

### **THE IMPORTANCE OF LICENSING, BONDING AND INSURANCE TO A DEVELOPMENT PROJECT** *Prepared by Community Legal Resources for the Neighborhood Partnership Academy*

While real property development can be one of the most exciting and satisfying aspects of your nonprofit's work, it can also be one of the most risky. With all of the possible complications, and the importance of a development project to your organization's mission, budget and reputation, it is important to minimize as many risks as you can. Licensing, bonding and insurance are all tools that can help you "cover your assets" as completely as possible.

#### Licensing

In Michigan, certain professionals are required to be licensed and/or registered with the state. Several of these professionals may be part of your development team – architects, attorneys, certified public accountants, certified community planners and general contractors are all subject to oversight by the state.

While licensing and registration requirements vary (some require an exam or continuing education, others require a minimum of experience, etc.), being licensed by the state is still an important mark of quality. In fact, many sources of funding require you to certify that you will use only licensed members of these professions.

Of course, you can always ask a consultant whether they are licensed in Michigan, but it is also good policy to check for yourself. The Consumer and Industry Services Bureau has two ways for you to check the licensing status of a business:

1. The State of Michigan Web site provides a *License/Registration Lookup* page at <http://www.cis.state.mi.us/verify.htm>
2. The State also provides a License Verification Hotline to verify whether a professional is licensed. The hotline number is (517) 241-9427.

#### Bonding

In simplest terms, a bond is an indication of financial security. A contractor works with a bonding company (or *surety*) to obtain one or more bonds. The bond serves as a guarantee to the contractor's client that the work will be completed, even if the contractor should be unable or unwilling to finish. Because a surety stands to lose a significant amount of money if the contractor cannot or will not complete the project, a contractor's ability to obtain a bond usually indicates that the contractor is in good financial health (on the other hand, if a contractor is unbonded, it may be a good indicator that you should find another contractor!).

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There are two primary types of bonds:

- A *performance bond* is a commitment from the surety that they will finish a project (or arrange to have it finished) if the contractor does not do so.
- A *payment bond* is a commitment that the surety will pay for all labor and materials if the contractor doesn't. This is especially important because failure to pay for labor and materials involved in a project can result in a lien on the property and its structures.

In practice, performance and payment bonds are often issued together. There is no official way to verify whether a contractor is bonded – you should request proof of bonding from the contractor directly, and be sure you are satisfied with its terms and coverage before you enter into an agreement.

## Insurance

Regardless of the type of activities you are involved in, your organization probably needs some kind of insurance coverage. Whether it is general liability, directors and officers liability, automobile, or some other insurance (or a combination!), a solid insurance policy is one of the nonprofit's first lines of defense against unexpected losses.

Insurance becomes even more important in the context of development. How much insurance you need, what types, and in what form will vary from project to project, and will depend on everything from the value of the project to the your funders' requirements.

In addition to your own insurance, you need to be sure that all of your contractors have appropriate insurance coverage. "Appropriate" means that it is the right type for their industry, it is in a sufficient amount, and that the correct parties are named as beneficiaries. In some cases, this may include your organization or your funders.

Of course, none of these tools can make up for careful selection of your development team, active management of the process, and informed decision making. But they can go a long way towards making you (and your funders!) feel more secure.

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