

**METRO EAST SANITARY DISTRICT**  
**RIGHT OF ENTRY APPLICATION AND AGREEMENT**

Mike Nordstrom  
Executive Director  
Metro East Sanitary District

1800 Edison  
Avenue Granite  
City, IL 62040

**Application for Right of Entry / Encroachment / Pipeline / Cable / Wire Line**

Application NO (Internal Use): \_\_\_\_\_

Date: \_\_\_\_\_

**Licensee Information**

Licensee's complete legal organization name: \_\_\_\_\_

\_\_\_\_\_

State of incorporation or organization: \_\_\_\_\_

Street address: \_\_\_\_\_

City, state, zip: \_\_\_\_\_

Contact person and title: \_\_\_\_\_

Telephone: ( \_\_\_\_\_ ) \_\_\_\_\_ Facsimile: ( \_\_\_\_\_ ) \_\_\_\_\_

Insurance agent name, address, telephone and facsimile: \_\_\_\_\_

\_\_\_\_\_

**Contractor Information**

Contractor's complete legal organization name: \_\_\_\_\_

\_\_\_\_\_

Street address: \_\_\_\_\_

City, state, zip: \_\_\_\_\_

Contact person and title: \_\_\_\_\_

Telephone: ( \_\_\_\_\_ ) \_\_\_\_\_ Facsimile: ( \_\_\_\_\_ ) \_\_\_\_\_

Insurance agent name, address, telephone and facsimile: \_\_\_\_\_

**Proposed Use / Occupancy of MESD Property**

Description of the work to be performed, or the right of entry / occupancy requested. Include address where applicable, and tools to be used. This permit is also to be submitted with a Google Earth image of the desired work location, and plans and specifications.

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**Work Project Information**

Entity for whom the proposed work is being performed: \_\_\_\_\_

Length of job time: \_\_\_\_\_ Starting date of work to be performed: \_\_\_\_\_

Ending date of work to be performed: \_\_\_\_\_

Starting and ending time each day for work proposed: \_\_\_\_\_

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Will any excavating be done? If so, by hand or by machine? \_\_\_\_\_

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If excavating is being performed, approved Utilities Dig Number: \_\_\_\_\_

Will any overhead electric lines, underground electric lines, electric sub-stations or other electric facilities be installed? If yes, then fully describe voltage, and indicate whether poles or guy wires shall be installed and/or whether the proposed installation is near a street or road crossing:

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Will any overhead telecommunications line or cable, underground telecommunications line or cable, switch or junction boxes, or other telecommunication facilities be installed? If yes, then fully describe

facilities, and indicate either poles or guy wires shall be installed and/or whether the proposed installation is near a street or road crossing:

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Will an underground or over-ground pipeline be installed? If yes, fully describe the pipeline facilities, and indicate whether any surface appurtenances shall be installed, the material to be conveyed with the pipeline, and whether the proposed installation is near a street or road crossing:

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*Note:* submission of this application does not authorize permanent occupancy on MESD property. If the applicant, or any other entity, will require permanent or ongoing access to, or occupancy of, MESD property relative to this work, or this application for right of entry, see attached Exhibit A, General Terms and Conditions, Section 12. LONG-TERM RIGHT OF ENTRY; TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

### **How to Apply**

Complete the application, submit/print and mail with the following:

- Non-Refundable Agreement Fee (\$1,000)
- Proof of Insurance
- Google Earth image of the desired work location, and plans and specifications (.kmz file format).

**By signing below and submitting this application, I/we agree to all the terms and conditions of this application and the attached Exhibit A, General Terms and Conditions, and agree to pay all fees defined for this work associated with this application. By submitting this application, I/we understand that MESD is under no obligation to grant this request and that MESD may deny this request for any reason, including but not limited to safety and engineering considerations and operating convenience. I/we understand that submission of this application does not authorize permanent occupancy on MESD property.**

Signature(s): \_\_\_\_\_

Print Name(s): \_\_\_\_\_

Title(s): \_\_\_\_\_

Email(s): \_\_\_\_\_

Date: \_\_\_\_\_ Address: \_\_\_\_\_

Approved By: \_\_\_\_\_

Date: \_\_\_\_\_

## **Exhibit A**

### **General Terms and Conditions**

Any application for Right of Entry / Encroachment / Pipeline / Cable / Wire Line/ Dewatering Project granted by MESD is subject to the following terms and conditions, and by submitting this application, the applicant expressly acknowledges these terms and conditions, and understands and acknowledges that any permit granted will be subject to these terms and conditions.

