

# **Exhibit 5**

BICEP Policy and the Reinsurance Contracts

**CERTIFICATE NO. BO-04**

This Certificate No. BO-04 ("Certificate") will certify that the following MEMBER is covered in accordance with the terms and conditions of the Master Memorandum of Liability Coverage by the BIG INDEPENDENT CITIES EXCESS POOL JOINT POWERS AUTHORITY, hereinafter called BICEP. The definition for terms used in this Certificate are in the Master Memorandum of Liability Coverage.

- 1) **Member City:** City of San Bernardino, et.al. per attached
- 2) **Mailing Address:** 300 North "D" Street, San Bernardino, CA 92418
- 3) **Memorandum Period:** From July 1, 2014 to July 1, 2015 12:01 A.M., Standard Time, at the address of the Member as stated herein.

4) **Limit of Liability:**

**\$27,000,000** Total Limit of Liability inclusive of all reinsurance or insurance and Member City's Retained Limit

**\$10,000,000** Notwithstanding any recoveries through reinsurance or insurance, in no event shall BICEP be obligated to pay any coverage Claim in excess of the maximum amount of ten million dollars (\$10,000,000) as the result of any one (1) OCCURRENCE because of BODILY INJURY or PROPERTY DAMAGE or PERSONAL INJURY, EMPLOYMENT PRACTICES, LAND USE CLAIM or PUBLIC OFFICIALS' ERRORS AND OMISSIONS, or any combination thereof, during the AGREEMENT PERIOD. The Limit of Liability per one (1) OCCURRENCE shall be reduced by the Member City's Retained Limit described in Section 5. of this Certificate herein.

**\$25,000,000** Annual Aggregate combined for all BICEP members if no coverage is available through commercial insurance or reinsurance.

**Land Use Claims** LAND USE CLAIMS are limited to \$5,000,000 per OCCURRENCE and AGGREGATE if no coverage is available through commercial insurance or reinsurance.

- 5) **Member City's Retained Limit:**  
**\$1,000,000** ULTIMATE NET LOSS as the result of any one OCCURRENCE because of BODILY INJURY or PROPERTY DAMAGE or PERSONAL INJURY, EMPLOYMENT PRACTICES or PUBLIC OFFICIALS' ERRORS AND OMISSIONS, or any combination thereof, during the AGREEMENT PERIOD.

6) **Claims Adjusting Firm:** Carl Warren & Company

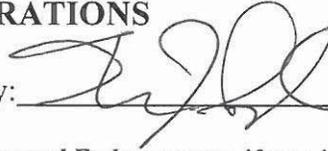
7) **Annual Deposit Premium:** \$591,522

8) **BICEP Memorandum will follow coverage provided through the following Reinsurer endorsements:**

- **Eminent Domain/Inverse Condemnation**
- **Asbestos Exclusion**
- **Land Use Coverage**
- **Subsidence Property Damage Aggregate**

EXHIBIT 5  
PUBLIC ENTITY LIABILITY  
DECLARATIONS

Countersigned by: \_\_\_\_\_

A handwritten signature in black ink, appearing to be "J. J. Jones", written over a horizontal line.

*The Declarations and Coverage(s), with Standard Provisions and Endorsements, if any, issued to form a part thereof, complete the above-numbered Agreement.*

DATE OF ISSUE: August 26, 2014

**BIG INDEPENDENT CITIES EXCESS POOL**  
***EXCESS LIABILITY INSURANCE***

**ANNUAL PREMIUM ENDORSEMENT**

**Reinsurance Premium:** \$242,302  
**\$1,000,000 - \$2,000,000**

**Administrative Premium:** \$55,000

**Broker Fee:** \$39,047

**Commercially Purchased Re-  
Insurance:** \$340,180  
**\$2,000,000 - \$27,000,000**

**Coverage Layer**  
**\$1,000,000 to \$27,000,000:** \$676,529

**2005-06 Cost Allocation:** (\$38,023)  
**2006-07 Cost Allocation:** \$47,058  
**2007-08 Cost Allocation:** (\$62,834)  
**2008-09 Cost Allocation:** (\$31,208)

