# LEAD BASED PAINT HAZARD REMOVAL PROGRAM FUNDING AND SERVICES CONTRACT TULSA CITY-COUNTY HEALTH DEPARTMENT

THIS AGREEMENT is made and entered into the 24 day of November, 2021 by and between Tulsa County, by and through its Department of Health, ("TCCHD") and Ethan and Kara Allison, ("Owner") and Rycon Environmental, LLC. ("Contractor").

#### WITNESSETH:

**WHEREAS**, the Owner/Property Manager has applied to TCCHD for assistance under the County's Lead-Based Paint Hazard Control Program, Project Lead Safe, ("**PROGRAM**"); and

**WHEREAS**, the Contractor has agreed to perform certain lead based paint hazard control work on the Owner/Property Manager's property located at 5441 S Louisville Ave, Tulsa OK 74135, ("**PROPERTY**"); and WHEREAS, under the terms of the Program, TCCHD shall pay Contractor for the work performed on the foregoing described Property;

The parties mutually agree as follows:

# A. AGREEMENT WITH CONTRACTOR

TCCHD agrees to pay an amount not to exceed Thirteen Thousand eight hundred eighty dollars and no/100's (\$13,880.00) for certain work to be performed by the Contractor as specified in Section B herein, entitled "RESPONSIBILITIES OF CONTRACTOR".

# B. RESPONSIBILITIES OF CONTRACTOR

- 1. The Contractor agrees to furnish all labor, materials, equipment, supervision and services required, and shall complete in a workmanlike and timely manner the lead-based paint hazard interim controls or lead abatement, specialized cleaning, rehabilitation and/or repair work designated and in the manner prescribed herein and in Attachment A, "Scope of Work" which is attached hereto and incorporated herein by reference and shall coordinate the work and clearance schedule with TCCHD and Owner/Property Manager.
- 2. The Contractor shall perform the work specified in strict compliance with all applicable federal, state and local laws and regulations, and in accordance with U.S. Department of Housing and Urban Development (HUD) guidelines. The Contractor shall warranty its work to the Owner/Property Manager and TCCHD for one (1) year after the date of the Final Walkthrough Clearance. While performing work on the property, all appropriate employees and/or subcontractors shall wear and utilize all proper and required personal protective and safety equipment as required by law, and specifically including those set out in Occupational Safety and Health Administration (O.S.H.A.) regulations. The Contractor shall properly dispose of all contaminated waste materials and submit copies of manifests in a timely manner as proof of such proper and lawful disposal before any payment shall be made by TCCHD to the Contractor. The

Contractor shall keep the premises clean and orderly during the period of performance under this Agreement, and shall properly remove all debris upon completion of the work specified.

- 3. The Contractor shall move all furniture away from the work area and replace it after clearance samples have been obtained. The Contractor shall clean windows, floors and walls using HEPA-vacuum and appropriate cleaning agents as approved by TCCHD.
- 4. The Contractor, at its sole cost and expense, shall submit to the Owner/Property Manager copies of all available guidance information pertaining to materials utilized in the work and certificate of insurance if requested.
- 5. The Contractor shall not assign any of its duties or responsibilities hereunder without prior written approval from TCCHD.
  - 6. The Contractor shall not cause or allow any liens to be placed upon the Property.
- 7. The Contractor shall obtain all building permits, other permits, and business licenses as may be required by any applicable public authority.
- 8. The Contractor, at its sole cost and expense, shall make all necessary repairs, replacements and corrections of any nature or description, interior or exterior, structural or non-structural, as shall become necessary by reason of faulty workmanship or material which appears within a period of one (1) year from date of the Final Walkthrough Clearance. At the completion of the work, Contractor shall submit to Owner/Property Manager copies of all available maintenance manuals, manufacturer's literature, instruction sheets and all other guidance information pertaining to materials utilized in the work.
- 9. The Contractor may not begin work until after the Pre-Construction meeting with TCCHD.

