

NAPA SANITATION DISTRICT CONTRACT NO. _____

PROFESSIONAL SERVICES AGREEMENT
(for Commercial Real Estate Broker/Leasing Services)

THIS AGREEMENT is entered into on March 18, 2020 between the Napa Sanitation District, a county sanitation district, formed pursuant to Health & Safety Code Sections 4700, et seq. (“District”), and Colliers Parrish International, Inc., a California corporation doing business as Colliers International and whose mailing address is 380 Chadbourne Road, Suite D, Fairfield, CA 94534 (“Contractor”).

RECITALS

WHEREAS, District wishes to contract for the provision of professional commercial real estate leasing services, as described by the Scope of Services attached to this Agreement as Exhibit A and incorporated herein; and

WHEREAS, Contractor has the skill, experience, ability, background, certification and knowledge to provide the services as a professional real estate broker/leasing agent; and

WHEREAS, Contractor’s qualifications have been reviewed and accepted by District; and

WHEREAS, Contractor desires to perform such professional services under agreement with District.

NOW, THEREFORE, in consideration of the terms and conditions contained in this Agreement, District and Contractor agree as follows:

AGREEMENT

1. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the professional commercial real estate leasing services as described in Exhibit A, Scope of Services, attached hereto and incorporated by reference herein (“Scope of Services”). In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

1.1 **Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession. Contractor shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Contractor’s profession.

1.2 **Licenses and Permits.** Contractor represents that it and its employees are fully qualified to perform the services under this Agreement. Contractor represents and warrants to the District that Contractor has, and at all times during the performance of this Agreement

shall, maintain all licenses, permits, qualifications, and approvals that are required for Contractor to practice Contractor's profession.

1.3 Assignment of Personnel. William Kampton will provide the key services under this Agreement, and the District has retained Contractor based on Mr. Kampton's skills and expertise. To the extent that additional personnel are necessary, Contractor shall assign only competent personnel to perform services under this Agreement. If the District, in its sole discretion, at any time, desires the removal of any person or persons assigned by Contractor to perform services under this Agreement, Contractor shall remove any such person immediately upon receiving notice from the District.

1.4 Facilities and Equipment. Contractor shall, at its sole cost, expense, and liability, furnish all facilities and equipment that may be required for furnishing services under this Agreement.

2. Compensation.

2.1 Maximum Amount. As consideration for services, District agrees to pay Contractor, and Contractor agrees to accept from District as full compensation for such services, the amount outlined in Exhibit B, Fee Schedule, attached hereto as and incorporated by reference ("Fee Schedule").

2.2 Expenses. No travel or other expenses will be reimbursed by District.

2.3 Additional Services. Contractor shall not be compensated for any additional services rendered in connection with its performance of this Agreement or listed in the Scope of Services unless such additional services are authorized in advance and in writing by District. Contractor shall be compensated for any such additional services in amounts and in the manner agreed to in writing by District and such additional services shall be identified and incorporated into this Agreement.

3. Term of Services.

3.1 Term. The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2020, unless terminated earlier in accordance with Section 8.1 (Termination for Cause), 8.2 (Other Termination) or 9.1 (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Sections 6 (Insurance) and 7 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of Contractor to District shall also continue after said expiration date or early termination in relation to the obligations prescribed by Sections 13 (Confidentiality), 11 (Taxes) and 12 (Records).

3.2 Automatic Renewal. The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, for a maximum of two years, under the terms and conditions then in effect, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. Such notice of nonrenewal may be given on behalf of District by the District General

Manager or designee thereof. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30. In addition, the term of this Agreement shall, notwithstanding anything to the contrary in this Section 3, be extended during the term of any exclusive negotiating rights agreement, option to lease, or similar agreement with a potential lessee that the District executes during the term of this Agreement.

