

AGREEMENT FOR Harold W. Bertholf Inc.

This Agreement is made and entered into by and between the County of Lake, hereinafter referred to as "County", and Harold W. Bertholf Inc. hereinafter referred to as "Contractor", collectively referred to as the "parties".

1. **SERVICES.** Subject to the terms and conditions set forth in this Agreement, _____ shall provide to County the services described in the Scope of Services attached hereto and incorporated herein as Exhibit A/B at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A – Definitions, Exhibit B – Scope of Services, Exhibit C – Fiscal Provisions, and Exhibit D – Compliance Provisions, the Agreement shall prevail.

2. **TERM.**

This Agreement shall commence on 04/30/2020 and continue in full force and effect until terminated as hereinafter provided.

3. **COMPENSATION.** Contractor has been selected by County to provide the services described hereunder in Exhibit "B" (Scope of Services), attached hereto. Compensation to Contractor shall not exceed 28% of the cost of Appraising Calpine Geothermal Field or \$30,000, adjusted for annual inflation based on the Consumer Price Index for San Francisco-Oakland-Hayward on March 1st of each year. Hourly rate for subsequent services will be as follows: Clerical: \$78/Hours, Tech Assist: \$170/Hour, Basic and Supplemental Services – Appraiser/Geologist/Engineer \$240/Hour, Appeal Services Auxiliary \$330/Hour. County shall pay Consultant in arrears on a monthly basis.

The County shall compensate Contractor for services rendered, in accordance with the provisions set forth in Exhibit "C" (Fiscal Provisions), attached hereto, provided that Contractor is not in default under any provisions of this agreement. Compensation to Contractor is contingent upon appropriation of federal, state and county funds.

The compensation payable under the terms of this Agreement reflects the fact that the appraisal services to be performed by Contractor for County of Lake involve the same geothermal and power plant property which is the subject of appraisal services Contractor presently performs for Sonoma County. The geothermal field, which is the subject of the Contractor's services to County, under this Agreement, is located in both Lake and Sonoma counties. Contractor has, therefore, determined the compensation due under this Agreement according to a calculation which takes into account the compensation paid by Sonoma County in regard to this same geothermal and power plant.

The appraisal services described herein above are performed in the last quarter of the fiscal year. Nonetheless, contractor shall be paid annually, in monthly installments, an amount not to exceed 28% of the cost of appraising Calpine Geothermal Field or \$30,000 adjusted for annual inflation.

However, approval of this agreement will be secured mid-fiscal year 2019-2020. For the first fiscal year this agreement is in place, the above payment method is infeasible. Therefore, for only the first fiscal year of this agreement, payment to contractor shall be paid in one lump sum payment pursuant to the above-hourly rates and according to the totality of the work completed. Said payment for the first fiscal year shall be paid on or about April 30, 2020.

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Should the above-described services, which the Contractor performs for Sonoma County be terminated, the parties hereto agree that Contractor may request a re-negotiation of the compensation payable under this Agreement. If the parties reach an Agreement as a result of that re-negotiation, the Agreement may be amended in writing to so reflect that modification. If the parties fail to reach an Agreement within a reasonable period of time, either or both parties may terminate the Agreement pursuant to paragraph 4 of the Agreement.

4. **TERMINATION.** This Agreement may be terminated by mutual consent of the parties or by County upon 30 (not to exceed 30) days written notice to Contractor.

In the event of non-appropriation of funds for the services provided under this Agreement, County may terminate this Agreement, without termination charge or other liability.

Upon termination, Contractor shall be paid a prorated amount for the services provided up to the date of termination.

5. **MODIFICATION.** This Agreement may only be modified by a written amendment hereto, executed by both parties; however, matters concerning scope of services which do not affect the compensation may be modified by mutual written consent of Contractor and County executed by Department Head of Assessor Department.

6. **NOTICES.** All notices between the parties shall be in writing addressed as follows:

County of Lake
Department: Assessor-Recorder
Address: 255 N. Forbes Street
City/State: Lakeport, CA 95453
Attn: Richard Ford

Contractor: Harold W. Bertholf Inc.
Address: 1601 Executive Ct. Suite 1
City/State: Sacramento, CA 95864
Attn: Russell B. Bertholf

7. **EXHIBITS.** The Agreement Exhibits, as listed below, are incorporated herein by reference:

Exhibit A – Definitions – (if applicable)
Exhibit B – Scope of Services
Exhibit C – Fiscal Provisions
Exhibit D – Compliance Provisions

8. **TERMS AND CONDITIONS.** Contractor warrants that it will comply with all terms and conditions of this Agreement and Exhibits, and all other applicable federal, state and local laws, regulations and policies.