#### C. RESPONSIBILITIES OF TCCHD

- 1. TCCHD, in its sole discretion, shall determine what work is to be performed on the Property and approve the procedures by which that work shall be performed. TCCHD or its approved contractor may collect dust wipe samples prior to cleaning to measure the level of lead contamination in the dust within the property. TCCHD shall monitor Contractor and perform visual inspections and clearance dust wipe testing at the conclusion of the cleaning process and before occupants are allowed to re-enter the work area on the Property.
- 2. In the event unforeseen circumstances or conditions are discovered on the Property which render any portion of the work specified in Attachment A inappropriate or unnecessary, TCCHD shall be promptly notified of such circumstances or conditions and TCCHD shall immediately inspect the Property and initiate any appropriate changes or amendments to the Scope of Work and other appropriate portions of this Agreement.

- 3. TCCHD, in its sole discretion, shall select, direct and pay from Program funding the compensation of the Contractor under this Agreement. In the event the Contractor is unable or refuses to complete the work specified herein, TCCHD, in its sole discretion, shall select a replacement Contractor.
- 4. TCCHD shall perform reasonable and random oversight inspections of the work being performed by Contractor, and upon receiving the Request for Final Walkthrough Clearance, TCCHD shall promptly and without undue delay inspect the work so performed utilizing industry accepted tests and standards to assess the acceptability of the work performed.
- 5. TCCHD shall use its best efforts to mediate or otherwise attempt to reasonably settle any dispute which may arise between the Contractor and Owner/Property Manager concerning this Agreement.

# D. RESPONSIBILITIES OF OWNER/PROPERTY MANAGER

- 1. The Owner/Property Manager hereby authorizes Contractor to perform the work specified in Attachment A on the Property, and agrees to provide Contractor access to the Property during the time of performance specified herein to perform the work and further agrees to provide access to the Property to TCCHD to inspect the work performed by Contractor.
- 2. The Owner/Property Manager hereby agrees and understands that all inspections by TCCHD of work performed hereunder are for the benefit of TCCHD only and are not performed on behalf of Owner/Property Manager. No TCCHD inspection is intended to certify or represent to the Owner/Property Manager that Contractor has performed in a workmanlike manner. It is the Owner/Property Manager's responsibility to inspect all work performed to assure the work was performed in a workmanlike manner.
- 3. The Owner/Property Manager shall notify the Occupants of the Property of the cleaning work schedule, and because of the hazards posed by the disturbance of leaded dust, shall cause all tenant residents of the Property and all other persons not necessary to the work being performed to vacate the work area on the Property during the time work is being performed and shall cause said Occupants and others to refrain from re-entering the work area until the work specified herein is completed or permission to re-enter is given by TCCHD or Contractor. The Owner/Property Manager and Occupant agree to not enter the secured area of the home during hazard removal or clearance testing. Entering the secured area may contaminate the site. If the Owner/Property Manager or Occupant enters the secured construction zone prior to clearance and the site doesn't pass clearance, then the owner will be responsible for the cost of reclearance. Repeated noncompliance Owner/Property Manager or Occupants could result in TCCHD removing owner from program.
- 4. THE OWNER SHALL KEEP YOUNG CHILDREN OUT OF THE PROPERTY UNTIL THE CLEANING WORK IS COMPLETED AND TCCHD HAS GIVEN RE-ENTRY CLEARANCE.
- 5. The Owner/Property Manager shall furnish all electric power, water or other utilities necessary to carry out the work under this Agreement, and shall allow and make it possible for

Contractor to move furniture, rugs and other items or materials necessary to expedite or carry out the work.

