
INDEMNITY AND INSURANCE

I. INDEMNIFICATION:

Consultant shall, to the fullest extent permitted by law, indemnify, defend, with counsel of LBT's choice, and hold harmless LBT and the City of Long Beach, their employees, agents and officials, successors and assigns from and against any and all suits, actions, legal or administrative proceedings, regulatory proceedings, claims, liens, demands, damages, liabilities, losses, costs, fees and expenses (including, without limitation, attorney's fees and expenses), directly or indirectly arising out of or in connection with the performance of the Services and this Agreement by Consultant and/or Consultant's Representatives, including, but not limited to, those arising out of or connected with (i) income tax withholding, employment taxes, contributions, accounting services related to any tax inquiry, insurance and employment benefits and (ii) injury to or death of persons (including, without limitation, Consultant's employees) and damage to property, regardless of any concurrent or contributory negligence, whether active or passive, or strict liability of such indemnified parties. All obligations under this provision are to be paid by consultant as they are incurred by LBT. Consultant has no obligation under this Indemnification agreement for liability proven in a court of competent jurisdiction or by written agreement between the parties to be the sole or willful fault of LBT, or the liability attributable to active negligence or active fault of LBT.

This obligation to indemnify and defend LBT as set forth herein is binding on the successors, assigns, or heirs of consultant and shall survive the termination of this agreement. By execution of this Contract, Consultant acknowledges and agrees that it has read and understands the provisions hereof and that this paragraph is a material element of consideration. These Indemnification provisions are independent of and shall not in any way be limited by the Insurance requirements of this agreement. LBT approval of the Insurance contracts required by this Agreement does not in any way relieve the Consultant or sub-Consultants from liability under this section. The parties agree that if any part of this Indemnification is found to conflict with applicable laws, such part shall be unenforceable only insofar as it conflicts with said laws, and that this Indemnification shall be judicially interpreted and rewritten to provide the broadest possible Indemnification legally allowed and shall be legally binding upon consultant.

II. INSURANCE

Consultant shall maintain at its sole cost and expense, and keep in force during the term of this agreement, the following insurance coverages:

Workers' Compensation Insurance with statutory limits, as required by the laws of any and all states in which Contractor's employees are located and Employer's Liability insurance on an "occurrence" basis with a limit of not less than \$1,000,000.

Commercial General Liability Insurance at least as broad as CG 00 01, covering premises and operations and including but not limited to, owners and contractors protective, product and completed operations, personal and advertising injury and contractual liability coverage with a minimum per occurrence limit of \$1,000,000 covering bodily injury and property damage; General

Aggregate limit of \$2,000,000; Products and Completed Operations Aggregate limit of \$2,000,000 and Personal & Advertising Injury limit of \$2,000,000, written on an occurrence form.

Automobile Liability Insurance at least as broad as CA 00 01 with Code 1 (any auto), covering use of all owned, non-owned, and hired automobiles with a minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage liability.

If Consultant is a design professional, engineer, or supplies professional services to LBT, Consultant shall maintain at its sole cost and expense, and keep in force during the term:

Professional Liability Insurance covering liability imposed by law or contract arising out of an error, omission or negligent act in the performance, or lack thereof, of professional services and any physical property damage, bodily injury or death resulting there from, with a limit of not less than \$2,000,000 per claim and in the aggregate. The insurance shall include a vicarious liability endorsement to indemnify, defend, and hold harmless LBT for claims arising out of covered professional services and shall have an extended reporting period of not less than two years. That policy retroactive date coincides with or precedes Consultant's start of work (including subsequent policies purchased as renewals or replacements).

If the policy is terminated for any reason during the term of this Agreement, Consultant shall either purchase a replacement policy with a retroactive date coinciding with or preceding the retroactive date of the terminating policy, or shall purchase an extended reporting provision of at least two years to report claims arising from work performed in connection with this Agreement and a replacement policy with a retroactive date coinciding with or preceding the expiration date of the terminating policy.

If this Agreement is terminated or not renewed, Consultant shall maintain the policy in effect on the date of termination or non-renewal for a period of not less than two years there from. If that policy is terminated for any reason during the two-year period, Consultant shall purchase an extended reporting provision at least covering the balance of the two-year period to report claims arising from work performed in connection with this Agreement or a replacement policy with a retroactive date coinciding with or preceding the retroactive date of the terminating policy.

All policies of insurance shall provide for the following:

Name LBT and the City of Long Beach, their employees, agents and officials, successors and assigns, as additional insureds except with respect to Workers' Compensation and Professional Liability.

Be primary and non-contributory with respect to all obligations assumed by consultant pursuant to this Agreement or any other services provided. Any insurance carried by LBT shall not contribute to, or be excess of insurance maintained by consultant, nor in any way provide benefit to consultant, its affiliates, officers, directors, employees, subsidiaries, parent company, if any, or agents.

Be issued by insurance carriers with a rating of not less than A- VII, as rated in the most currently available "Best's Insurance Guide."

Include a severability of interest clause and cross-liability coverage where LBT is an additional insured.

Provide a waiver of subrogation in favor of the LBT and the City of Long Beach, their employees, agents and officials, successors, and assigns.

Provide defense in addition to limits of liability.

Upon execution of this Agreement and each extension of the Term thereafter, Consultant shall cause its insurers to issue certificates of insurance evidencing that the coverages and policy endorsements required under this Agreement are maintained in force and that not less than 30 days written notice shall be given to LBT prior to any material modification, cancellation, or non-renewal of the policies. Certificates shall expressly confirm at least the following: (i) LBT's additional insured status on the general liability, and auto liability policies; (ii) and the waiver of subrogation applicable to the workers' compensation and professional liability policies. Consultant shall also furnish LBT with endorsements effecting coverage required by this insurance requirements clause. The endorsements are to be signed by a person authorized by the Insurer to bind coverage on its behalf. The certificate of insurance and all required endorsements shall be delivered to LBT's address as set forth in the Notices provision of this Agreement.

All endorsements are to be received and approved by LBT before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements.

Unless otherwise agreed by the parties, Consultant shall cause all of its sub-contractors to maintain the insurance coverages specified in this Insurance section and name Consultant as an additional insured on all such coverages. Evidence thereof shall be furnished as LBT may reasonably request.

The coverage types and limits required pursuant to this Agreement shall in no way limit the liability of consultant.

Failure by LBT to enforce any of the Consultant's obligations shall not constitute a waiver of LBT's right to enforce them at a later time. If any portion of these requirements shall be found to be unenforceable, it shall be severed, and the remaining portions shall continue to apply.

I have read and understand the above requirements and agree to be bound by them for any work performed for the LBT.

Authorized Signature: _____ Date: _____

Printed Name: _____ Title: _____