreement shall not constitute a waiver of the rights or obligations, which County or Engineer may be entitled to receive or be obligated to perform under this Agreement. Should this Agreement terminate, all books, brochures, flier, lists, and all other County materials must be delivered and returned by the Engineer to the County within 15 calendar days of the demand of the County.

If the Agreement is terminated due to the Engineer's service being unsatisfactory in the judgment of the County, or if the Engineer fails to prosecute the work with due diligence, the County may procure completion of the work in such manner as it deems to be in the best interest of the County. The Engineer will be responsible for any excess cost in addition to that provided for in this agreement or any damages the County may sustain by reason of the termination of this Agreement due to unsatisfactory performance or prosecution.

7. Successors and Assigns. The County and the Engineer each bind themselves, their successors, executors, administrators, and assigns to the other party to this Agreement, and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this Agreement.
8. Responsibility for Claims and Liability. The Engineer shall be responsible for any and all damage to property or persons while performing work under this agreement, and shall indemnify and save harmless the County, its officers, agents, and employees from all suits, claims, actions, or damages of any nature whatsoever resulting from the negligence or willful misconduct of the Engineer in the performance of work under this Agreement.
9. Compliance with Laws. The Engineer shall keep itself fully informed of all existing and current regulations of the County, State, and Federal laws which in any way limit or control the actions or operations of those engaged upon the work, or affecting the materials supplied to or by them. It shall at all times observe and comply with all ordinance, laws, and regulations, and shall protect and indemnify the County against any claims or liability arising from or based on any violations of the same. This Agreement shall be governed by and interpreted in accordance with the laws of Missouri excluding provisions thereof which would apply the laws of another jurisdiction.

The Engineer's attention is directed to Chapter 296, Section 296.010, to Section 296.070, inclusive RSMo 2000, as amended, "Discriminatory Employment Practices," and to Section 644.4, Jackson County Code, 1984, which provides as follows:

644.4 Subcontractors, Agreements with Contractors

The contractor will require that all contracts between it and subcontractors shall contain the following provisions.

a. Not Discriminate

The subcontractor shall not discriminate against any qualified person because of her or his race, color, national origin, religion, age, sex or handicap in recruitment and recruitment advertising, employment, upgrading, promotion, demotion or transfer, lay-off or termination, rates of pay or other forms of compensation, other terms of conditions of employment and selection for training including apprenticeship.

b. Inspection by County Contract Review Officer (CRO)

The subcontractor will permit, on reasonable notice and at reasonable times, the CRO to visit its premises, inspect and copy thereon its business records, survey its work forces and interview its employees, as may be necessary to verify compliance with this chapter and implementation of the affirmative action plan of the Subcontractor. The subcontractor further agrees to furnish such future information as may be reasonably required of it within ten (10) working day of the date it is requested in writing by the CRO.

10. Nondiscrimination. The Engineer, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors. The Engineer will comply with Title VI of the Civil Rights Act of 1964, as amended. More specifically, the Engineer will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405(b), which are herein incorporated by reference and made a part of this agreement. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified of the Engineer's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of color, race or national origin.
11. Independent Contractor. The Engineer shall work as an independent contractor and not as an employee of the County. The Engineer shall be subject to the direction of the County only as to the result to be accomplished and not as to the means and methods for accomplishing the result. The Engineer shall report all earnings received hereunder as gross income, and be responsible for its own Federal, State, and City withholding taxes and all other taxes, and operate its business independent of the business of the County except as required by this Agreement.
12. Severability. If any covenant or other provision of this Agreement is invalid, or incapable of being enforced, by reasons of any rule of law or public policy, all other conditions and provision of this Agreement shall nevertheless remain in full force and effect and no covenant or provision shall be deemed dependent upon any other covenant or provision unless as expressed herein.
13. Incorporation. This Agreement along with the Engineer's proposal and the County's RFQ 62-13 incorporates the entire understanding and agreement of the parties. In the event of a conflict among any provisions of these documents, the provision of the documents listed first in the following order shall prevail:
 - 1.) This Agreement,
 - 2.) RFQ 62-13; and,
 - 3.) Engineer's proposal