- 6. The Owner shall be responsible to remove pictures, clocks, decorations and other portable belongings from walls and shelves; to pick up any belongings from off the floor so the floor is accessible to cleaning crews; to protect their personal property by securing any cash, jewelry, rings, heirlooms or other valuable personal property located on the Property against loss.
- 7. The Owner/Property Manager agrees to execute a Final Walkthrough Clearance on a form provided by TCCHD upon Contractor's satisfactory completion of the work hereunder, however, the Owner/Property Manager agrees and understands that TCCHD may pay Contractor the Agreement Amount at TCCHD's sole discretion. The Owner/Property Manager's execution of the Final Walkthrough Clearance or approval of the work performed is not a condition precedent to TCCHD's payment of the Agreement Amount.
- 8. The Owner/Property Manager agrees that TCCHD shall have no liability to the Owner/Property Manager for the work performed by Contractor hereunder, or for any damages, losses, costs or expenses arising out of any act or omission of Contractor, or of any employee, subcontractor or agent of Contractor, including without limitation, any personal injury or property damage. The Owner/Property Manager acknowledges, understands and agrees that Contractor is not the agent or employee of TCCHD and is not performing the work hereunder on behalf of TCCHD.
- 9. The Owner/Property Manager agrees that TCCHD shall not be obligated to determine whether there has been or will be any mechanics or other liens placed on record against Property.
- 10. The Owner/Property Manager acknowledges and understands the hazards of lead-based paint and of being exposed to lead dust and further acknowledges having received from TCCHD a copy of the U.S. Department of Housing and Urban Development Notice addressing owner of housing constructed before 1978 entitled "Protect Your Family From Lead in Your Home".
- 11. The Owner will maintain property insurance for the entire home. If the home is located in a flood zone, the owner will maintain flood insurance. During the entire process, the Owner/ Property Manger agree to maintain utilities, mortgage, and any other household bills.
- 12. The Owner/Property Manager agrees to relocate out of the house during the lead based paint hazard removal work which may include overnight. If the Owner/Property Manager refuses after execution of the Agreement, then Owner/Property Manager shall pay the costs of materials and labor already incurred.

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# E. TIME OF PERFORMANCE, LIQUIDATED DAMAGES

- 1. This Agreement shall begin on December 7th, 2021 and the work to be performed hereunder by Contractor shall be completed on or before May 7<sup>th</sup> 2022 ("Completion Date"), provided however, that TCCHD may extend the time of performance for an additional period not to exceed five (5) days upon the written request of Contractor, through the use of the Schedule Change Order. Because the residents are displaced from the work area of the Property during the time of performance, TIME IS OF THE ESSENCE TO THIS AGREEMENT. TCCHD and Owner/Property Manager agree to cooperate with Contractor and not unnecessarily interfere with or hinder Contractor in any way so as to prevent Contractor from completing the work within the specified time.
- 2. It is specifically agreed that the failure to complete the specified work within the time established herein, acts of God excepted, causes damages to TCCHD which are difficult to quantify and ascertain, and thus the parties agree that, in the event Contractor fails to complete the work on time, reasonable liquidated damages shall be payable by Contractor to TCCHD at the rate of \$125.00 per day until the work is completed, and TCCHD may deduct those liquidated damages from any payment otherwise owed Contractor.
- 3. If Contractor's work does not pass the initial clearance test, TCCHD will reduce any payments due Contractor by \$125.00 for each clearance test TCCHD conducts up to the approved clearance test. Such sum will cover TCCHD's cost of retesting. Such fee may be in addition to any liquidated damages.
- 4. Contractor shall not take more than 14 days to complete the lead paint hazard removal work. Contractor shall minimize the days the occupants are relocated due to interior lead hazard reduction. Adjustments can be made for weather delays.
- 5. If Contractor fails to complete the lead-based paint hazard control work within the timeframe established by TCCHD, and the Contractor does not submit a Time Change Order to TCCHD, or TCCHD does not approve of the reason declared on a submitted Time Change Order, TCCHD can reduce any payments due Contractor by the relocation fees of \$150.00 per day, including weekends, until hazard removal is complete. Such fee will serve to reimburse TCCHD for the relocation fees paid to Occupants who are not allowed to remain in the residence during hazard removal work. Such fee may be in addition to liquidated damages.
- 6. Clearance testing must be complete before 8:00 p.m. on the final day of hazard removal so that the results can be delivered to the courier and sent to the laboratory for analysis.
- 7. If Contractor shall fail to complete the work after the expiration of five (5) days from the Contract End Date, then TCCHD may terminate Contractor's right to continue the work, and TCCHD may take over and pursue the work to completion, whether by contract or otherwise, and may take possession of and use any necessary materials, tools or equipment situated on the Property to complete the work. Any such tools or equipment used for the completion of the work shall be made available to Contractor on the Property after completion by TCCHD. Whether or not Contractor's right to proceed is terminated, Contractor shall remain liable for damages for failure to complete the work within the specified time.