**Total Annual Premium** \$591,522

**Issued To:** City of San Bernardino

**Policy Number:** BO-04

**Effective Date:** July 1, 2014

**Authorized Signature:**

  
\_\_\_\_\_

**BICEP MASTER MEMORANDUM OF LIABILITY COVERAGE**

This MEMORANDUM provides pooled risk sharing among the MEMBERS of the Big Independent Cities Excess Pool Joint Powers Authority (BICEP) pursuant to Government Code sections 990.8 and 6500, *et seq.*

In consideration of the MEMBER's payment of the premium, BICEP and the MEMBER agree as follows:

**SECTION I -- COVERAGES**

BICEP will pay those sums on behalf of the COVERED PARTY for COVERED ULTIMATE NET LOSS that the COVERED PARTY becomes legally obligated to pay as DAMAGES by reason of liability imposed by law or assumed under a COVERED INDEMNITY CONTRACT because of BODILY INJURY, PROPERTY DAMAGE, PERSONAL INJURY, EMPLOYMENT PRACTICES, LAND USE CLAIM, or PUBLIC ENTITY ERRORS AND OMISSIONS caused by an OCCURRENCE.

In the event there is no coverage for LAND USE CLAIM through commercial insurance or reinsurance, any coverage under the Memorandum for LAND USE CLAIM shall be limited per Member to \$5.0 million per occurrence and \$5.0 million per annual aggregate.

BICEP will pay DEFENSE COSTS incurred within the COVERED ULTIMATE NET LOSS.

**SECTION II – DEFINITIONS**

Capitalized words and phrases have the special meanings given in this Section.

1. AGENCY -- means any council, commission, agency, district, authority, board or similar public entity under the MEMBER's direction or control or on which the MEMBER's governing board sits as the governing body.

This Definition excludes an airport or hospital board or commission, regardless of how such body is denominated.

2. AIRCRAFT -- means an operational vehicle designed for the transport of persons or property principally in the air.
3. AUTOMOBILE -- means a self-propelled land motor vehicle and/or trailer or semi-trailer, including any attached machinery or equipment, designed for travel on public roads and subject to motor vehicle registration.
4. BODILY INJURY -- means physical injury, emotional distress, sickness, or disease sustained by a person, including death resulting from any of these at any time.

- 1 5. CLAIM -- means a claim presented pursuant to Government Code section 910, *et seq.*, and/or  
2 demand, action, suit, or administrative proceeding against a COVERED PARTY to recover  
3 DAMAGES caused by an OCCURRENCE.  
4
- 5 6. COVERED PARTY -- means:  
6
- 7 a. BICEP;
  - 8
  - 9 b. The MEMBER;
  - 10
  - 11 c. The MEMBER's EMPLOYEES;
  - 12
  - 13 d. The MEMBER's AGENCIES;
  - 14
  - 15 e. With respect to any AUTOMOBILE owned by a COVERED PARTY or leased or hired for  
16 use by or on behalf of a COVERED PARTY, any person while using such AUTOMOBILE  
17 and any person or organization legally responsible for the use thereof, provided its actual use  
18 is with the permission of the MEMBER. However, the following are not COVERED  
19 PARTIES:  
20
    - 21 i. Any person or organization, or any agent or employee thereof, operating an  
22 AUTOMOBILE sales agency, repair shop, service station, storage garage, or public  
23 parking place with respect to an OCCURRENCE arising out of the operation thereof,  
24 including road testing and delivery; or  
25
    - 26 ii. The owner or any lessee, other than the COVERED PARTY, of a leased or hired  
27 AUTOMOBILE or any agent or employee of such owner or lessee;
    - 28
  - 29 f. Any person or entity holding a certificate of coverage duly issued by BICEP, as limited  
30 therein ("ADDITIONAL COVERED PARTY"). An ADDITIONAL COVERED PARTY is  
31 not covered for claims arising from the ADDITIONAL COVERED PARTY's sole negligence  
32 or for claims by another COVERED PARTY.  
33
  - 34 g. Any person, entity or organization to whom the COVERED PARTY is obligated by virtue of  
35 a COVERED PARTY INDEMNITY CONTRACT to provide coverage solely with respect to  
36 BODILY INJURY AND PROPERTY DAMAGE arising out of:  
37
    - 38 i. Premises leased, used or occupied by the COVERED PARTY
    - 39
    - 40 ii. AUTOMOBILES leased or rented by the COVERED PARTY
    - 41
    - 42 iii. Equipment owned, leased, rented, maintained or used by the COVERED PARTY
    - 43
    - 44 iv. Mortgagees of the COVERED PARTY; or
    - 45
    - 46 v. Property owners and property managers of property owned, leased, rented or occupied  
47 by the COVERED PARTY,
    - 48 vi. However, these COVERED PARTY INDEMNITY CONTRACT coverages do not apply  
49 to:  
50