9. **INTEGRATION.** This Agreement, including attachments, constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior Agreements, related proposals, oral and written, and all negotiations, conversations or discussions heretofore and between the parties.

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Executed at _____, California on _____.

COUNTY OF LAKE

CONTRACTOR

CHAIR, Board of Supervisors

Harold W. Bertholf 4/1/2020
[Contractor's name or Business]

ATTEST:
CAROL J. HUCHINGSON
Clerk to the Board of Supervisors

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

By: _____

By: *[Signature]*

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GEOHERMAL AND POWER PLANT
PROPERTY APPRAISAL SERVICES

Exhibit A
Scope of Work

- (a) By January 1st of each year, provide to the County Assessor, a list of all geothermal and power plant properties located in County of Lake not officially certified by the California Division of Oil, Gas and Geothermal Resources as abandoned or classified as decommissioned by the California Energy Commission.
- (b) By May 30th of each year, for each geothermal well not already plotted on the latest revision of the appropriate California Division of Oil, Gas and Geothermal Resources map, Consultant shall provide the County Assessor with the coordinates of the surveyed surface location of these steam wells.
- (c) By January 1st of each year, provide the County Assessor the mailing address and complete master reporting package to be copied by the Assessor and sent to each owner of a steam well and/or power plant listed in (a) above.
- (d) By June 15th of each year, appraise each County of Lake power plant and well or associated wells as a project according to its fair market value (California Constitution Article XIII A as amended November 7, 1979). Consultant shall, as part of the appraisal procedure, independently and thoroughly review and document each well or production unit's reserves, production capability, operating cost and other pertinent data relevant to such an appraisal. As necessary, meet with the Assessor, his staff, other consultants, or the property owner/operator or his representatives regarding the development of the appraisal for the annual tax roll.
- (e) By June 15th of each year, based upon the determination of the reserves under (d), Consultant shall make a Proposition 13 value calculation to ascertain the taxable value of the reserves, adjusted pursuant to State Board of Equalization Rule 473 and, when appropriate, calculate the Factored Base Year Value pursuant to Revenue and Taxation Code Section 110.1.
- (f) Consultant shall also provide to County, for supplemental assessment purposes, the market value of power plant and geothermal wells and their facilities that are newly constructed or have changed ownership, not more than ninety (90) days after receiving a full and complete report from the taxpayer on such construction or change of ownership.
- (g) Maintain for the County Assessor complete appraisal files for each property. The appraisal files shall include all basic data collected, notes, worksheets, maps, and conformed copies of all appraisals, etc., used in calculating reserves and values.
- (h) The required format and deadlines of work items (a) through (g) are specified in Exhibit "B" entitled "Geothermal and Power Plant Property Appraisals Work Product Specifications."

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(i) Consultant shall conduct internal reviews of all appraisal work products prior to sending to the County. Whenever requested, Consultant shall review the appraisals he has made pursuant to this Agreement with the Assessor and his staff. In the event that the Assessor or a member of his staff discovers an error or omission in any appraisal made by Consultant pursuant to this Agreement, Consultant shall correct it at no additional cost to the County.

(j) If at any time during the term of this Agreement, a question or controversy arises over the appraisals made by the Consultant pursuant to this Agreement, auxiliary work hours may be required. The Consultant shall participate fully with the County of Lake Assessor's Office and its legal counsel in the resolution of the question or controversy, including participating in a response to a State Board of Equalization audit. If at any time during the term of this Agreement an administrative or judicial action is filed to challenge assessed values established utilizing the appraisals made by the Consultant pursuant to this Agreement, including administrative appeals before the County of Lake Assessment Appeals Board or before the State Board of Equalization, then Consultant shall participate fully with the County of Lake Assessor's Office and its legal counsel in defense of the challenged values. The Consultant shall be available to consult and assist the County of Lake Assessor's Office on matters of valuation arising in the context of such questions, controversies, challenges, and appeals, if any.