4. Status of Contractor.

4.1 Independent Contractor. Contractor shall perform this Agreement as an independent contractor. Contractor and the officers, agents and employees of Contractor are not, and shall not be deemed, District employees for any purpose, including workers' compensation and employee benefits. Contractor shall, at Contractor's own risk and expense, determine the method and manner by which duties imposed on Contractor by this Agreement shall be performed; provided, however, that District may monitor the work performed by Contractor.

4.2 No Other Compensation or Benefits. Notwithstanding any other District, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by District, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of District and entitlement to any contribution to be paid by District for employer contributions and/or employee contributions for PERS benefits.

4.3 Not An Agent. Contractor shall not represent that Contractor or its agents, employees or independent contractors are agents or employees of District. Except as District may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of District or to bind District to any obligation.

5. Specific Performance. It is agreed that Contractor, including the agents or employees of Contractor, shall be the sole providers of the services required by this Agreement. Because the services to be performed by Contractor under the terms of this Agreement are of a special, unique, unusual, extraordinary, and intellectual or time-sensitive character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in an action of law, District, in addition to any other rights or remedies which District may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by Contractor.

6. Insurance. Contractor shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the insurance coverage detailed in Exhibit C, Insurance Requirements, attached hereto and incorporated by reference herein.

7. Indemnification.

To the maximum extent allowed by law, Contractor shall indemnify, keep and save harmless the District, and District Board members, officers, agents and employees against any and all suits, claims or actions arising out of any injury to persons or property, including death, that may

occur, or that may be alleged to have occurred, in the course of the performance of this Agreement by a negligent act or omission or wrongful misconduct of the Contractor or its employees, subcontractors or agents. Contractor further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses arising therefrom or incurred in connection therewith; and if any judgment be rendered against the District or any of the other individuals enumerated above in any such action, Contractor shall, at its expense, satisfy and discharge the same. Contractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

The provisions of this section survive completion of the services or the termination of this Agreement, and are not limited by the provisions of Section 6 relating to insurance.

8. Termination.

8.1 Termination for Cause. If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within TEN (10) days of receipt of written notice from the other party describing the nature of the breach, the non-defaulting party may, in addition to any other remedies it may have, terminate this Agreement by giving FIVE (5) days prior written notice to the defaulting party in the manner set forth in Section 15.1 (Notice). District hereby authorizes the District General Manager to make all decisions and take all actions required under this Section to terminate this Agreement on behalf of District for cause.

8.2 Other Termination. If, during the term of this Agreement or any extension thereof subsequent to the first fiscal year during the term, District is unable to appropriate sufficient funds to meet its obligations to Contractor under this Agreement, such funds are not otherwise available to District for this purposes, and there are no other legal procedures or available funds by or with which such obligations can be met, and such non-appropriation of funds has not resulted from any act or omission within the control of District; or, if the funds appropriated to meet such obligations were granted to District by any agency of the State of California, any federal government agency, or other source and such grant funds are discontinued or otherwise become unavailable to District during the term of the Agreement or any extension thereof, District shall have the right to terminate this Agreement by giving Contractor written notice of such termination at least thirty (30) days prior to the effective date of the termination. In the event of such termination, District shall be obligated to Contractor only for payment of compensation and reimbursement of expenses for services satisfactorily completed or incurred and for which invoices are submitted as of the effective date of such termination. The notice of termination shall include a certification by the District General Manager or designee thereof that sufficient funds have not been made available to District to meet District's future obligations under the Agreement. In the event of termination under this Agreement, District shall not enter into a functionally similar agreement with a third party during the remainder of the then-current term, except that if during said period, funds again become available to District for such services, District shall offer to execute a new agreement with Contractor for such services with Contractor to expire no earlier than the expiration date of this

Agreement had it not been terminated under this Section, and on the same terms and conditions as set forth in this Agreement.

8.3 **Payment for Work.** Contractor shall be entitled to receive compensation for any satisfactory work completed prior to expiration or receipt of the notice of termination or commenced prior to receipt of the notice of termination and completed satisfactorily prior to the effective date of the termination; except that Contractor shall not be relieved of liability to District for damages sustained by District by virtue of any breach of the Agreement by Contractor whether or not the Agreement expired or was otherwise terminated, and District may withhold any payments not yet made to Contractor for purpose of setoff until such time as the exact amount of damages due to District from Contractor is determined.

