

[This replaces Schedule 7 in the 2/10/14 draft]

[Replaces text on starting on page 37 of draft dated 2/10/14]

5.7 Insurance

5.7.1 General Requirements Novato

The Company shall provide insurance for the coverage amounts set forth in Schedule 7 **included within the Service Fee**. ~~Costs for this insurance shall be treated as a Pass Through Cost unless so indicated by Company that insurance costs are included within the Service Fee.~~ Prior to the Company commencing Services, ~~the Company's insurance broker~~ Company shall send to the District a certificate indicating that the required insurance is in place ~~and stating that the policies will not be canceled without the requisite notice as specified in Schedule 7 by registered mail.~~ The Company shall secure and maintain the Insurance as required in the Agreement. ~~Each insurance policy required above~~ **The Company shall provide that coverage shall not be canceled, except with notice to the District.**

The representative signing the certificate shall furnish evidence that he is authorized to sign as well as his address and the agency or agencies through which the insurance was obtained.

~~In the event Company seeks to be self-insured with respect to this Agreement such shall require District approval.~~

5.7.2 Insurers, Deductibles and District Rights

All Insurance shall be procured and maintained from financially sound and generally recognized responsible insurance companies ~~admitted to~~ allowed to do business in the State of California and ~~approved by the California Department of Insurance~~ selected by the Company with the consent of the District, which consent shall not be unreasonably withheld, and authorized to write such insurance in the State. ~~Notwithstanding the foregoing, in the event the Company wishes to use a non-admitted carrier, the Company must provide notice to the District and must provide sufficient information to allow the District to evaluate the proposed non-admitted carrier. The District must provide written consent to use the proposed carrier, which consent shall be at the District's sole and reasonable discretion. The District reserves the right to require Company to obtain insurance from insurers achieving ratings from an insurance rating service acceptable to the District from an insurance rating service of the District's choosing in District's sole and reasonable discretion. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and respects to those in which the Company is engaged. The Company must provide the District with the deductible amounts for each policy, and must obtain the District's written consent to those deductible amounts, which consent shall be at the District's sole and reasonable discretion.~~ **Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District.** The Company shall be responsible for any deductible amounts, which shall not be Pass Through Costs. All policies evidencing such insurance shall provide for (1) payment of the losses to the District, and to the Company as their respective interests may appear, and (2) prior written notice of the cancellation in the policy thereof to the Company and the District in accordance with the notice requirements specified in Schedule 7. All policies of insurance required by this Section shall be primary insurance without any right of contribution from other insurance carried by the District. The District, and its

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Director, board members, officers, employees, agents and persons under the District's control or supervision shall be named as Additional insured **with respect to the Company's duties and activities under the scope of this Agreement** under these policies (excluding the worker's compensation insurance policy). The types and amounts of coverage required by the District are provided in Schedule 7 of this Agreement.

5.7.3 Certificates, Policies and Notice

The Company shall ~~deliver to~~ furnish the District, ~~as soon as practicable after the execution of this Agreement and within sixty (60) days prior to each Fiscal Year thereafter~~ **with original Certificates and any applicable amendatory endorsements or copies of the applicable policy language effecting coverage required by this Agreement.** ~~thereto setting forth in reasonable detail the particulars as to all insurance policies which the Company is required to maintain pursuant to this Section, listing the risks that are covered thereby, the name of the insurers issuing such insurance, certifying that the same are in full force and effect and giving the amounts and expiration dates of such insurance; the Company, if requested by District, shall also complete the District's coverage certification forms and supply the completed form to the District. All certificates and endorsements are to be received and approved by the District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. If required as a result of a claim or loss for which an indemnification is owed to the District by Company or to which the Company's insurance would otherwise be applicable, the Company shall also supply the District's designated legal counsel with certified copies of said Insurance policies with confidential information redacted promptly following such District request. Such policies shall contain an endorsement to the effect that the insuring company shall notify the District in accordance with the notice provisions specified in Schedule 7.~~ **The Certificates shall list the name of the insurers issuing such insurance, certifying that the same are in full force and effect and giving the amounts and expiration dates of such insurance.** Whenever a Subcontractor is utilized, the Company shall ~~either procure and maintain or~~ require the Subcontractor to procure and maintain during the applicable Term comprehensive general liability, worker's compensation and motor vehicle liability insurance coverage subject to the requirements of Schedule 7, covering damage caused by actions of the Subcontractor or its employees.