- 1           aa.       An OCCURRENCE which takes place prior to or after the COVERED PARTY
- 2                       ceases to occupy the premise stated in the COVERED INDEMNITY
- 3                       CONTRACT,
- 4
- 5           bb.       Any structural alternation, new construction or demolition operations performed
- 6                       by or on behalf of the COVERED PARTY
- 7
- 8           cc.       Any PUBLIC ENTITY ERRORS AND OMISSIONS or EMPLOYMENT
- 9                       PRACTICES.

10

11       h.       The coverage set forth in subsection (g) immediately above will be limited to any limits of

12       coverage within the terms of the COVERED INDEMNITY CONTRACT or the LIMITS OF

13       COVERAGE within this MEMORANDUM, whichever is less, and will apply in excess to any

14       underlying insurance or the COVERED PARTY'S SELF-INSURED RETENTION. BICEP will

15       not be obligated for LIMITS OF LIABILITY greater than that provided by this

16       MEMORANDUM.

17

18       This Definition 6 excludes a joint powers agency, or any person or entity acting pursuant to a

19       joint powers agreement, other than an EMPLOYEE, unless the agency or agreement is added by

20       endorsement to this MEMORANDUM.

21

22       7.       COVERED INDEMNITY CONTRACT -- means an agreement pertaining to the MEMBER's or

23       its AGENCY's routine governmental operations that incidentally requires either of them to

24       defend or indemnify another party for BODILY INJURY, PROPERTY DAMAGE or

25       PERSONAL INJURY to a third party caused by an OCCURRENCE.

26

27       8.       COVERED ULTIMATE NET LOSS -- means an amount by which ULTIMATE NET LOSS

28       exceeds the SELF-INSURED RETENTION, but not exceeding the LIMIT OF LIABILITY, and

29       which this MEMORANDUM covers.

30

31       9.       DAM -- means any artificial barrier, together with appurtenant works, which:

- 32           a.       Is 25 feet or more in height from the natural bed of the stream or watercourse; or
- 33           b.       Has an impounding capacity of 50 acre-feet or more.

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37       No structure specifically exempted from jurisdiction by the State of California Department of

38       Water Resources, Division of Safety of Dams shall be a DAM, unless such structure is under the

39       jurisdiction of any agency of the federal government.

40

41       10.      DAMAGES -- means money damages, and includes attorney fees, costs and interest awarded

42       against the COVERED PARTY.

43

44       This Definition excludes any demand, action, suit or petition for restitution, disgorgement and

45       any non-monetary remedy or relief, including equitable relief, injunctive relief, administrative

46       relief, administrative mandamus, or declaratory relief and any attorney fees, costs and interest

47       based thereon.

48

49       This Definition also excludes attorney fees, costs and interest based on a contractual provision

50       not falling within the definition of II.7. COVERED INDEMNITY CONTRACT.