9. Conflict of Interest.

9.1 **Covenant of No Undisclosed Conflict.**

a. The parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 87100, et seq., relating to conflict of interest of public officers and employees. Contractor hereby covenants that it presently has no interest not disclosed to District and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as District may consent to in writing prior to the acquisition by Contractor of such conflict.

b. Contractor further warrants that it is unaware of any financial or economic interest of any public officer or employee of District relating to this Agreement. Contractor agrees that if such financial interest does exist at the inception of this Agreement, District may terminate this Agreement immediately upon giving written notice without further obligation by District to Contractor under this Agreement.

10. Non-Solicitation of Employees. Each party agrees not to solicit for employment the employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Section shall preclude either party from publishing or otherwise distributing applications and information regarding that party's job openings where such publication or distribution is directed to the public generally.

11. Taxes. Contractor agrees to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. Contractor agrees to indemnify and hold District harmless from any liability it may incur to the United States or the State of California as a consequence of Contractor's failure to pay or withhold, when due, all such taxes and obligations. In the event that District is audited for compliance regarding any withholding or other applicable taxes or

amounts, Contractor agrees to furnish District with proof of payment of taxes or withholdings on those earnings.

12. Records.

12.1 Ownership of Documents and Data. All data, maps, photographs, and other material collected or prepared under this Agreement, and all documents of any type developed or obtained by Contractor in the performance of this Agreement, shall become the property of the District.

12.2 Access to Records. District, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall have access to any books, documents, papers and records of Contractor which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts and transcriptions.

12.3 Retention. Except where longer retention is required by any federal or state law, Contractor shall maintain all required records for at least seven (7) years after District makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

13. Confidentiality.

13.1 Maintenance of Confidential Information. Confidential information is defined as all information disclosed to Contractor which relates to District's past, present, and future activities, as well as activities under this Agreement. Contractor shall hold all such confidential information as Contractor may receive, if any, in trust and confidence, except with the prior written approval of District, expressed through its General Manager. Information shall not be considered "confidential" under this Section 13.1 if the District deems the information to be public information or otherwise publishes it. Upon cancellation or expiration of this Agreement, Contractor shall return to District all written and descriptive matter which contains any such confidential information, except that Contractor may retain for its files a copy of Contractor's work product if such product has been made available to the public by District.

13.2 Personally Identifiable Information and Protected Health Information.

a. To the extent Contractor is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), Contractor shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. Contractor shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of District Protected Information provided to, or accessed or created by, Contractor.

b. Contractor shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of District's Protected Information, including, but not limited to, PHI and PII. Upon request, Contractor shall make available to District its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

c. Contractor agrees to notify District immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of.

d. Contractor will be responsible for all costs associated with Contractor's breach of the security and privacy of District's Protected Information, or its unauthorized access to or disclosure of District's Protected Information, including, but not limited to, mitigation of the breach, cost to the District of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

14. Compliance with Laws. Contractor shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. Such laws shall include, but not be limited to, the following, except where prohibited by law:

14.1 Nondiscrimination and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby. Contractor shall include the provisions of this section in any subcontract issued pursuant to this Agreement.

14.2 Documentation of Right to Work. Contractor agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly hired employees of Contractor performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. Contractor shall make the required documentation available upon request to District for inspection.

15. Miscellaneous.

15.1 Notice. Any notice to be given under this Agreement shall be given by enclosing it in a sealed envelope, first-class postage prepaid, and depositing it in the United States mail, addressed to the party at the following address. Notice shall be deemed received three business days after mailing, or upon personal delivery.