# F. METHOD OF PAYMENT, PAYMENT NOT TO BE ENCUMBERED

- 1. Upon completion of the work specified herein, the Contractor shall promptly notify TCCHD and shall submit to TCCHD a Request for Final Walkthrough Clearance by email or inperson. TCCHD shall then promptly inspect the work and conduct a visual inspection and a clearance test. In the event that inspection reveals any work which is unsatisfactory to TCCHD, written notice of TCCHD's objection shall be provided to Contractor and a reasonable period of time shall be provided to correct such unsatisfactory work, but in no instance shall that time extend beyond five (5) days after the time elsewhere specified herein for completion of performance. After final inspection, and upon passing the clearance test, TCCHD shall deliver to Contractor the clearance test results and a letter stating the home is cleared to be reoccupied.
- 2. Upon completion of the contract and after final inspections of the property, Contractor will submit a properly itemized invoice and a signed clearance report to TCCHD Finance via email at <a href="mailto:apvendor@tulsa-health.org">apvendor@tulsa-health.org</a>. The invoice shall include name, address of business, address of unit, date, itemized expenditures, and final amount owed to Contractor by TCCHD. Upon receipt of final invoice(s) from Contractor, TCCHD shall make payment to Contractor for the proper and total sum which shall not exceed the Agreement Amount specified herein within thirty (30) days. Standard payment terms are Net 30. Checks will be mailed from the Tulsa County Clerk's office. Payment inquiries should be directed to TCCHD Finance at apvendor@tulsa-health.org.

# G. NOTICES

Any notices or other communications required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after deposit in the United States Mail, regular mail, postage prepaid, or upon receipt by electronic transmission, personal or facsimile delivery addressed as follows:

If to TCCHD: Tulsa City-County Health Department

Attn: Kendra Wise

5051 S. 129th East Avenue

Tulsa, OK 74134

Telephone: (918) 595-4200 Email: kwise@tulsa-health.org

If to Owner Ethan and Kara Allison

5441 S Louisville Ave Tulsa, OK 74135

Telephone: 931-220-2910 Email: ethan.kara@gmail.com

If to Contractor Rycon Environmental, LLC

213 S River St

Commerce, OK 74339 Telephone: 918-961-0614 Email: ryconenviro@att.net

Or to such other place as the parties may designate in writing in accordance with this section.

# H. REPRESENTATIONS AND WARRANTIES

TCCHD represents and warrants that it has the power and authority to execute and deliver this Agreement and to use the funds as contemplated hereby, and Contractor represents that it and its directors, officers, employees, agents and subcontractors have the knowledge, experience, expertise and property training and required licenses to perform this Agreement in accordance with its terms. Contractor agrees to submit to TCCHD and maintain on file with TCCHD copies of current, valid State licenses to perform lead based paint hazard removal work for all applicable directors, officers, employees, agents and subcontractors during the term of this Agreement.

#### I. BINDING EFFECT

This Agreement shall be binding upon the parties hereto and upon their successors in interest.

# J. CONFLICT OF INTEREST

Contractor agrees that in the performance of this Agreement, no person having any conflicting interest shall be employed by Contractor. Contractor further agrees to disclose in writing to TCCHD any direct interest on the part of Contractor or its employees, directors, officers or agents hereunder.

# K. AMENDMENT

This Agreement may be amended only in writing and signed by all parties hereto.

# L. INSURANCE

- 1. Contractor shall procure and maintain in effect throughout the duration of this Agreement insurance coverage not less than the types and amounts specified in this section.
  - a. **Commercial General Liability Insurance**: with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, written on an "occurrence" basis.
  - b. **Workers' Compensation Insurance**: Workers' Compensation self-insurance shall be in the amount required by statutory limits and conditions established by laws of the State of Oklahoma.
  - c. **Professional Liability Insurance** in the minimum amount of \$1,000,000 per occurrence with a \$1,000,000 annual policy aggregate limit.
  - d. Pollution Insurance (Lead-Based Paint) in the amount of \$1,000,000.