1  
2 11. DEFENSE COSTS -- means reasonable attorney fees, costs and expenses incurred by the  
3 COVERED PARTY for the adjustment, investigation, defense or appeal of a CLAIM.

4  
5 This Definition includes City Attorney Office fees, but excludes the MEMBER's claim  
6 administration expenses.

7  
8 However, attorney fees shall not exceed the rates specified in the LIABILITY RISK  
9 MANAGEMENT REQUIREMENTS, unless the BICEP Board of Directors authorizes a higher  
10 rate.

11  
12 This Definition excludes the attorney fees, costs and interest that a COVERED PARTY incurs in  
13 coverage or other disputes with BICEP.

14  
15 12. EMPLOYEE -- means a past or present elected or appointed official, employee or volunteer of  
16 the MEMBER or its AGENCY acting within the scope of his or her employment with, or duties  
17 for, the MEMBER or AGENCY.

18  
19 13. EMPLOYMENT PRACTICES -- means a COVERED PARTY's employment practices, policies,  
20 acts or omissions that lead to an EMPLOYEE's CLAIM for harassment, wrongful termination,  
21 wrongful employment, failure to hire or promote, retaliation, unlawful discrimination or violation  
22 of civil rights.

23  
24 14. INVERSE CONDEMNATION -- means a CLAIM by any person or entity under the California  
25 or United States Constitutions alleging that the MEMBER or its Agency has taken or damaged  
26 real, personal, tangible or intangible property for public use through any means without payment  
27 of just compensation.

28  
29 15. LAND USE CLAIM—means any CLAIM, other than for INVERSE CONDEMNATION, arising  
30 out of the enactment of any zoning ordinance, specific plan, general plan, or similar regulation or  
31 use or improvement of real property, and the granting, denying or the conditional granting of a  
32 discretionary entitlement in the use of real property such as but not limited to, a conditional use  
33 permit or variance.

34  
35 16. LIABILITY PROGRAM -- means the BICEP Liability Program, dated July 1, 2006, or any later  
36 amendment or revision that the BICEP Board of Directors approves.

37  
38 17. LIABILITY RISK MANAGEMENT REQUIREMENTS -- means Exhibit A to this  
39 MEMORANDUM, or any later amendment or revision that the BICEP Board of Directors  
40 approves.

41  
42 18. LIMIT OF LIABILITY -- means BICEP's LIMIT OF LIABILITY per OCCURRENCE for the  
43 MEMBER in the amount specified in Item 4 of the Declarations, and includes DEFENSE  
44 COSTS. One LIMIT OF LIABILITY for all coverages applies collectively to the MEMBER, its  
45 AGENCIES, its EMPLOYEES and any COVERED PARTY under Definitions 6.e. and 6.f.

46  
47 19. MEMBER -- means the public entity approved and admitted into BICEP and named in Item 1 of  
48 the Declarations.

