

INSURANCE REQUIREMENTS

Without limiting 5 BARS' indemnification obligations, 5 BARS shall procure and maintain and shall cause all contractors, subcontractors and sublicensees to procure and maintain (5 BARS, contractors and/or sublicensees shall be referred to hereinafter, as the context dictates, as "**Contractor**"), prior to any activities on City Property in connection with the Agreement for the duration of the Agreement and any applicable sublicense entered into under and/or pursuant to the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, and/or any of its agents, representatives, or employees.

Minimum Limits of Insurance

The policies and amounts of insurance required of Contractor shall be no less than the following:

1. Comprehensive General Liability Insurance which affords coverage at least as broad as Insurance Services office "occurrence" form CG 00 01 including completed operations and contractual liability, with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for liability arising out of Contractor's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, the aggregate shall be double the each occurrence limit. Such insurance shall be endorsed to: (a) name the City and employees, representatives, officers and agents as additional insured for claims arising out of Contractor's performance of this Agreement; and (b) provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.
2. Automobile Liability Insurance with a limit of liability of not less than \$1,000,000 each occurrence and \$1,000,000 annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage the limits combined with the primary will equal the minimum limits set above. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles or coverage for "any auto." Such insurance shall be endorsed to: (a) name the City and employees, representatives, officers and agents as additional insured for claims arising out of Contractor's performance of this Agreement; and (b) provide that the insurance is primary and non-contributing with any other valid and collectible insurance or self-insurance available to City. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.
3. Workers Compensation Insurance in accordance with the Labor Code of California (including Labor Code section 3700 and 3800) and covering all employees of Contractor providing any service in the performance of this Agreement. Such insurance shall be endorsed to waive the insurer's right of subrogation against the City and employees, representatives, officers and agents. A statement on an insurance certificate will not be

accepted in lieu of the actual endorsement, unless the insurance carrier is the State of California Insurance Fund (“SCIF”) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. The City, its officers and employees shall not be responsible for any claims in law or equity occasioned by failure of the Contractor to comply with this section.

4. Professional Liability Insurance with minimum limits of \$1,000,000 each claim. Covered professional services shall include all work performed under this Agreement and delete any exclusion that may potentially affect the work to be performed. Contractor shall provide to Licensor and to the City a Certificate(s) of Insurance evidencing such coverage together with copies of the required policy endorsements no later than five (5) business days prior to commencement of any work to be performed under this Sublicense and at least fifteen (15) business days prior to the expiration of any policy. Coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits, non-renewed, or materially changed for any reason, without thirty (30) days prior written notice thereof given by the insurer to the City by U.S. mail, or by personal delivery, except for nonpayment of premiums, in which case ten (10) days prior notice shall be provided.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

4. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
6. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement. Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval. Further, all additional insured endorsements shall not: (1) be limited to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Sublicensee; (4) contain any other exclusion contrary to this Sublicense.

Acceptability for Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable provisions of the California Insurance or any federal law, unless otherwise acceptable to the City.

Verification of Coverage

Contractor shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

Subcontractors

5 BARS shall be responsible for causing any and all contractors and subcontractors in connection with this Agreement to maintain the same types and limits of coverage in compliance with this Agreement, including naming the City as an additional insured to the contractor's or subcontractor's policies. Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.