(k) Prior to initiating auxiliary work described in section (j), Consultant shall prepare a written request with estimated work hours and associated costs for any appeals, challenged values or other special projects in advance to the County for review and approval. Auxiliary work will commence once authorization from the County Assessor is received and appropriation of funds to cover additional costs are approved. As directed by and with prior written approval of the Assessor, prepare studies or analyses necessary to represent the Assessor as an attendee, presenter and/or panel member at meetings and make occasional written reports on such meetings as warranted.

(l) Consultant shall have the right to contract with other clients to supply engineering, geological and appraisal services similar to those supplied pursuant to this agreement; provided, however, that Consultant covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services hereunder. The Consultant further covenants that in the performance of his contract no persons having any such interest shall be employed. Consultant covenants further that work for any clients described in this paragraph shall be limited to clients not engaged in the business of exploration, production, operation or control of geothermal and/or power plant properties in California.

(m) Maintain at all times, the highest of ethical and professional standards.

Geothermal and Power Plant

Property Appraisals Work Product Specifications

Item: Assessee Data Reporting Package

Deadline: County of Lake Assessor Requires by January 1st of Each Assessment Year

Reporting Package Shall Include:

1. Identification of known or possible geothermal and power plant property holders in County of Lake.
2. Copies of the data request forms that are to be mailed to geothermal and power plant property holders. These would be differentiated, if necessary, for geothermal mineral properties, geothermal power plant properties.
3. Any instructions that may be necessary to ensure the proper processing of the data request forms by the County of Lake Assessor's Office.

Item: New Construction Supplemental Assessment

Deadline: County of Lake Assessor Requires by May 30th of Each Assessment Year, and No Later than 90 Days After Full and Complete Geothermal and Power Plant Property Statements Have Been Received by Consultant

New Construction Supplemental Assessment Shall Include:

1. Work papers documenting recommended supplemental assessment values.
2. Recommended values submitted in key entry ready form to assign assessment numbers.
3. Final key entry ready sheets submitted to Assessor by May 30th, or later if taxpayer information is filed late.
4. Supplemental assessment information incorporated in the August 1st appraisal report.

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Item: Annual Appraisal and Roll Value Summaries

Deadline: County of Lake Assessor Requires Roll Values by June 15th, and Annual Appraisals and Summaries by August 1st of each year, or No Later than 30 Days After the Annual Roll Close.

Appraisals and Summaries Shall Include:

1. **Recommended Taxable Values:** Recommended taxable values will be submitted in a form suitable for key entry by June 15th.
2. **One Summary Will Be Prepared:** The summary will be prepared for geothermal project as a whole. Unassigned acreage values will be prepared by the County of Lake Assessor's Office, based upon the map previously supplied by the consultant. The following items (2-10) should be included in each appraisal.
3. **Enrolled Value Summary:** For each geothermal or power plant project, the personalty, mineral rights, land improvement (wells) and other improvement (plant and field facilities) values to be enrolled by County of Lake are subtotaled by project. The total value for Sonoma and Lake Counties is also presented in the same format.
4. **Project Well List:** Identifies the project's wells by lease, well number, depth, type and county in which the wellhead is located.
5. **Basic Data Summary:** A summary of the parameters and assumptions used in the project cash flow.
6. **Cash Flow Analysis:** The most detailed and final version of the project cash flow should be supplied here. This is the project's market value.
7. **Classification and Allocation of Market Value Appraisal:** Summarizes the allocation of the market value appraisal to: land improvements, mineral rights, other improvements and personalty.
8. **Prop 8 Comparison:** The project's base year value, adjusted pursuant to State Board of Equalization Rule 473, is compared to the market value in order to determine the taxable value. The recommended taxable value is identified.
9. **Roll Value Classification:** Summarizes the allocation of the project's taxable value to: land improvements, mineral rights, other improvements, and personalty.
10. **Supplemental Assessments:** If new construction or a change of ownership takes place on the subject property, the appraisal package should include a valuation of the supplemental assessments due.

EXHIBIT "C" – FISCAL PROVISIONS

1. **CONTRACTOR'S FINANCIAL RECORDS.** Contractor shall keep financial records for funds received hereunder, separate from any other funds administered by Contractor, and maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's Cost Principles.

2. **INVOICES.**

2.1 Contractor's invoices shall be submitted in arrears on a monthly basis, or such other time that is mutually agreed upon in writing, and shall be itemized and formatted to the satisfaction of the County.