- 1 20. MEMORANDUM -- means this BICEP Master Memorandum of Liability Coverage and any  
2 endorsements attached to it.  
3
- 4 21. MEMORANDUM PERIOD -- means the period stated in Item 3 of the Declarations.  
5
- 6 22. NUCLEAR MATERIAL -- means Source Material, Special Nuclear Material, or Byproduct  
7 Material. Source Material, Special Nuclear Material and Byproduct Material have the meanings  
8 given to them by the Atomic Energy Act of 1954 and any law amendatory thereto.  
9
- 10 23. OCCURRENCE -- means:  
11
- 12 a. With respect to BODILY INJURY or PROPERTY DAMAGE, an accident or event,  
13 including continuous or repeated exposure to substantially the same conditions or course of  
14 conduct, that results during the MEMORANDUM PERIOD in BODILY INJURY or  
15 PROPERTY DAMAGE neither expected nor intended from the standpoint of the COVERED  
16 PARTY;  
17
- 18 b. With respect to PERSONAL INJURY (other than BODILY INJURY), EMPLOYMENT  
19 PRACTICES and PUBLIC ENTITY ERRORS AND OMISSIONS, an offense described  
20 in the Definitions of those terms that results in DAMAGES during the MEMORANDUM  
21 PERIOD.  
22
- 23 24. PERSONAL INJURY -- means DAMAGES caused by or arising out of one or more of the  
24 following:  
25
- 26 a. False arrest, detention or imprisonment, malicious prosecution or abuse of process;  
27
- 28 b. Wrongful entry or eviction;  
29
- 30 c. Publication or utterance of material that slanders or libels a person or organization or  
31 disparages a person's or organization's goods, products or services, or infringement of  
32 copyright, title or slogan, or oral or written publication of material that violates a person's  
33 right of privacy;  
34
- 35 d. Discrimination, other than EMPLOYMENT PRACTICES, based upon race, religion,  
36 nationality, national origin, color, creed, sex, sexual orientation, handicap, disability, age or  
37 employment or violation of civil rights;  
38
- 39 e. Assault and battery.  
40
- 41 25. POLLUTANTS -- means any solid, liquid, gaseous, or thermal irritant or contaminant,  
42 including smoke, vapor, soot, fumes, acids, alkalis, chemicals, silt, airborne particles or fibers,  
43 mold, fungus, waste, or electromagnetic field. Waste includes materials to be discarded or be  
44 recycled, reconditioned or reclaimed.  
45
- 46 This Definition excludes potable water, agricultural water, water furnished to commercial users,  
47 or water used for fire suppression.  
48
- 49 26. PROPERTY DAMAGE -- means:  
50

1 a. Physical injury to tangible property, including all resulting loss of use of that property; or

2  
3 b. Loss of use of tangible property that is not physically injured.

4  
5 27. PUBLIC ENTITY ERRORS AND OMISSIONS -- means any misleading statement, or any act or  
6 omission of a COVERED PARTY, whether by misfeasance, malfeasance or nonfeasance, that  
7 results in a CLAIM against the COVERED PARTY.

8  
9 This Definition excludes BODILY INJURY, PROPERTY DAMAGE, PERSONAL INJURY, and  
10 EMPLOYMENT PRACTICES.

11  
12 28. SELF-INSURED RETENTION -- means the amount stated in Item 5 of the Declarations that the  
13 MEMBER must pay for each OCCURRENCE for judgments, settlements and DEFENSE  
14 COSTS. A single SELF-INSURED RETENTION applies collectively to the MEMBER, its  
15 AGENCIES, its EMPLOYEES, and any COVERED PARTY under Definitions 6.e and 6.f.

16  
17 Payment by valid and collectable insurance or other coverage available to the MEMBER, its  
18 AGENCIES, its EMPLOYEES, or a COVERED PARTY under Definition 6.e shall apply against  
19 the SELF-INSURED RETENTION.

20  
21 29. ULTIMATE NET LOSS -- means the sums for which the MEMBER is liable as DAMAGES  
22 either by adjudication or by compromise after making proper deduction for all recoveries and  
23 salvages and includes DEFENSE COSTS.

24  
25 30. WATERCRAFT -- means an operational vehicle in excess of 27 feet designed for the transport of  
26 persons or property principally on the water.

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31 **SECTION III -- DEFENSE AND SETTLEMENT**

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33  
34 1. BICEP shall have the right but not the duty to participate at its own expense in the defense of any  
35 CLAIM against a COVERED PARTY that BICEP determines will likely result in a COVERED  
36 ULTIMATE NET LOSS.

37  
38 2. After the amount of the SELF-INSURED RETENTION has been exhausted by payment of  
39 judgments, settlements and DEFENSE COSTS, BICEP shall reimburse the COVERED PARTY  
40 for any further DEFENSE COSTS within the LIMIT OF LIABILITY even if the allegations  
41 against the COVERED PARTY are groundless, false or fraudulent.