Notices required to be given to District shall be addressed as follows:

General Manager
Napa Sanitation District
151 Soscol Ferry Road
Napa, CA 94558

Notices required to be given to Contractor shall be addressed as follows:

William Kampton
Colliers International
380 Chadbourne Road, Suite D
Fairfield, CA 94534

15.2 Assignment. This Agreement contemplates the personal services of Contractor and its employees and it is understood by both parties that a substantial inducement to District for entering into this Agreement was, and is, the professional reputation and competence of Contractor. Contractor shall not assign or otherwise transfer any rights or obligations under this Agreement without the prior written consent of District.

15.3 Prohibited Interests. No officer or employee of the District shall have any direct financial interest in this Agreement. This Agreement shall be voidable at the option of District if this provision is violated.

15.4 Governing Law. California law shall govern this Agreement. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in the County of Napa, California.

15.5 Interpretation. The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.

15.6 Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate either party to submit to mediation or arbitration any dispute arising under this Agreement.

15.7 Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create any rights in third parties and the parties do not intend to create such rights.

15.8 Attorney's Fees. In the event that either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

15.9 Incorporation. The Preamble, Recitals, Exhibits, and all defined terms set forth in therein are incorporated into this Agreement by this reference. If there is a conflict between the body of this Agreement and an exhibit prepared by Contractor, the body of the Agreement shall control.

15.10 Severability. Should any part of this Agreement be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

15.11 Authority. All parties executing this Agreement represent and warrant that they are authorized to do so.

15.12 Entire Agreement; Amendments. This Agreement is the entire Agreement between the parties and supersedes all prior negotiations, representations, or agreements, whether written or oral. This Agreement may be amended only by written agreement signed by both parties.

15.13 Non-waiver. A party's waiver of any term shall not be deemed a continuing waiver or a waiver of any other term.

15.14 Counterparts. This Agreement may be executed in counterparts.

12. **Signatures.**

NAPA SANITATION District	Contractor
By: _____	By: _____
General Manager	Name: _____
Reviewed by:	Title. _____
_____	Date: _____
General Counsel	

EXHIBIT A
SCOPE OF WORK

Contractor shall perform the following tasks as requested:

Market the District-owned Hartle Court property for purposes of lease on behalf of the District, including, but not limited to:

- Provide analyses and recommendations.
- Confirm encumbrances and/or constraints utilizing official records and geographic information systems.
- Assist with preparation of applicable real estate documents.
- Verify zoning and land use requirements including flood map designation, available utilities and related jurisdictional requirements.
- Complete market comparable and availability analyses.
- Provide status reports at agreed upon frequencies.

EXHIBIT B
FEE SCHEDULE

Contractor shall be paid as follows for the various tasks identified in Exhibit A:

For marketing of the District-owned Hartle Court property that ultimately results in consummation of a lease transaction, Contractor shall be paid a commission that shall be calculated as follows: two and one-half percent (2.5%) of the aggregate stream of monthly lease payments to be paid to the District during the stated initial ten (10) years, and one and one-half percent (1.5%) of the aggregate stream of monthly lease payments to be paid to the District for years eleven (11) through twenty (20) of the stated term using the base monthly rental rate as the basis for the calculation (the “Commission Basis”), without considering or including in the calculation any payment that may be made in any later option periods, renewals, or extensions of the lease. (See *Illustration of Commission Basis*, below.) In addition, in the event that the District enters into an exclusive negotiating rights agreement, option to lease, or similar agreement with a potential lessee that requires the lessee to make a non-refundable deposit, Contractor shall be paid as a commission 10% of the amount of the non-refundable deposit. No hourly rate shall be paid.

If the lease of the District-owned Hartle Court property requires the District to compensate a real estate broker representing the lessee, then the lessee’s broker shall receive a fee equal to that of Contractor.