14. Time of Essence. Timely performance of all duties provided herein is the essence of this Agreement.
15. Decisions under this Agreement. The County will determine the acceptability of work performed under this Agreement, and will decide all questions which may arise concerning the project. The County's decision shall be final and conclusive.
16. Breach of Contract. The prevailing party, in whole or in part, shall be entitled to reimbursement for all costs and reasonable attorneys' fees in any legal action brought against the other party based on a breach of this Agreement.
17. Safety Requirements. Engineer shall make every reasonable effort to perform the Services in a manner complying with all applicable safety legislation and with applicable environmental laws, rules, and regulation in force at the time of development of designs. Engineer shall also be responsible for the safety of its own employees at all times during the performance of any Request for Services.
18. Purchase Orders. In the event the County uses a purchase order form to administer this Agreement, the use of such form shall be for convenience purposes only and any typed provision in conflict with the terms of this Agreement and all-preprinted terms and conditions contained in or on such forms shall be deemed stricken and null and void.

ARTICLE VIII - STANDARD OF CARE:

Engineer warrants that it shall perform the services in accordance with the standards of care and diligence normally practiced by recognized engineering firms in performing services of a similar nature. If, during the two year period following the earlier of completion or termination of the Services under the applicable Request for Service it is shown there is an error in the Services caused solely by the Engineer's failure to meet such standards, and County has promptly notified Engineer of any such error within that period, Engineer shall perform, at Engineer's cost, such corrective engineering services as may be necessary to remedy such error.

ARTICLE IX - INSURANCE AND INDEMNIFICATION:

ENGINEER'S LIABILITY INSURANCE - Engineer shall purchase and maintain such insurance as will protect itself against loss from its alleged or actual liability to satisfy those claims which are set forth below and which may arise out of or result from Engineer's operations under the Agreement, whether such operations be by itself or by anyone for whose acts it may be liable:

(A) Claims under workers compensation, disability benefits and other similar employee statutes;

(B) claims for damages for bodily injury, occupational sickness or disease, or death of its employees and any person other than its employees;

(C) Claims for damages for personal injury sustained (1) by any person as a result of an act directly or indirectly related to the employment of such person by the Engineer, or (2) by any other person;

(D) Claims for damages for injury to or destruction of tangible property, including loss of use resulting there from; and

(E) Claims for damages for bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle whether it is owned, non-owned, hired or rented.

The insurance required by the proceeding paragraph shall be written for not less than a combined single limit for bodily injury and property damage of \$300,000.00 each person; \$2,000,000.00 each occurrence.

PROFESSIONAL LIABILITY INSURANCE - The Engineer shall secure professional liability insurance in the amount of \$ 1,000,000.00, minimum, per claim/annual appropriate.

The Engineer will be required to have the County named as an additional insured on all liability policies of insurance.

CONTRACTUAL LIABILITY INSURANCE - The insurance required by the proceeding paragraph shall include contractual liability insurance applicable to the Engineer's indemnification obligations under other paragraphs of the Agreement.

SUBCONTRACTORS - If Engineer shall subcontract any of this work to a third party, Engineer shall see to it that such third party maintains such insurance and shall furnish evidence thereof to the County. Engineer will cause all such policies of insurance to name the County as additional insured and provide indemnification for the County against liability upon the risks insured thereby to the amount of coverage specified therein for the Engineer.

FILING OF CERTIFICATES OF INSURANCE AND POLICIES WITH THE COUNTY - The Engineer shall file with the County upon request a copy of all policies of insurance required under the Agreement.

Within ten (10) calendar days of the date when requested or before commencement of the work, Engineer shall file with the County's Public Works Director Certificates acceptable to him of the insurance required by the Agreement. These certificates shall contain a provision that coverage's afforded under the policies will not be canceled until at least thirty (30) days prior written notice of cancellation has been given to the County's Public Works Department Director. Failure to so file these certificates is a breach hereof.

INDEMNIFICATION - The Engineer agrees to indemnify, defend and save harmless the County, against all damages to property, structures and utilities together with all claims for damages arising out of personal injury, including accidental death due to the Engineer's

negligent acts or the negligent acts of the Engineer's subcontractors, agents or employees, in the performance of work under this Agreement.

ARTICLE X - PAYMENTS TO THE ENGINEER:

For the engineering and/or testing services performed by Engineer under this Agreement and as full compensation therefore, and for all expenditures made and all expenses incurred by Engineer in connection with this Agreement, except as otherwise expressly provided herein, subject to conformance with all provisions of this Agreement, County will pay Engineer in accordance with the Schedule of Rates, as set forth in the attached Exhibit B.