42  
43 3. Notwithstanding the above, BICEP shall not have the obligation to defend or reimburse the  
44 DEFENSE COSTS of an EMPLOYEE if the MEMBER determines under California Government  
45 Code section 995.2(a) that the EMPLOYEE is not entitled to a defense. BICEP shall, however,  
46 reimburse DEFENSE COSTS if a court determines that the MEMBER has an obligation to pay  
47 them.

48  
49 4. A COVERED PARTY shall not settle a CLAIM for an amount in excess of the MEMBER's  
50 SELF-INSURED RETENTION without the consent of BICEP's Board of Directors.

- 1  
2 5. BICEP shall not settle a CLAIM without the MEMBER's consent. However, in the event a  
3 MEMBER does not give its consent to accept a bona fide monetary settlement offer, BICEP's  
4 liability shall be limited to the amount that BICEP would have paid in such settlement if:  
5  
6 a. Such settlement demand exceeds the MEMBER's SELF-INSURED RETENTION by  
7 \$500,000; and  
8  
9 b. The Member shall have expended or incurred \$250,000 or more in DEFENSE COSTS.  
10  
11 6. BICEP shall not be obligated to pay any CLAIM or reimburse DEFENSE COSTS after the  
12 LIMIT OF LIABILITY over the SELF-INSURED RETENTION has been tendered for  
13 settlements and/or DEFENSE COSTS or has been exhausted by payment of judgments,  
14 settlements and/or DEFENSE COSTS.  
15  
16

17 **SECTION IV – MEMBER'S SELF-INSURED RETENTION**  
18 **AND BICEP'S LIMIT OF LIABILITY**  
19  
20

- 21 1. BICEP's liability to a COVERED PARTY as the result of any one OCCURRENCE is only the  
22 COVERED ULTIMATE NET LOSS.  
23  
24 2. For the purpose of determining the SELF-INSURED RETENTION and LIMIT OF LIABILITY,  
25 all DAMAGES arising out of continuous or repeated exposure to substantially the same general  
26 conditions or course of conduct shall be considered as arising out of one OCCURRENCE during  
27 the first applicable coverage period.  
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31  
32

33 **SECTION V -- COVERAGE PERIOD AND TERRITORY**  
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35

36 The coverages stated in Section I of this MEMORADUM apply to DAMAGES caused by an  
37 OCCURRENCE anywhere in the world during the MEMORANDUM PERIOD.  
38  
39

40 **SECTION VI -- EXCLUSIONS**  
41  
42

43 This MEMORANDUM does not apply to any CLAIM for or arising out of:  
44

- 45 1. Contamination of the environment by POLLUTANTS introduced at any time, into, under or upon  
46 land, the atmosphere, or any watercourse or body of water or aquifer. This exclusion applies  
47 whether or not the contamination is introduced into the environment intentionally or accidentally  
48 or gradually or suddenly, and whether or not the COVERED PARTY or any other person or  
49 organization is responsible for the contamination.  
50

1 Contamination includes any unclean, unsafe, or unhealthful condition, either actual or potential,  
2 which arises out of the presence in the environment of any POLLUTANT whether permanent or  
3 transient.

4  
5 Environment includes land, bodies of water, underground water or water table or aquifer, the  
6 atmosphere, and any other natural feature of the earth, whether or not altered, developed or  
7 cultivated.

8  
9 This exclusion does not apply to:

10  
11 a. Any discharge, dispersal, seepage, migration, release or escape of POLLUTANTS that meets  
12 all of the following conditions:

13  
14 i. It was accidental and neither expected nor intended by the COVERED PARTY. This  
15 condition would not serve to deny coverage for a specific incident where such  
16 discharge, dispersal, seepage, migration, release or escape of pollutants was a result of  
17 an attempt by the COVERED PARTY to mitigate or avoid a situation where  
18 substantial third party bodily injury, PROPERTY DAMAGE or PERSONAL INJURY  
19 could occur;

20  
21 ii. It was demonstrated as having commenced on a specific date during the term of this  
22 MEMORANDUM;

23  
24 iii. Its commencement became known to the COVERED PARTY within twenty-one (21)  
25 calendar days and was further reported to the person responsible for risk management  
26 at the MEMBER within a reasonable time frame;

27  
28 iv. Its commencement was reported in writing to BICEP within sixty (60) calendar days  
29 of becoming known to the person responsible for risk management at the MEMBER;  
30 and

31  
32 v. Reasonable effort was expended by the COVERED PARTY to terminate the situation  
33 as soon as conditions permitted.