- 2. The policies listed above may not be canceled until after thirty (30) days written notice of cancellation to TCCHD, ten (10) days in the event of nonpayment of premium. The Commercial General and Automobile Liability Insurance specified above shall provide that TCCHD and its agencies, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insured's for the services performed under this Agreement. Contractor shall provide TCCHD at execution of the Agreement with a certificate of insurance showing all required endorsements and additional insured's.
- 3. All Bonds and insurance required by Agreement Documents to be purchased and maintained by TCCHD or Contractor shall be obtained from surety or insurance companies that are duly licensed in the State of Oklahoma and in the jurisdiction in which the Project is located, if not in Oklahoma, to issue Bonds or insurance policies for the limits and coverages so required. All surety and insurance companies shall hold an A.M. Best rating of A-, V or better.
- 4. Regardless of any approval by TCCHD, it is the responsibility of Contractor to maintain the required insurance coverage in force at all times; its failure to do so will not relieve it of any contractual obligation or responsibility. In the event of Contractor's failure to maintain the required insurance in effect, TCCHD may order Contractor to immediately stop work, and upon fourteen (14) days' notice and opportunity to cure, may pursue its remedies for breach of this Agreement as provided for herein and by law.

#### M. INDEMNIFICATION

- 1. Indemnification for General Liability/Non-Professional Negligence. The Contractor shall defend, indemnify, and hold harmless TCCHD and any of its agencies, officials, officers or employees from and against damages, liability, losses, costs and expenses, including reasonable attorneys' fees, arising out of or resulting from the negligence of the Contractor, its employees, agents or sub-consultants or others for whom the Contractor is legally liable, provided that such damage, liability, loss, costs or expense is:
  - a. Attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Project itself) including loss of use resulting therefrom; and
  - b. Not the result of professional negligence; and
  - c. In addition, the Contractor's obligations hereunder shall specifically apply to those damages, liabilities, losses, costs or expenses arising from the negligent acts of TCCHD or any of its agencies, officials, officers, or employees in those instances in which TCCHD is named as an additional insured under the Contractor's Commercial General Liability insurance policy, and then only to the extent covered by such insurance, not to exceed the limits required herein. If the

required insurance is not procured and maintained as required by this Agreement, then the Contractor's obligations hereunder shall apply as though the insurance was in place.

#### N. TERMINATION FOR CAUSE

Any party may terminate the Agreement, in whole or in part, by giving five (5) days' written notice, if the other party substantially fails to fulfill its obligations under the Agreement through no fault of the terminating party.

# O. TERMINATION FOR CONVENIENCE

TCCHD may terminate this Agreement at any time by giving five (5) days' notice in writing to the Contractor. If the Agreement is terminated by TCCHD under this Paragraph, The Contractor shall be paid an amount expended by the Contractor for all services and expenses associated with the specified work up to the time of termination.

# P. AMERICANS WITH DISABILITIES ACT

The Contractor agrees to comply with all provision of Public Law 101-336 as well as 28 C.F.R. Part 35 and 29 C.F.R. Part 1630, as applicable, (Americans with Disabilities Act), as amended from time to time during the court of this Agreement.

# Q. NO GRATUITIES AND KICKBACKS

The provisions of 26 CFR §1.162-18 21, prohibiting gratuities to city employees, and kickbacks by subcontractors, and 21 O.S. §6-265 and 266, imposing sanctions for violations, shall apply to this Agreement.

- 1. Gratuities. Contractor certifies that it has not and will not offer or give any TCCHD employee or officer a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or preparation of any part of a contract requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any contract or subcontract, or to any solicitation or proposal therefore.
- 2. Kickbacks. Contractor certifies that no payment, gratuity, offer of employment or benefit has been or will be made by or on behalf of or solicited from a subcontractor under a contract to Contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

#### R. EMPLOYEE ELIGIBILITY VERIFICATION

By signing this Agreement, the Contractor warrants and attests its employees and all proposed subcontractors are in compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal and State laws and regulations related to the immigration status of employees. The Contractor shall obtain statements from all proposed subcontractors certifying compliance with this requirement and shall furnish copies of the statements with their contract. These warranties shall remain in effect through the entire term, including any renewal periods, of the Agreement.

