

EXHIBIT D-
INSURANCE REQUIREMENTS
PROFESSIONAL SERVICES AGREEMENT

"PROFESSIONAL LIABILITY" INSURANCE

1.1 Without limiting CONSULTANT's liability and at its sole expense, CONSULTANT shall obtain, pay for, and maintain a Professional Liability insurance policy.

1.2 The Professional Liability policy must:

- (A) Include "errors and omissions" coverage or "malpractice" coverage;
- (B) Afford "practice specific" or "project specific" coverage;
- (C) Provide limits of liability in an amount not less than:
 - (1) ONE MILLION DOLLARS (\$1,000,000) per claim; and
 - (2) TWO MILLION DOLLARS (\$2,000,000) in the aggregate;
- (D) Cover a claim or claims arising out of the performance of professional services by:
 - (1) CONSULTANT;
 - (2) CONSULTANT's Subconsultant(s);
 - (3) Anyone whom CONSULTANT or its Subconsultant(s) directly or indirectly employs or uses; or
 - (4) Anyone whose acts CONSULTANT or its Subconsultant(s) may be liable; and
- (E) Provide coverage for:
 - (1) The duration of this Agreement; and
 - (2) At least three (3) years after the Project's completion:
 - (a) CONSULTANT shall obtain, pay for, and maintain an endorsement that adds an "extended reporting period" ("ERP") or a "discovery" feature— to allow CITY to report a claim— for a period of not less than three (3) years following the initial policy's expiration, or following CITY's recordation of its "notice of completion" for the Project, whichever date is later. The endorsement for the ERP or discovery feature must provide identical policy limits, and meet the conditions, described in subparagraphs 1.2 (A) through (D) above; or
 - (b) CONSULTANT shall obtain, pay for, and maintain successive renewal or replacement policies (with "prior acts" coverage), for a period of three (3) years following the initial policy's expiration, or following CITY's recordation of its "notice of completion" for the Project, whichever date is later. Each policy must have a "retroactive date" that coincides with, or is earlier than, this Agreement's Effective Date. Additionally, each policy must provide identical policy limits, and meet the conditions, described in subparagraphs 1.2 (A) through (D) above.

1.3 All ERP or discovery endorsements, renewal policies, and replacement coverage policies are subject to CITY's review and approval, in its sole discretion.

1.4 CONSULTANT shall pay the full amount of all deductibles and any self-insured retention per claim for coverage under the Professional Liability insurance policy.

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"WORKERS' COMPENSATION" INSURANCE

1.1 At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— for the duration of this Agreement:

- (A) Complete Workers' Compensation insurance, meeting or exceeding the coverages and amounts that California law requires; and
- (B) Employer's Liability insurance in an amount not less than:
 - (1) ONE MILLION DOLLARS (\$1,000,000) per accident for bodily injury or disease;
 - (2) ONE MILLION DOLLARS (\$1,000,000) per employee for bodily injury or disease; and
 - (3) ONE MILLION DOLLARS (\$1,000,000) policy limit.

1.2 CONSULTANT shall provide CITY with a "*certificate of insurance*" on a form satisfactory to the City Attorney or City's Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, this Agreement's workers' compensation insurance requirements.

1.3 CITY shall not be liable to CONSULTANT's personnel, or anyone CONSULTANT directly or indirectly employs or uses, for a claim at law or in equity arising out of CONSULTANT's failure to comply with this Agreement's workers' compensation insurance requirements.

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"COMMERCIAL GENERAL LIABILITY" OR "BUSINESSOWNERS LIABILITY" INSURANCE

1.1 At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— a "Commercial General Liability" or a "Businessowners Liability" insurance policy on an occurrence basis to fully protect CONSULTANT and CITY from claims and suits for bodily injury, personal and advertising injury, property damage, and medical payments. The policy must add the City of Glendale and its officers, agents, employees, and representatives (collectively, "CITY AND ITS REPRESENTATIVES") as additional insureds.

1.2 Coverage afforded to CITY AND ITS REPRESENTATIVES must be at least as broad as that afforded to CONSULTANT. If CONSULTANT has higher limits than the limits specified in these insurance requirements, or has additional broader coverage, or has both, the insurer shall make available the higher limits and broader coverage to CITY AND ITS REPRESENTATIVES. The insurance must be written for the limits of liability specified below:

- (A) ONE MILLION DOLLARS (\$1,000,000) per occurrence, or the full per occurrence limits of the policy— whichever limit is greater— for bodily injury (including accidental death) to any one person;
- (B) ONE MILLION DOLLARS (\$1,000,000) per occurrence, or the full per occurrence limits of the policy— whichever limit is greater— for personal and advertising injury to any one person;
- (C) ONE MILLION DOLLARS (\$1,000,000) per occurrence, or the full per occurrence limits of the policy— whichever limit is greater— for property damage; and
- (D) TWO MILLION DOLLARS (\$2,000,000) general aggregate limit, or the full aggregate limits of the policy— whichever limit is greater.