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SCHEDULE 7 INSURANCE

All insurance limits as indicated below may be provided through a combination of primary and excess policies.

7.1 WORKERS COMPENSATION

Worker's Compensation insurance in compliance with California requirements. All employers, including ~~Contractor~~ **Company**, that employ subject workers who work under this ~~Contract~~ **Agreement** in the State of California shall comply with these requirements and provide the required Worker's Compensation coverage. Employers Liability will have minimum limits for bodily injury by accident of \$2,000,000 per accident and for bodily injury by disease with a \$2,000,000 policy limit and \$2,000,000 per employee.

7.2 COMPANY'S COMMERCIAL GENERAL LIABILITY

Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of \$5,000,000 per occurrence, and \$10,000,000 general aggregate.

7.3 COMPANY'S COMMERCIAL AUTOMOBILE LIABILITY

Coverage shall apply to owned vehicles and/or hired and non-owned vehicles and employee non-ownership use with minimum limits of \$5,000,000 CSL (combined single limit).

7.4 COMPANY'S ENVIRONMENTAL IMPAIRMENT INSURANCE

Coverage shall be \$ 2,000,000 per claim and \$10,000,000 excess.

7.5 COMPANY'S CERTIFICATE OF INSURANCE

The District shall be listed as ~~a certificate holder~~ an additional insured and all of its officials, officers, employees, agents and volunteers shall be listed as additional insured with respect to Commercial General Liability, Commercial Automobile Liability, and Environmental Impairment Insurance. The Company shall provide the District with a signed certificate(s) (both electronically and original) and all ~~applicable and~~ required endorsements **per this Agreement** shall be on file with the District risk manager by the Commencement Date. Said certificate shall evidence the required coverages and amounts as contained herein. ~~and provide the following notices in the event of cancellation for non-renewal or non-payment: (i) all liability policies (excluding Environmental Impairment) shall provide for a ninety (90) day notice of cancellation for non-renewal or ten (10) days notice for non-payment of premium; and (ii) Environmental Impairment shall provide for a sixty (60) day notice of cancellation for non-renewal or ten (10) days notice for non-payment of premium.~~ **The Company shall provide new certificates upon renewal or modification.** Annual renewals and submittals shall be as described elsewhere in this Agreement.

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DISTRICT'S PROPERTY INSURANCE

The District shall maintain all risk property damage insurance on the Facility and Equipment owned by the District and operated by the Company under this Agreement. Any property of the District not properly or fully insured shall be the financial responsibility of the District. Any damage to District property or Equipment as a result of the Company's fault shall be the Company's responsibility to the participatory extent of its fault. ~~Such policy shall include a waiver of any subrogation rights to pursue claims against the Company and, to the extent possible, name the Company as an additional insured.~~

~~7.7 COMPANY'S INSURANCE PASS THROUGH COST~~

~~Company will, at District's request, demonstrate that the costs of insurance provided as Pass Through Costs, are at competitive marketplace rates for comparable coverage from insurance carriers of similar A.M. Best ratings. Such demonstration may include the Company obtaining comparable premium quotes from third party insurance carriers of similar A.M. Best ratings as the insurance company used by the Company on the Contract Date, for the Insurance specified herein~~

7.7 DISTRICT'S GENERAL LIABILITY

Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of \$5,000,000 per occurrence, and \$10,000,000 general aggregate. Such policy shall name the Company as an additional insured.

7.8 WAIVER OF SUBROGATION

Company hereby grants to Entity a waiver of any right to subrogation, which any workers compensation insurer of said Company may acquire against the Entity by virtue of the payment of any loss under such insurance. Company agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

7.9 DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to the Entity. The Entity may require the Company to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention or deductible.