All contractors or subcontractors are prohibited by State law from entering into a contract with a public employer for the physical performance of services within this state unless the contractor or subcontractor registers and participates in the Status Verification System to verify information of all new employees.

The Status Verification Service System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (EEV) available at <a href="https://www.dhs.gov/E-Verify">www.dhs.gov/E-Verify</a>.

#### S. APPLICABLE LAW

This Agreement shall be governed in all respects by the laws of the State of Oklahoma. Jurisdiction and venue for any dispute concerning this Agreement shall be Tulsa County, Oklahoma.

# T. RELATIONSHIP OF PARTIES

The Contractor is in all respects an independent Contractor and is neither an agent nor an employee of the TCCHD. Neither the Contractor nor any of its officers, employees, agents, or members shall have authority to bind TCCHD nor are they entitled to any of the benefits or worker's compensation provided by TCCHD to its employees. In the event the independent contractor relationship ends in any way, this contract shall automatically terminate without notice. The Contractor shall notify TCCHD of the change in relationship.

# U. ELECTRONIC SIGNATURES/EXECUTION IN COUNTERPARTS

This document may be executed in counterparts, with each such copy considered an original. Facsimile/scanned and PDF signatures shall be accepted as original. Electronic signatures must be an authorized copy of the hand-written signature or created using a technology that allows the process of signature authentication to be validated. In all cases, the name of the authorized signatory shall be identified as visible on the document. Each party will be responsible for maintaining the security of its electronic signature technology and represents through submission of the signed document that the individual's signature is authorized and valid to bind the organization.

#### V. ENTIRE AGREEMENT

This contract, including referenced attachments, taken together as a whole constitute the entire agreement between TCCHD and Contractor. No other statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied shall be binding or valid.

# W. OPEN RECORDS ACT

Contractor acknowledges that TCCHD is subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 et seq. Contractor also acknowledges that TCCHD will comply with the Oklahoma Open Records Act and with all opinions of the Oklahoma Attorney General concerning this Act. Except for a provision of the Agreement specifically designated as confidential in a writing executed by both parties or a provision protected from disclosure in the Open Records Act or other applicable law, no Agreement provision is confidential information and any provision is subject to disclosure.

# X. WAIVER OF BREACH

No failure by TCCHD to enforce any provisions hereof after any event of default by the Contractor shall be deemed a waiver of TCCHD's rights with regard to that event, or any subsequent event. Waiver shall not be construed to be a modification of the terms of the contract.

#### Y. HEADINGS

The headings contained in this Agreement are included only for convenience of reference and do not define, limit, explain, or modify this Agreement or its interpretation, construction, or meaning and are in no way to construed as part of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

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OWNER/PROPERTY MANAGER	TULSA CITY-COUNTY HEALTH DEPARTMENT
Ethan Allison	Bune Not 2021.12.01 13:01:05-06'00'
Owner/Property Manager	Bruce Dart, Ph.D., Executive Director
Date: 3 DEC 2021	Date:
CONTRACTOR	Approved as to Form:
Company Name: Rycon Environmental, LLC	Chanteau Orr Chanteau Orr Date 2021,12.01 12.51.08-06000
By:	Chanteau Orr, Legal Counsel
(Name & Title)	
Date: /2/01/21	

# STATEMENT OF COMPLIANCE

I,	_ hereby declare that I am a duly
authorized purchasing agent for the Tulsa City-	-County Health Department and I certify
the attached Agreement(s) between TCCHD ar	nd
being submitted to the Tulsa County Board of	County Commissioners to accept and file
has been vetted, approved and is in compliane	ce with Okla. Stat. Title19 §1501 et seq.
and/or the Public Competitive Bidding Act of 1974 at Okla. Stat. Title 61 §101 et seq.	
	Saman Ha Job Hakey Purchasing Agent
	Printed Name
	Date