#### **Section 1. DEFINITIONS**

1. "Applicant" means the entity, company, agency or municipality submitting this Application for Right of Entry / Encroachment / Pipeline / Cable / Wire Line / Dewatering Project and their officers, directors, agents, and employees.
2. "Licensor" means MESD, and its officers, directors, agents and employees, but only if the application is granted.
3. "Licensee" means – in the event that this application is granted – the entity, company, agency or municipality submitting this Application for Right of Entry / Encroachment / Pipeline / Cable / Wire Line, and their officers, directors, agents, employees, contractors, subcontractors, sub-subcontractors, or any other person or entity acting on its behalf or under its control.
4. "Right of Entry" means the right of entry, access or occupancy, if any, granted by MESD to the Licensee in response to the Application for Right of Entry / Encroachment / Pipeline / Cable / Wire Line / Dewatering Project in order to perform the work listed. "Right of Entry" does *not* mean any long-term property interest described in Exhibit A, General Terms and Conditions, Section 12. LONG-TERM RIGHT OF ENTRY; TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.
5. "MESD" means Metro East Sanitary District.
6. "Facilities" means equipment placed on the Property, including but not limited to, electric and communication line or lines consisting of towers, poles, guys, anchors, wires, cables, conduits, fixtures and other appurtenances thereto, including transformers, and natural gas piping, hardware, valves, and other appurtenances thereto, pipes and or lines of any kind, rails and or roads or driveways of any kind, and all related equipment, structures, materials and work.

#### **Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.**

- A. Any Right of Entry granted is subject and subordinate to the prior and continuing right and obligation of Licensor to use and maintain its entire property including the right and power of Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate real property or equipment, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or

times by Licenser without liability to Licensee or to any other party for compensation or damages.

- B. Any Right of Entry granted is also subject to all outstanding superior rights (including those in favor of licensees and lessees of MESD property) and the right of Licenser to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.
- C. Any Right of Entry may be revoked or modified at any time, with or without cause, by Licenser. Licenser maintains the sole right and ability to remove anyone from Licenser's property, for any behavior, acts, omissions or other condition deemed by Licenser to merit removal from the property. Licenser shall have the sole right to revoke any Right of Entry when necessary for the safety of persons or property of not only MESD, but other third parties.

### **Section 3. ENGINEERING REQUIREMENTS; PERMITS.**

- A. Licensee's facilities and work will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on MESD property by Licensee or its contractor to Licenser's satisfaction and in strict conformity with: (i) Licenser's current engineering standards and specifications, (ii) such other additional safety standards as Licenser, in its sole discretion, elects to require, and (iii) all applicable laws, rules, and regulations, including any applicable Illinois law, Illinois EPA or The Army Corp of Engineers regulations and enactments (collectively, "Laws"). If there is any conflict between any applicable laws or regulations, the most restrictive will apply.
- B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.
- C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.
- D. Licensee acknowledges that Licenser follows OSHA and IDOL safety standards, and will document issues and/or contact relevant authorities if Licenser observes or suspects violations of those standards by Licenser's employees or agents.

### **Section 4. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.**

- A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities and work without Licenser's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit A. Upon Licenser's approval, Licensee shall contact both of Licenser's field representatives at least ten (10) days before commencement of any work on Licensee's Facilities.
- B. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact MESD and advise them of the same.