ARTICLE XI - EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED:

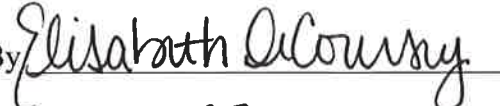
Pursuant to §285.530.1, RSMo, Engineer assures that it does not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri and/or Jackson County, and shall affirm, by sworn affidavit and provision of documentation, its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Further, Engineer shall sign an affidavit, attached hereto and incorporated herein as Exhibit C, affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

IN WITNESS WHEREOF, Jackson County, Missouri, has caused these presents to be executed in its behalf by its duly authorized agent; and the Engineer has hereunto set it hand and seal.

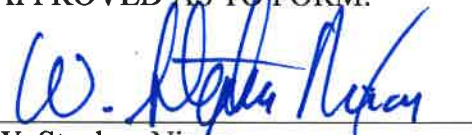
JACKSON COUNTY, MISSOURI

KANSAS CITY TESTING &
ENGINEERING, LLC

By 
Q. Troy Thomas
Director of Finance and Purchasing

By 
Federal Tax ID 27-1317751

APPROVED AS TO FORM:


W. Stephen Nixon
County Counselor


ATTEST:


Mary Jo Spino
Clerk of the Legislature

REVENUE CERTIFICATE

This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases is subject to annual appropriations.

March 13, 2014
Date


Director of Finance and Purchasing

1.0 INTRODUCTION

Jackson County, Missouri is seeking proposals from qualified Respondents for ON-CALL GEOTECHNICAL ENGINEERING SERVICES AND PROFESSIONAL TESTING SERVICES for the Public Works Department. Services would be used on various projects in Unincorporated Jackson County, Missouri on an "as needed" and/or "on-call" basis.

2.0 AWARD REQUIREMENTS

- 2.1 Certificate of Insurance: The Successful Respondent will be required to submit to the Purchasing Department a Certificate of Insurance meeting or exceeding the provisions of Item 15 under General Conditions and Exhibit A included herein within ten (10) business days after receiving Notification of Award. The Certificate of Insurance must be received by the Purchasing Department prior to the commencement of any work on this Contract.
- 2.2 Licenses: The Successful Respondent must provide, upon written request, evidence of any required Federal, State, Local and/or Occupational Licenses.

3.0 SCOPE OF SERVICES

- 3.1 The term of the Contract for this Request for Proposal will be Twenty-Four Months with two Twelve Month Options to Extend.
- 3.2 Types of projects or activities requiring services: building renovation and construction; street and roadway construction; asphalt paving; concrete paving; drainage structures; sewer and water construction; parks projects; bridges and other structures.
- 3.3 The County will require the following services on an "as needed" on-call basis throughout the term of the Contract:
 - 3.3.1 Geotechnical Engineering Services including, but not limited to, sub-surface exploration, foundation recommendations, soil stabilization, and pavement design and analysis.
 - 3.3.2 Provide field testing data on reproducible media and in electronic file format in Word and/or PDF compatible with current version used by the County. If CADD drawings are requested by Jackson County, Missouri Public Works for a project, then the electronic drawing(s) on a CD will be furnished to the County in AutoCAD 2000 format or Jackson County, Missouri Public Works current AutoCAD edition.
 - 3.3.3 Provide Construction Materials Testing such as soil, bituminous mixtures, concrete, pavement, aggregates, etc. Laboratory Testing shall be provided for the following: soils, fly-ash, asphalt, concrete, aggregate, masonry, permeability, chemical tests, compaction and density.
 - 3.3.4 Provide technical assistance upon coring sample pavement to determine layer thickness of the pavement, base course, and soil classification.

- 3.3.5 Make recommendations on soil stabilization such as lime or fly-ash stabilization.
- 3.3.6 Probe for subsurface rock strata to determine if bedrock is present in project areas of storm drainage systems.
- 3.3.7 Test for California Bearing Ratios, Atterburgh Limits and Proctor Analysis to determine requirements for proposed pavement designs.
- 3.3.8 Provide support equipment needed or required to carry out the listed testing procedures in a competent manner.
- 3.3.9 Miscellaneous Geotechnical Services as required by the County.
- 3.4 County Provided Services: Jackson County, Missouri Public Works will provide access to the project sites for Successful Respondent's personnel and equipment and provide a Project Manager to act as primary contact, and to obtain such drawings and other documents or information as needed to complete the tasks assigned under the Contract.
- 3.5 Engineering and Other Services beyond this Scope of Services: If Respondent is willing to provide Engineering and Other Services requested, such as building condition assessment, floor load rating, bridge load rating, environmental assessments, vacuum excavation for utilities locates, etc. Provide Engineering such as site assessments (Phase I and II) and other services agreed upon. Please indicate in your Proposal if you would be willing to provide these additional services.

