

Rider D

Architect's Insurance Requirements

Additional Insured Obligations. The Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. Further, by endorsement any liability insurance maintained separately by the Owner will at all times be considered both Excess and Non-Contributory with the coverage being provided herein.

The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Exhibit.

The insurance required herein shall be written for no less than the limits of liability specified herein or as required by law, whichever is greater, and shall be written or covered by companies with a Best's Insurance Reports rating of A-X or better. Insurance provided is as listed in the attached Insurance Certificate Except for the Architect's Professional Liability Insurance, insurance coverage will be written on an occurrence basis and shall be maintained without interruption from the date of commencement of the Project until the date of final payment.

Certificates of insurance are attached. Said certificates and amending endorsements as required herein shall contain a provision that the coverages afforded under the policies will not be cancelled or non-renewed by carrier until at least 30 days' prior written notice has been given to the Owner, excepting in the case of non-payment of premium where only 10 days' notification need be given.

Architect's Representations. The Architect hereby represents to the Owner the following: (a) the Architect is financially solvent, able to pay its debts as they mature and possesses sufficient working capital to complete the services required to perform the obligations hereunder; (b) the Architect is able to complete the services required hereunder and perform all of its obligations hereunder and has sufficient experience and competence to do so; (c) the Architect is authorized to do business in the State of New Jersey and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and the services required hereunder and the Project; (d) the Architect's execution of this Agreement and its performances thereunder is within its duly authorized powers; (e) the Architect has visited the Project and based on his visual observations is generally familiar with local conditions; and (f) the Architect acknowledges that the construction period is set forth in the RFP. .

The Architect shall procure and maintain, at its own expense, liability insurance for damages of the kinds and in the amounts hereinafter provided, from insurance companies licensed, admitted, and approved to do business in the State of New Jersey. The firm shall obtain this coverage from A- VII or better rated companies as determined by A.M. Best Company. All liability insurance policies shall afford coverage on an occurrence rather than claims made basis with the exception of the professional liability coverage. The types and minimum amounts of insurance required are as follows:

- (a) Comprehensive General Liability Insurance. The minimum limits of liability for this insurance shall be \$5,000,000 per occurrence and \$5,000,000 in the aggregate and cover liability based on

property damage, death, and bodily injury.

The coverage to be provided under this policy shall be at least as broad as the standard, basic, unamended, and unendorsed comprehensive general liability policy and shall include contractual liability coverage.

The Architect shall cause the primary and excess or umbrella policies for Commercial General Liability to include NJEDA and the State of New Jersey as additional insureds for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. Further, by endorsement any liability insurance maintained separately by the Owner will at all times be considered both Excess and Non-Contributory with the coverage being provided herein.

- (b) Workers' Compensation and Employers' Liability. Workers' Compensation Insurance shall be provided in accordance with the requirements of the laws of this State and shall include an endorsement to extend coverage to any State which may be interpreted to have legal jurisdiction. Employers' Liability Insurance shall also be provided in an amount acceptable to NJEDA.
- (c) Professional Liability Insurance. The firm shall carry Errors and Omissions and/or Professional Liability Insurance sufficient to protect the firm from any liability arising out of professional obligations performed pursuant to this Contract. The insurance shall be in the amount of \$5,000,000 per occurrence and \$5,000,000 in the aggregate. Additionally, the deductible and/or retention shall be no more than \$50,000.00 and the amount of deductible and/or retention shall be indicated on the Certificate of Insurance. Such policy form shall be approved by NJEDA.
- (d) Automobile Liability and, if necessary, Excess Liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto, including owned vehicles, hired vehicles and non-owned vehicles. The Architect shall cause the primary and excess or umbrella policies for Automobile Liability to include NJEDA and the State of New Jersey as additional insureds for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. Further, by endorsement any liability insurance maintained separately by the Owner will at all times be considered both Excess and Non-Contributory with the coverage being provided herein.

Prior to the commencement of the Preconstruction Phase services, Architect shall furnish to NJEDA a Certificate of Insurance, executed by a duly authorized representative of each insurer, evidencing compliance with the insurance requirements set forth herein. Such certificates are subject to NJEDA's final approval. A copy of the additional insured, primary/non-contributory and waiver of subrogation endorsements shall accompany the certificates of insurance.

All policies and corresponding certificates (or copy of policy endorsements) must show thirty (30) days prior written notice of non-renewal or cancellation (ten (10) days prior written notice for non-payment cancellation) to NJEDA. If the insurance policies cannot be endorsed to provide notice of reduction or cancellation to third parties, then Architect shall provide notice of any reduction or cancellation to NJEDA within forty-eight (48) hours of receipt of notification from

the insurance company. Architect shall notify NJEDA, in writing, within forty-eight (48) hours, of any changes made to any insurance policy, which affect NJEDA and the State of New Jersey. Failure of NJEDA to demand such certificate or other evidence of full compliance with these insurance requirements or failure to identify a deficiency from evidence that is provided shall not be construed as a waiver of Architect's obligation to maintain such insurance.

Architect shall provide certified copies of all insurance policies required within ten (10) days of NJEDA's written request for such policies.

Failure to maintain the required insurance may result in termination of this contract at NJEDA's option.

If Architect fails to maintain or fails to provide copies of the insurance as set forth herein, NJEDA shall have the right, but not the obligation, to purchase said insurance at Architect's expense, and in connection therewith, including without limitation, NJEDA's reasonable attorneys' fees, on demand.

By requiring insurance herein, NJEDA does not represent that coverage and limits will necessarily be adequate to protect Architect, and such coverage and limits shall not be deemed as a limitation on Architect's liability under the indemnities granted to NJEDA in this Agreement.

Waiver of Subrogation: To the extent damages are covered by property insurance during construction, the Owner and the Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages. The Owner or Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them similar waivers in favor of the other parties enumerated herein. If the policies of insurance purchased by either party as required above do not expressly allow the insured to waive rights of subrogation prior to loss, the insured shall cause them to be endorsed with a waiver of subrogation.

Architect hereby agrees to indemnify, defend and hold the State of New Jersey, the Owner, and their directors, officers, agents, employees and designees (collectively, the "Indemnitees") harmless from all losses, claims, liabilities, injuries, damages and expenses, including attorneys' fees, that the Indemnitees may incur by reason of Architect's negligent acts, errors or omissions, including, without limitation, any injury or damage sustained to any person or property, including any one or more of the Indemnitees, which injury or damage arises out of the performance of professional services by Architect hereunder. This indemnification obligation shall survive the termination of this Agreement.