## **Section 5. SAFETY.**

- A. Safety of personnel, property, and the public is of paramount importance in the prosecution of any work on MESD property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed by Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities.
- B. Licensee shall keep the job site on MESD Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.
- C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of MESD Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the property or property owned by third parties, and facilities of Licensors, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof. Included in this provision is the understanding that Licensee will not block any roadway such as to impair emergency vehicle access.
- D. Licensors' operations and work performed by Licensors' personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensors shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on MESD Property by Licensee or any third party with Licensors' Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this Exhibit
- E. Licensors shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensors' operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensors provides such support, Licensors shall invoice Licensee, and Licensee shall pay Licensors as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this Exhibit A. This shall include cost reimbursement of the operation of MESD's mechanical equipment including electricity to operate any equipment as well as reimbursement of man hours utilized for supervised operation of said equipment.
- F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensors' Field Representatives. Licensee represents and warrants that its use of UAS on MESD Property will comply with Licensors' then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

## **Section 6. PROTECTION OF THIRD-PARTY UTILITIES AND FACILITIES.**

Other parties' utility equipment and/or Facilities, such as gas lines, electrical lines, or fiber optic cable

systems may be buried on MESD property, placed on the property, or passing over the property. (Collectively, "Third Party Utilities and Facilities.") Protection of the Third Party Utilities and Facilities is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this Exhibit A, Licensee shall telephone Licensor during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except for holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if Third Party Utilities and Facilities are located anywhere on MESD Property to be used by Licensee. If they are, Licensee shall telephone the third party utility involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on MESD Property until all such protection or relocation has been completed.

In addition to, and notwithstanding the foregoing, Licensee shall not commence any work on MESD property until Licensee has contacted Illinois' Joint Utility Locating Information for Excavators ("JULIE") system, and confirmed that all work may be conducted without endangering any other utilities in the area.

#### **Section 7. LICENSEE'S PAYMENT OF EXPENSES.**

- A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.
- B. Licensee shall fully pay for all materials joined, affixed to and labor performed on MESD Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.
- C. As set forth in the "FLAGGING" Section of this Exhibit A, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and property during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's



notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice. This amount is over and above the amount assessed in Section 5E or Section 9.

**Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.**

- A. This grant of a Right of Entry is subject to Licensor's safe and efficient operation of its property, and continued use and improvement of MESD's Property (collectively, "MESD's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of MESD's Use.
- B. Upon any Modification of all or any portion of Licensee's Facilities to another location on MESD Property, Licensor and Licensee shall execute a Supplemental Agreement the original Right of Entry Agreement to document the Modification(s) to Licensee's Facilities on MESD Property. If the Modifications result in Licensee's Facilities moving off of MESD Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "LONG-TERM RIGHT OF ENTRY LICENSE; TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this Exhibit A. Any such Modification(s) off of MESD Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

**Section 9. RESTORATION OF MESD PROPERTY.**

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

**Section 10. GATE KEYS.**

When necessary, Licensor will provide Licensee with keys to access gates, if necessary to provide access to the work site on Licensor's property. A \$1,000 deposit will be required for each gate for which key(s) are provided. Upon or before the expiration of this Right of Entry, all gate key(s) must be returned to Licensor, and at that time the deposit will be refunded.

**Section 11. INDEMNITY.**

- A. Additional Definitions. As used in this Section:
  - 1. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and

expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

- B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:
1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
  2. Damage to or the disturbance, loss, movement, or destruction of MESD Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) or electrical line(s) or pipe(s) on or near MESD Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
  3. Removal of person(s) from MESD Property;
  4. Any delays or interference with track or MESD's Use caused by Licensee's activity(ies) on MESD Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
  5. Right(s) or interest(s) granted pursuant to this Agreement;
  6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;
  7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
  8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable federal rules and statutes relating to the Army Corps of Engineers.
- C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN

ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

**Section 12. LONG-TERM RIGHT OF ENTRY; TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.**

- A. Licensee acknowledges that the Right of Entry granted by approval of this Application for Right of Entry / Encroachment / Pipeline / Cable / Wire Line shall be only for the duration of the work / use described in the application, and shall not constitute a long-term license, or property interest, that survives after the duration of that project. Licensee acknowledges that if any Facility or other operation is to be installed or constructed which will require a long-term right of entry (such as, for example, a permanent power transmission or cable crossing, or a permanent pipeline or encroachment), then the long-term license to operate such a facility or operation over, under, through, across or upon MESD property will be separately-negotiated and bargained for, and will carry with it a separate, yearly fee. **Licensee expressly acknowledges that the grant of this Right of Entry DOES NOT constitute or guarantee such a long-term right of entry.**
- B. If Licensee does not use the Right of Entry herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of the Right of Entry Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate the Right of Entry Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of the Right of Entry Agreement. The Right of Entry Agreement will not terminate until Licensee complies with Paragraphs "F" and "G" of this Section found below.
- C. In addition to the provisions of Paragraph "B" above, the Right of Entry Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of the Right of Entry Agreement. The Right of Entry Agreement will not terminate until Licensee complies with Paragraphs "D" and "E" of this Section found below.
- D. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on MESD Property ("Removal/Abandonment Work"). Upon the Licensor's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of MESD property. Licensor shall then restore the impacted MESD Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".
- E. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of the Right of Entry

Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, if required by law, and notify Licensors immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensors at the address listed in the "NOTICES" Article of the Right of Entry Agreement that environmental contamination has been remediated and the property has been restored in accordance with Licensors' requirements. Upon Licensors' receipt of Licensee's restoration completion certifications, this Agreement will terminate.

- F. In the event that Licensee fails to complete any of the Restoration Work, Licensors may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensors will be at the cost and expense of Licensee. In the event that Licensors performs any of the Restoration Work, Licensee shall release Licensors from any and all Loss (defined in the "INDEMNITY" Section of this Exhibit A) arising out of or related to Licensors' performance of the Restoration Work.
- G. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this Exhibit A), accrued or otherwise, which may have arisen prior to such termination.

### **Section 13. INSURANCE REQUIREMENTS.**

- A. Applicant / Licensee acknowledge and agree that Licensee will (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:
  - 1. Commercial General Liability Insurance. Commercial General Liability Insurance must contain broad form contractual liability covering the indemnification provision contained in this Agreement and broad form property damage coverage with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 applying to each annual period. If the aforementioned required minimum limits can only be met when applying an umbrella/excess liability policy, the umbrella/excess liability policy must follow the form of the underlying policy and be extended to "drop down" to become primary in the event the primary limits are reduced or the aggregate limits are exhausted. Coverage must be purchased on a post-2013 ISO occurrence form or equivalent and include coverage for, but not limited to the following:
    - i. Bodily Injury (including death) and Property Damage; ii. Personal Injury and Advertising Injury; iii. Fire legal liability; iv. Products and completed operations; and v. Terrorism coverage. MESD must be named as an additional insured on the CGL liability insurance policy.
  - 2. Business Automobile Coverage Insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit

of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

3. Workers' Compensation and Employers' Liability Insurance. Coverage must include but not be limited to:
  - a) Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
  - b) Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided.

4. Environmental Liability Insurance. Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

5. "All Risk" Property Insurance. Standard "all-risk" property insurance, insuring Contactor's property of every kind and description and of persons claiming by or through Contractor against those risks normally encompassed in an "all-risk" policy, including, but not limited to, (i) loss or damage by fire; (ii) loss or damage from such other risks or hazards now or hereafter embraced by an "Extended Coverage Endorsement;" (iii) loss for flood if the area/property upon which Contractor is working is a designated flood or flood insurance area; and (iv) such other risks as a reasonably prudent owner of similar property in the locality where the work area is located would normally insure against. Such insurance shall provide for the payment of full replacement cost in the event of a total destruction of Contractor's property.

5. Umbrella or Excess Insurance. If Licensee utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.

B. Other Requirements

1. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensor as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensor as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.
2. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.
3. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensor and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.
4. All insurance policies must be written by a reputable insurance company acceptable to Licensor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.
5. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor from Licensee or any third party will not be limited by the amount of the required insurance coverage.