2.2 County shall make payment within 20 business days of an undisputed invoice for the compensation stipulated herein for supplies delivered and accepted or services rendered and accepted, less potential deductions, if any, as herein provided. Payment on partial deliverables may be made whenever amounts due so warrant or when requested by the Contractor and approved by the Assistant Purchasing Agent.

3. **AUDIT REQUIREMENTS AND AUDIT EXCEPTIONS**

3.1 Contractor warrants that it shall comply with all audit requirements established by County and will provide a copy of Contractor's Annual Independent Audit Report, if applicable.

3.2 County may conduct periodic audits of Contractor's financial records, notifying Contractor no less than 48 hours prior to scheduled audit. Said notice shall include a detailed listing of the records required for review. Contractor shall allow County, or other appropriate entities designated by County, access to all financial records pertinent to this Agreement.

3.3 Contractor shall reimburse County for audit exceptions within 30 days of written demand or shall make other repayment arrangements subject to the approval of County.

4. **EXPENDITURE OF FUNDS.**

4.1 County reserves the right to refuse payment to Contractor or disallow costs for any expenditure determined to be unreasonable, out of compliance, or inappropriate to the services provided hereunder.

EXHIBIT "D" – COMPLIANCE PROVISIONS

1. **INFORMATION INTEGRITY AND SECURITY.** Contractor shall immediately notify County of any known or suspected breach of personal, sensitive and confidential information related to Contractor's work under this Agreement.

2. **NON-DISCRIMINATION.** Contractor shall not unlawfully discriminate against any qualified worker or recipient of services because of race, religious creed, color, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age.

3. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

3.1 The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:

A. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in the preceding paragraph; and

D. Have not, within a three-year period preceding this Agreement, had one or more public transactions terminated for cause or default.

3.2 Contractor shall report immediately to County, in writing, any incidents of alleged fraud and/or abuse by either Contractor or Contractor's subcontractor. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by County.

4. **AGREEMENTS IN EXCESS OF \$100,000.** Contractor shall comply with all applicable orders or requirements issued under the following laws:

4.1 Clean Air Act, as amended (42 USC 1857).

4.2 Clean Water Act, as amended (33 USC 1368).

4.3 Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.)

4.4 Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).

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5. **INDEMNIFICATION AND HOLD HARMLESS.** [Select one of the three following options]

[1] Contractor shall indemnify and defend County and its officers, employees, and agents against and hold them harmless from any and all claims, losses, damages, and liability for damages, including attorney's fees and other costs of defense incurred by County, whether for damage to or loss of property, or injury to or death of person, including properties of County and injury to or death of County officials, employees or agents, arising out of, or connected with Contractor's operations hereunder or the performance of the work described herein, unless such damages, loss, injury or death is caused solely by the negligence of County.

Contractor's obligations under this Section shall survive the termination of the Agreement.

6. **STANDARD OF CARE.** Contractor represents that it is specially trained, licensed, experienced and competent to perform all the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed, whether by Contractor or designated subcontractors, in a manner according to generally accepted practices.

7. **INTEREST OF CONTRACTOR.** Contractor assures that neither it nor its employees has any interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder.

8. **DUE PERFORMANCE – DEFAULT.** Each party agrees to fully perform all aspects of this agreement. If a default to this agreement occurs then the party in default shall be given written notice of said default by the other party. If the party in default does not fully correct (cure) the default within 90 days of the date of that notice (i.e. the time to cure) then such party shall be in default. The time period for corrective action of the party in default may be extended in writing executed by both parties, which must include the reason(s) for the extension and the date the extension expires.

Notice given under this provision shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable time period. No such notice shall be deemed a termination of this Agreement, unless the party giving notice so elects in that notice, or so elects in a subsequent written notice after the time to cure has expired.

9. **INSURANCE.**

9.1 Contractor shall procure and maintain Workers' Compensation Insurance for all of its employees.

9.2 Contractor shall procure and maintain Comprehensive Public Liability Insurance, both bodily injury and property damage, in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence, including but not limited to endorsements for the following coverage: personal injury, premises-operations, products and completed operations, blanket contractual, and independent contractor's liability.

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9.3 Contractor shall procure and maintain Comprehensive Automobile Liability Insurance, both bodily injury and property damage, on owned, hired, leased and non-owned vehicles used in connection with Contractor's business in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence.

9.4 Contractor shall procure and maintain Professional Liability Insurance for the protection against claims arising out of the performance of services under this Agreement caused by errors, omissions or other acts for which Contractor is liable. Said insurance shall be written with limits of not less than one million dollars (\$1,000,000).