34  
35 However, nothing contained in this provision shall operate to provide any coverage  
36 with respect to:

37  
38 (1) Any site or location principally used by the COVERED PARTY or by others on  
39 the COVERED PARTY's behalf, for the handling, storage, disposal, dumping,  
40 processing or treatment of waste material;

41  
42 (2) Any fines or penalties;

43  
44 (3) Any clean up costs ordered by the superfund program, or any federal, state or  
45 local governmental authority. However this specific exception shall not serve to  
46 deny coverage for third party clean up costs otherwise covered by this  
47 MEMORANDUM simply because of the involvement of a governmental  
48 authority;

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50 (4) Acid rain;

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(5) Clean up, removal, containment, treatment, detoxification or neutralization of POLLUTANTS situated on premises the COVERED PARTY owns, rents or occupies at the time of the actual discharge, dispersal, seepage, migration, release or escape of said POLLUTANTS; or

(6) Water pollution caused by oil or its derivatives.

- b. DAMAGES caused by heat, smoke or fume from a hostile fire. A hostile fire means one that becomes uncontrollable or breaks out where it was not intended to be;
  - c. Firefighting activities, including training fires, or intentional ignition of fires for the purpose of limiting a fire, or to the discharge of POLLUTANTS for the purpose of controlling a fire;
  - d. Police use of mace, oleoresin capsicum (O.C. or pepper gas), or tear gas;
  - e. Weed abatement, tree spraying or sudden and accidental sewer backups.
  - f. Use of chlorine for domestic water, swimming pools or other routine sanitation.
- 2. Governmental orders, directions or requests that the COVERED PARTY test for, monitor, clean up, remove, remedy, contain, treat, detoxify or neutralize POLLUTANTS.
  - 3. A governmental unit or other third party's loss or expenses, including attorney fees, for efforts to monitor, clean up, remove, remedy, contain, trace, detoxify or neutralize POLLUTANTS.
  - 4. Hazardous properties of NUCLEAR MATERIAL.
  - 5. DAMAGES (unless arising out of liability for EMPLOYMENT PRACTICES) to:
    - a. An EMPLOYEE within the course and scope of his or her employment caused by the MEMBER, its AGENCY or its EMPLOYEE.
    - b. An EMPLOYEE's spouse, child, parent, brother or sister resulting from the acts or omissions of the EMPLOYEE within the course and scope of his or her employment by the MEMBER or its AGENCY.
- This exclusion does not apply, however, to the MEMBER or its AGENCY's liability under a COVERED INDEMNITY CONTRACT.
- 6. The liability of any MEMBER to its AGENCY, or the AGENCY to the MEMBER.
  - 7. Liability of a COVERED PARTY to its own past or present employer.
  - 8. Liability of a COVERED PARTY under Definition 6e to another COVERED PARTY.
  - 9. Workers' compensation or disability benefits law or any similar law.
  - 10. Use or operation by or on behalf of the MEMBER as respects:

- 1 a. Any hospital.
- 2
- 3 b. Any health care provider because of his or her professional arts, errors or omissions.
- 4