1.3 The liability insurance must include all major divisions of coverage and must cover:

- (A) Premises Operations (including Explosion, Collapse, and Underground ["X,C,U"] coverages as applicable);
- (B) Independent Contractors' Protective Liability;
- (C) Products and Completed Operations (maintain same limits as above until five (5) years after: recordation of the Notice of Completion or final close-out of the Agreement);
- (D) Personal and Advertising Injury (with Employer's Liability Exclusion deleted);
- (E) Contractual Liability; and
- (F) Broad Form Property Damage.

1.4 CONSULTANT shall provide CITY with a "certificate of insurance" and an "additional insured endorsement"— on forms satisfactory to the City Attorney or City's Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, all of the Insurance Requirements.

1.5 The "certificate of insurance" and an "additional insured endorsement" must state:

"The City of Glendale, and its officers, agents, employees, and representatives are included as additional insureds under the policy(s). This insurance is primary to all other insurance of the City. The City's insurance, or self-insurance, or both, will apply in excess of— and will not contribute with— this insurance. This insurance applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or a suit is brought. The issuing company shall mail thirty (30) days advance notice to the City for any policy cancellation, termination, non-renewal, or reduction in coverage."

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"BUSINESS AUTOMOBILE" LIABILITY INSURANCE

1.1 At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— a "Business Automobile" insurance policy on an occurrence basis to fully protect CONSULTANT and CITY from claims and suits for bodily injury, property damage, and medical payments. The policy must add the City of Glendale and its officers, agents, employees, and representatives as additional insureds.

1.2 The insurance must not be written for less than the limits of liability specified below or required by law, whichever coverage amount is greater:

- (A) ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury (including accidental death) to any one person; and
- (B) ONE MILLION DOLLARS (\$1,000,000) per occurrence for property damage; or
- (C) ONE MILLION DOLLARS (\$1,000,000) combined single limit ("CSL").

1.3 The liability insurance must include all major divisions of coverage and must cover all vehicles, whether rented, leased, hired, scheduled, owned or non-owned.

1.4 CONSULTANT shall provide CITY with a "certificate of insurance" and an "additional insured endorsement"— on forms satisfactory to the City Attorney or City's Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, all of the Insurance Requirements.

1.5 The "certificate of insurance" and an "additional insured endorsement" must state:

"The City of Glendale, and its officers, agents, employees, and representatives are included as additional insureds under the policy(s). This insurance is primary to all other insurance of the City. The City's insurance, or self-insurance, or both, will apply in excess of— and will not contribute with— this insurance. This insurance applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or a suit is brought. The issuing company shall mail thirty (30) days advance notice to the City for any policy cancellation, termination, non-renewal, or reduction in coverage."

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GENERAL REQUIREMENTS

1.1 At all times, the insurance company issuing the policy must meet all three of these requirements:

- (A) It must be "admitted" insurer by the State of California Department of Insurance or must be listed on the California Department of Insurance's "List of Approved Surplus Line Insurers" ("LASLI");
- (B) It must be domiciled within, and organized under the laws of, a State of the United States; and
- (C) It must carry a minimum A.M. Best Company Financial Strength Rating of "A:VII," or better.

1.2 If the Agreement requires any of the foregoing insurance coverages to remain in force after the Final Payment, and if they are reasonably available, CONSULTANT shall submit to CITY— with the final Application for Payment— all certificates and additional insured endorsements evidencing the coverages' continuation.

1.3 A deductible or self-insured retention is subject to CITY's review and approval, in its sole discretion. The insurance company or its authorized representative must state either on the insurance certificate or in a separate correspondence:

- (A) The amount of the deductible, or self-insured retention, or both;
- (B) Whether a limit of insurance has been lowered by any pending or paid claim; and
- (C) The current limit amount, as lowered by the pending or paid claim.

1.4 Despite any conflicting or contrary provision in CONSULTANT's insurance policy:

- (A) If CONSULTANT's insurance company adds CITY, and its officers, agents, employees, and representatives (collectively, "its representatives") as additional insureds, then for all acts, errors, or omissions of CITY, or its representatives, or both, that insurer shall:
 - (1) Pay those sums that CITY, or its representatives, or both, become legally obligated to pay as damages; and
 - (2) Defend— and pay the costs of defending— CITY, or its representatives, or both;
- (B) CONSULTANT's insurance is primary;
- (C) Other insurance (whether primary, excess, contingent or self-insurance, or any other basis) available to CITY, or its representatives, or both, is excess over CONSULTANT's insurance;
- (D) CITY's insurance, or self-insurance, or both, will not contribute with CONSULTANT's insurance policy;
- (E) CONSULTANT and CONSULTANT's insurance company waive— and shall not exercise— any right of recovery or subrogation that CONSULTANT or the insurer may have against CITY, or its representatives, or both;
- (F) CONSULTANT's insurance policy applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or suit is brought, except that the naming of multiple insureds will not increase an insurance company's limits of liability;
- (G) CONSULTANT's insurance policy applies to a claim or suit brought by an additional insured against a Named Insured or other insured, arising out of bodily injury, personal injury, advertising injury, or property damage; and
- (H) CITY is not liable for a premium payment or another expense under CONSULTANT's policy.