Illustration of Commission Basis. Assume a lease approved by the District has a 10-year term with base monthly rent during the first year of \$100 and escalations of \$10 per month for each additional year during the term, the Commission Basis would be \$17,400, and the commission (based on 5%) would be \$870, determined as follows:

	Monthly Rent	Annual Rent	2.5% to Contractor	2.5% to Lessee’s Broker	5.0% Total Commission
Year 1	\$100	\$1,200	\$30	\$30	\$60
Year 2	\$110	\$1,320	\$33	\$33	\$66
Year 3	\$120	\$1,440	\$36	\$36	\$72
Year 4	\$130	\$1,560	\$39	\$39	\$78
Year 5	\$140	\$1,680	\$42	\$42	\$84
Year 6	\$150	\$1,800	\$45	\$45	\$90
Year 7	\$160	\$1,920	\$48	\$48	\$96
Year 8	\$170	\$2,040	\$51	\$51	\$102
Year 9	\$180	\$2,160	\$54	\$54	\$108
Year 10	\$190	\$2,280	\$57	\$57	\$114.

EXHIBIT C
INSURANCE REQUIREMENTS

I. General Requirements.

A. Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, ~~and subcontractors.~~ Contractor shall provide proof satisfactory to District of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the District. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's proposal. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to District. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

B. In the event Contractor fails to maintain coverage as required by this Agreement, District at its sole discretion may purchase the coverage required and the cost will be paid by Contractor. Failure to exercise this right shall not constitute a waiver of right to exercise later. Each insurance policy shall include an endorsement providing that it shall not be cancelled, changed, or allowed to lapse without endeavoring to provide at least thirty (30) days' prior written notice to District of such cancellation, change, or lapse.

II. Workers' Compensation.

A. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator.

B. Insurer will endeavor to provide thirty (30) days' prior written notice of cancellation to the District. ~~Contractor shall notify District within 14 days of notification from Contractor's insurer if such coverage is suspended, voided or reduced in coverage or in limits.~~

III. Commercial General and Automobile Liability Insurance.

A. General requirements. Contractor, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, ~~combined single limit coverage~~ for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or

other form with a general aggregate limit is used, the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of non-owned automobiles.

B. Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 Code 1 (“any auto”).

C. Additional requirements. Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

1. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

2. Insurer will endeavor to provide thirty (30) days' prior written notice of cancellation by certified mail, return receipt requested, has been given to the District. Contractor shall notify District within 14 days of notification from Contractor's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

IV. Professional Liability Insurance. Contractor, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

A. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

B. Insurer will endeavor to provide thirty (30) days' prior written notice by certified mail, return receipt requested-to the District.

C. The following provisions shall apply if the professional liability coverages are written on a claims-made form:

1. The retroactive date of the policy must be shown and must be before the date of the Agreement.

2. Insurance must be maintained and evidence of insurance must be provided for at least two years after completion of the Agreement or the work, so long as commercially available at reasonable rates.

3. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Contractor must provide extended reporting coverage for a minimum of two years after completion of the Agreement or the work. The District shall have the right to exercise, at

the Contractor's sole cost and expense, any extended reporting provisions of the policy, if the Contractor cancels or does not renew the coverage.

V. All Policies Requirements.

A. Acceptability of insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

B. Verification of coverage. Prior to beginning any work under this Agreement, Contractor shall furnish District with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

C. Subcontractors. Contractor agrees to include with all subcontractors in their subcontract the same requirements and provisions of this Agreement including the Indemnification and Insurance requirements to the extent they apply to the scope of the Subcontractor's work. Subcontractors hired by Contractor agree to be bound to Contractor and the District in the same manner and to the same extent as Contractor is bound to the District under the Contract Documents. Subcontractor further agrees to include these same provisions with any Sub-subcontractor. The General Contractor shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and will provide proof of compliance to the District.

D. Variation. The District may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the District's interests are otherwise fully protected.

E. Deductibles and Self-Insured Retentions. All self-insured retentions (SIR) and/or deductibles must be disclosed to the District for approval and shall not reduce the limits of liability.

F. Excess Insurance. The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance.

G. Notice of Reduction in Coverage. In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to District at Contractor's earliest possible opportunity ~~and in no case later than five days~~ after Contractor is notified of the change in coverage.

VI. Remedies. In addition to any other remedies District may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, District may, at its sole option exercise any of the following remedies, which are alternatives to other remedies District may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

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