4.0 PROPOSAL FORMAT

Respondent's proposal shall be an original document plus three copies. To facilitate the evaluation of proposals, proposals shall be organized in the following manner:

- 4.1 Cover letter, to include the following information:
 - Name
 - Business Name
 - Address
 - Telephone Number
 - Email Address
- 4.2 All forms contained within this Request for Proposal package, filled out, signed and notarized where necessary.
- 4.3 Complete copy of this Request for Proposal.
- 4.4 Description of Respondent's General Background to include the following:
 - Year of inception and history
 - Ownership structure
 - Ability to provide the services requested

**Schedule of Rates for Geotechnical Services
October 29, 2013**



Mobilization:

Drill Rig \$3.00/mile round trip	\$ 300.00	min
Support Truck \$0.75/mile round trip	\$ 50.00	min

Boring Locations :

Includes on-site utility meetings, delay time, site clearing	\$ 150.00	hour
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Drilling:

Minimum charge per boring	\$ 80.00	min
Rock core set-up	\$ 60.00	each
ATV surcharge	\$ 150.00	day

Drilling Unit Rates by Depth & Sample

	0-50'	50'-100'	100'-150'
Auger drilling, per foot	\$ 11.00	\$ 13.00	----
Thin walled tube samples, each	\$ 18.00	\$ 22.00	\$ 33.00
Penetration tests, each	\$ 17.50	\$ 22.00	\$ 34.00
Diamond(NX) core	\$ 30.00	\$ 35.00	\$ 43.00
Rock boring per/foot.(3 1/2")	\$ 27.00	\$ 29.00	\$ 30.00
Wash boring, per foot	\$ 25.00	\$ 30.00	\$ 35.00
Casing, per foot	\$ 5.00	\$ 6.00	\$ 12.00

Samples will be retained 30 days then discarded.

Laboratory Testing

Atterberg Limits	\$ 65.00	each
Standard Proctor	\$ 189.00	each
Soil Treated Proctor	\$ 209.00	each
Sieve Analysis	\$ 85.00	each
Moisture Content	\$ 10.00	each
Unconfined Compression Strength	\$ 15.00	each
Dry Unit Weight	\$ 10.00	each
Hydrometer	\$ 200.00	each
California Bearing Ratio (proctor not included)	\$ 85.00	each

Engineering Services:

Utility Locates	\$ 85.00	per hour
Geologist	\$ 85.00	per hour
Geotechnical Engineer	\$ 85.00	per hour
Senior Geotechnical Engineer	\$ 110.00	per hour
Engineering Technician (Asphalt, Concrete)	\$ 45.00	per hour
Senior Engineering Technician (Foundation/Masonry Observation)	\$ 50.00	per hour
NDT Structural Steel Observation (CWI)	\$ 75.00	per hour

WORK AUTHORIZATION AFFIDAVIT

As a condition for any service provided to the County, a business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Business entity, as defined in section 285.525, RSMo pertaining to section 285.530, RSMo, is any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood. The term "business entity" shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors. The term "business entity" shall include any business entity that possesses a business permit, license, or tax certificate issued by the state, any business entity that is exempt by law from obtaining such a business permit, and any business entity that is operating unlawfully without such a business permit.

Every such business entity shall complete the following affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. The completed affidavit must be returned as a part of the contract documentation.

This affidavit affirms that **KANSAS CITY TESTING & ENGINEERING, LLC**, is enrolled in, and is currently participating in, E-verify or any other equivalent electronic verification of work authorization operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA); and, **KANSAS CITY TESTING & ENGINEERING, LLC**, does not knowingly employ any person who is an unauthorized alien in conjunction with the contracted services.

In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)

Elisabeth DeCoursey
Authorized Representative's Signature

Elisabeth DeCoursey
Printed Name

President
Title

03/10/14
Date

Subscribed and sworn before me this _____ day of _____, 2013. I am commissioned as a notary public within the County of _____, State of _____, and my commission expires on _____.

Signature of Notary

Date