1.5 At any time during the duration of this Agreement, CITY may do any one or more of the following:

- (A) Review this Agreement's insurance coverage requirements; or
- (B) Require that CONSULTANT:
 - (1) Obtain, pay for, and maintain more or less insurance depending on CITY's assessment of any one or more of the following factors:
 - (a) CITY's risk of liability or exposure arising out of, or in any way connected with, the services of CONSULTANT under this Agreement;
 - (b) The nature or number of accidents, claims, or lawsuits arising out of, or in any way connected with, the services of CONSULTANT under this Agreement; or
 - (c) The availability, or affordability, or both, of increased liability insurance coverage;
 - (2) Reduce or eliminate a deductible or self-insured retention as it applies to CITY; or
 - (3) Obtain, pay for, and maintain a bond (as a replacement for an insurance coverage) from a California corporate surety, guaranteeing payment to CITY for liability, or costs, or both, that CITY incurs during CITY's investigation, administration, or defense of a claim or a suit arising out of this Agreement.

1.6 CONSULTANT shall maintain the insurance policy without interruption, from the Project's commencement date to the Final Payment date, or until a date that CITY specifies for any coverage that CONSULTANT must maintain after the Final Payment.

1.7 CONSULTANT's insurance company or self-insurance administrator shall mail CITY written notice at least thirty (30) days in advance of the policy's or the self-insurance program's cancellation, termination, non-renewal, or reduction in coverage.

1.8 CONSULTANT shall not allow any insurance to expire, cancel, terminate, lapse, or non-renew. Twenty-one (21) days before its insurance policy's expiration, cancellation, termination, or non-renewal, CONSULTANT shall deliver to CITY evidence of the required coverage as proof that CONSULTANT's insurance policy has been renewed or replaced with another insurance policy which, during the duration of this Agreement, meets all of this Agreement's insurance requirements.

1.9 At any time, upon CITY's request, CONSULTANT shall furnish satisfactory proof of each type of insurance coverage required— including a certified copy of the insurance policy or policies; certificates, endorsements, renewals, or replacements; and documents comprising CONSULTANT's self-insurance program— all in a form and content acceptable to the City Attorney or City's Risk Manager.

1.10 If CONSULTANT hires, employs, or uses a Subconsultant to perform work, services, operations, or activities on CONSULTANT's behalf, CONSULTANT shall ensure that the Subconsultant:

- (A) Meets, and fully complies with, this Agreement's insurance requirements;
- (B) Delivers to CITY— for its review, or approval, or both— all insurance policies, certificates, and endorsements that this Agreement requires; and
- (C) Furnishes CITY, at any time upon its request, with a complete copy of the Subconsultant's insurance policy or policies for CITY's review, or approval, or both.

1.11 CONSULTANT's failure to comply with an insurance provision in this Agreement constitutes a breach upon which CITY may immediately terminate or suspend CONSULTANT's performance of this Agreement, or invoke another remedy that this Agreement or the law allows. At its discretion, CITY may obtain or renew the insurance, and CITY may pay all or part of the premiums. Upon demand, CONSULTANT shall repay CITY for all sums or monies that CITY paid to obtain, renew, or reinstate the insurance, or CITY may offset the cost of the premium against any sums or monies that CITY may owe CONSULTANT.

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CONSULTANT'S SUBMITTAL OF CERTIFICATES AND ENDORSEMENTS

1.1 CONSULTANT shall have its insurance carrier(s) or self-insurance administrator(s) complete and execute the following insurance documents, unless an exception below applies. When CONSULTANT signs and delivers the Agreement to CITY, CONSULTANT also shall deliver:

- (A) A "certificate of insurance" for each required liability insurance coverage;
- (B) An additional insured endorsement for Commercial General Liability coverage or Businessowners Liability coverage and Automobile Liability coverage, unless this Agreement does not require CONSULTANT to obtain and maintain Commercial General Liability coverage, Businessowners Liability coverage, or Automobile Liability coverage;
- (C) A "certificate of insurance" for Workers' Compensation insurance; or
If CONSULTANT is self-insured for workers' compensation, a copy of the "Certificate of Consent to Self-insure" from the State of California; or
If CONSULTANT is lawfully exempt from workers' compensation laws, an "Affirmation of Exemption from Labor Code §3700" form; and
- (D) A complete copy of CONSULTANT's Professional Liability insurance policy, including all forms and endorsements attached to it.

1.2 CITY will neither sign this Agreement nor issue a "Notice to Proceed" until the City Attorney or City's Risk Manager has reviewed and approved the insurance documents. CITY's decision as to the acceptability of all insurance documents is final. Unless CONSULTANT obtains CITY's written approval, CITY will not permit or allow a substitution of an insurance policy, or a change in a certificate's or an endorsement's form and content, or both.

INSURANCE OBLIGATION IS SEPARATE FROM INDEMNITY OBLIGATION

2.1 This Agreement's insurance provisions:

- (A) Are separate and independent from the indemnification and defense provisions in Article 12 of the Agreement; and
- (B) Do not limit, in any way, the applicability, scope, or obligations of the indemnification and defense provisions in Article 12 of the Agreement.