9.5 Contractor shall not commence work under this Agreement until it has obtained all the insurance required hereinabove and submitted to County certificates of insurance naming the County of Lake as additional insured. Contractor agrees to provide to County, at least 30 days prior to expiration date, a new certificate of insurance.

9.6 In case of any subcontract, Contractor shall require each subcontractor to provide all of the same coverage as detailed hereinabove. Subcontractors shall provide certificates of insurance naming the County of Lake as additional insured and shall submit new certificates of insurance at least 30 days prior to expiration date. Contractor shall not allow any subcontractor to commence work until the required insurances have been obtained.

9.7 For any claims related to the work performed under this Agreement, the Contractor=s insurance coverage shall be primary insurance as to the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, agents or volunteers shall be in excess of the Contractor=s insurance and shall not contribute with it.

9.8 The Commercial General Liability and Automobile Liability Insurance must each contain, or be endorsed to contain, the following provision:

The County, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds and shall be added in the form of an endorsement to Contractor=s insurance on Form CG 20 10 11 85. Contractor shall not commence work under this Agreement until Contractor has had delivered to County the Additional Insured Endorsements required herein.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of California Civil Code Section 2782.

9.9 Insurance coverage required of Contractor under this Agreement shall be placed with insurers with a current A.M. Best rating of no less than A: VII.

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage, nor shall it preclude County from taking other action as is available to it under any other provision of this Agreement or applicable law. Failure of County to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at a later date.

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9.10 Any failure of Contractor to maintain the insurance required by this section, or to comply with any of the requirements of this section, shall constitute a material breach of the entire Agreement.

10. ATTORNEY'S FEES AND COSTS. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

11. ASSIGNMENT. Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of County except that claims for money due or to become due Contractor from County under this Agreement may be assigned by Contractor to a bank, trust company, or other financial institution without such approval. Written notice of any such transfer shall be furnished promptly to County. Any attempt at assignment of rights under this Agreement except for those specifically consented to by both parties or as stated above shall be void.

12. PAYROLL TAXES AND DEDUCTIONS. Contractor shall promptly forward payroll taxes, insurances, and contributions to designated governmental agencies.

13. INDEPENDENT CONTRACTOR. It is specifically understood and agreed that, in the making and performance of this Agreement, Contractor is an independent contractor and is not an employee, agent or servant of County. Contractor is not entitled to any employee benefits. County agrees that Contractor shall have the right to control the manner and means of accomplishing the result contracted for herein.

Contractor is solely responsible for the payment of all federal, state and local taxes, charges, fees, or contributions required with respect to Contractor and Contractor's officers, employees, and agents who are engaged in the performance of this Agreement (including without limitation, unemployment insurance, social security and payroll tax withholding.)

14. OWNERSHIP OF DOCUMENTS. All non-proprietary reports, drawings, renderings, or other documents or materials prepared by Contractor hereunder are the property of County.

15. SEVERABILITY. If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

16. ADHERENCE TO APPLICABLE DISABILITY LAW. Contractor shall be responsible for knowing and adhering to the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, (42 U.S.C. Sections 12101, et seq.). California Government Code Sections 12920 et seq., and all related state and local laws.

17. HIPAA COMPLIANCE. Contractor will adhere to Titles 9 and 22 and all other applicable Federal and State statutes and regulations, including the Health Insurance Portability

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and Accountability Act of 1996 (HIPAA) and will make his best efforts to preserve data integrity and the confidentiality of protected health information.

18. SAFETY RESPONSIBILITIES. Contractor will adhere to all applicable CalOSHA requirements in performing work pursuant to this Agreement. Contractor agrees that in the performance of work under this Agreement, Contractor will provide for the safety needs of its employees and will be responsible for maintaining the standards necessary to minimize health and safety hazards.

19. JURISDICTION AND VENUE. This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue of any action or proceeding regarding this Agreement or performance thereof shall be in Lake County, California. Contractor waives any right of removal it might have under California Code of Civil Procedure Section 394.

20. RESIDENCY. All independent contractors providing services to County for compensation must file a State of California Form 590, certifying California residency or, in the case of a corporation, certifying that they have a permanent place of business in California.

21. NO THIRD-PARTY BENEFICIARIES. Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create, any rights in or for the benefit of third parties.