

Officer. During a declared emergency, the Contractor shall comply with the City Assisted Evacuation Plan when activated. The RTA shall be obligated to compensate the Contractor, during such period of declared emergency, for services that significantly exceed the normal expense of operating services under this Agreement, as documented by the Contractor and agreed upon by the Parties.

SEC. 26 INSURANCE

- (a) Required Program of Insurance. -- The Contractor shall be required to provide, and to maintain at all times during the Contract Term, a program of insurance that includes each of the following:
- (1) General Liability. The Contractor shall obtain, and maintain in full force and effect, commercial general liability insurance in the amount of \$2,000,000 total with any watercraft exclusion deleted under both the General Liability and Contractual Liability coverage parts.
 - (2) Auto Liability. The Contractor shall obtain and maintain in full force and effect, automobile liability insurance, extending to owned, non-owned, and hired Vehicles, in the amount of \$1,000,000 total.
 - (3) Hull and Machinery, Protection and Indemnity, and other coverage for Marine Operations. The Contractor shall obtain and maintain in full force and effect:
 - (a) hull and machinery insurance, per the American Institute Hull Clauses (June 2, 1977) or equivalent form, covering fire, explosions and marine perils, together with full four-fourths collision and running down clauses in an amount equal to the full insurable value of the Vessels;
 - (b) protection and indemnity insurance, per the SP-23 Form (Revised 1/56) or equivalent including excess Collision, in the amount of \$2,000,000; and
 - (c) and all other insurance required including terrorism and marine pollution liability coverage on the WQIS form or its equivalent for operation of the RTA's Marine operations pursuant to the Blanket Bareboat Charter Agreement and Blanket Bareboat Charter Sub-Agreement, contained within Exhibit B and Exhibit C.
 - (4) Workers' Compensation and LHWCA. The Contractor shall obtain and maintain worker's compensation insurance as required by the laws of the State of Louisiana and/or Longshore and Harbor Workers' Compensation Act, and any other local, state, or federal requirement applicable to Contractor's operation of the RTA's Marine operations pursuant to the Blanket Bareboat Charter Agreement and Blanket Bareboat Charter Sub-Agreement, contained within Exhibit B and Exhibit C.
 - (5) Maritime Employer's Liability providing coverage for transportation, wages,

maintenance and cure; with an *in rem* endorsement (providing a claim "in rem" shall be treated as an "in personam" claim) and including coverage for crew claims (if not included under P&I coverage)

- (6) Errors and Omissions/Professional Liability. The Contractor shall obtain and maintain errors and omissions/professional liability insurance in the amount of \$1,000,000.
- (7) Directors and Officers. The Contractor shall obtain and maintain directors' and officers' liability insurance in the amount of \$2,000,000.
- (b) Evidence of Insurance. The Contractor shall update its insurance information provided in Section (a)(1) through (a)(7), including proof of coverages, annually or when changes occur to the coverages or insurance policies during the Contract Term.
- (c) Required Conditions. The Contractor also agrees to the following conditions relating to insurance:
 - (1) The RTA, its officers, agents, and employees, and members of the RTA Board of Commissioners ("RTA Group") shall be included as additional insureds on all insurance policies identified at §26(a)(1)-(3); provided that no member of the RTA Group shall have any liability for the payment of premiums or assessments under the policies other than as set forth in this Agreement. The additional insured endorsements on Contractor's liability policies shall state that the coverage provided to the RTA Group is primary and non-contributing with respect to any other insurance available to the RTA Group and on which the RTA Group are the named insureds.
 - (2) Contractor's insurances required herein are primary with respect to the additional insured coverage afforded the RTA Group and no insurance held or owned by the RTA additional Insureds as the named insured shall be called upon to contribute to any loss for which coverage is provided under the Contractor's insurances required herein.
 - (3) The Contractor's insurances shall be obtained from carriers with an A.M. Best rating of "A" or better, and authorized and licensed, or otherwise approved, to transact insurance business or otherwise provide insurance in the State of Louisiana.
 - (4) The Contractor's insurances shall not be canceled, materially reduced in coverage or limits, or nonrenewed in the case of a continuous policy, except after thirty (30) calendar days' written notice, or ten (10) calendar days' written notice in the event of cancellation due to non-payment of premium, by mail or personal delivery to the RTA at its office at the address set forth in Section 48 hereof. In the event of any such cancellation, reduction in coverage, or non-renewal, the Contractor shall obtain and have in place, prior to the effective date of any such change, replacement insurance that

complies with all coverage requirements and other conditions set forth in this Section. Any failure to provide such insurance on a timely basis shall be a material breach of this Agreement.

- (5) Any insurance afforded by the Contractor's policies for contractual liability coverage (subject to the terms, conditions and exclusions applicable to such insurances) shall include liability assumed by the Contractor under any valid and enforceable defense, indemnification and/or hold harmless provisions of this Agreement. The Parties further agree that the insurance provided RTA Group, as an additional insured under any of Contractor's insurance, is not to be effective to provide coverage for RTA Group in any instance where Regional Transit Authority has an obligation under this Agreement to release, defend, indemnify and/or hold harmless Contractor Group. Further, any waiver of subrogation by Contractor's insurers in favor of RTA Group or any requirement that the additional insurance provided by Contractor will be primary, shall not apply to any indemnity, release and hold harmless obligations owed to Contractor Group by Regional Transit Authority under this Agreement, and shall apply only to those indemnity, release and hold harmless obligations offered by Contractor in this Agreement.
- (d) Modification of Coverage. The RTA reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required hereunder by giving the Contractor sixty (60) calendar days advance written notice. In that event, the Parties will negotiate any appropriate adjustments to the Lump Sum for Indirect Costs and Insurance, based on documentation from the Contractor as to any actual increased cost of insurance.
- (e) Subrogation. Contractor's insurance providers shall waive all rights of subrogation and contribution against the RTA Group additional insureds, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to the perils insured against in relation to those activities described generally above with regard to operations performed by or on behalf of the Contractor.
- (f) Failure to Procure Insurance. The Contractor's failure to procure or maintain required insurance shall constitute a default and material breach of contract under which the RTA may, after a 72-hour opportunity to cure, immediately either terminate this Agreement, or at its discretion, purchase the insurance and charge the cost to the Contractor or deduct such cost from payments due to the Contractor hereunder, or enforce the performance bond under Section 27(c).
- (g) Underlying Insurance. The Contractor shall be responsible for requiring indemnification and insurance, of such types and with such limits of liability, as the Contractor deems appropriate from its subcontractors, employees receiving mileage allowance, consultants, and agents, if any, to protect the interests of the Contractor and the RTA, and to ensure that such persons comply with any applicable insurance statutes.