5 This exclusion does not apply to:

- 6
- 7 i. Paramedics, emergency medical technicians, medical examiners, technicians,
- 8 phlebotomists or nurses, but only when in employ of the MEMBER or its AGENCY;
- 9 and
- 10
- 11 ii. Occupational physical examinations, tuberculosis testing and immunization conducted at
- 12 the direction of the MEMBER or its AGENCY.
- 13
- 14 c. Any clinic or infirmary that has:
- 15
- 16 i. Overnight facilities; or
- 17
- 18 ii. That performs invasive surgery of any kind, or
- 19
- 20 d. Any pharmacy operated by or for the MEMBER or its AGENCY.
- 21
- 22 11. Rupture, bursting, overflow, seepage, or release or failure to release water from any DAM.
- 23
- 24 12. Punitive or exemplary damages, or damage multiples such as double or treble damages awarded
- 25 pursuant to statute or law.
- 26
- 27 13. The COVERED PARTY's actual fraud, corruption, or actual malice.
- 28
- 29 14. The COVERED PARTY's "willful act", as used in Insurance Code Section 533.
- 30
- 31 15. PROPERTY DAMAGE to:
- 32
- 33 a. Property owned by the COVERED PARTY;
- 34
- 35 b. Property rented to or leased to the COVERED PARTY where the COVERED PARTY has
- 36 assumed liability for damage to or destruction of such property, unless the COVERED
- 37 PARTY would have been liable in the absence of such assumption of liability; or
- 38
- 39 c. AIRCRAFT or WATERCRAFT in the COVERED PARTY's care, custody or control.
- 40
- 41 16. Operation of any transit district, transit system, or public transportation system owned or operated
- 42 by the COVERED PARTY, except any transit system operating over non-fixed route systems
- 43 such as "dial-a-ride," senior citizen transportation, or handicapped transportation.
- 44
- 45 17. Ownership, maintenance, loading or unloading, use or operation of any AIRCRAFT, airfields,
- 46 runways, hangars, buildings or other properties in connection with aviation activities. However,
- 47 in connection with airfields, runways, hangars, buildings or other properties in connection with
- 48 aviation activities, this exclusion shall not apply to those areas open to the public for the purpose
- 49 of entering, leaving, or using the airport facilities, including parking lots and garages. "Loading"

1 and “unloading” of AIRCRAFT as set forth above shall not apply to paramedics, nurses or  
2 emergency medical technicians.

3  
4 This exclusion applies only to the coverages for BODILY INJURY and PROPERTY DAMAGE.

5  
6 18. Failure to supply or provide an adequate supply of gas, water or electricity when such failure is a  
7 result of the inadequacy of the COVERED PARTY’s facilities to supply or produce sufficient gas,  
8 water or electricity to meet customary and expected demand.

9  
10 19. Eminent domain, condemnation proceedings, regulatory takings or INVERSE  
11 CONDEMNATION, by whatever name called.

12  
13 This exclusion shall not apply to physical injury to tangible third-party property, including  
14 resulting loss of use of that property.

15  
16 20. Benefits payable by a COVERED PARTY under any employee benefit plan (whether the plan is  
17 voluntarily established or mandated by statute).

18  
19 This exclusion does not apply, however to liability of a COVERED PARTY for failure to secure  
20 such benefits from a third party provider.

21  
22 21. Refund of taxes, fees or assessments.

23  
24 22. Remuneration or financial gain to which the COVERED PARTY was not legally entitled.

25  
26 23. Willful violation of a penal code or ordinance committed by or with the knowledge or consent of  
27 the COVERED PARTY.

28  
29 24. Estimates of probable costs or cost estimates being exceeded or faulty preparation of bid  
30 specifications or plans, including architectural plans.

31  
32 25. Failure to perform, or breach of, a contractual obligation, except for liability:

33  
34 a. That would be imposed in the absence of the contractual obligation;

35  
36 b. Assumed under any COVERED INDEMNITY CONTRACT.

37  
38 26. The Employee Retirement Income Security Act of 1974 (ERISA) and any law amendatory  
39 thereto, or any state statute or common law rule which imposes fiduciary duties and  
40 responsibilities with respect to employee benefit programs.

41  
42 27. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

43  
44 28. War, whether or not declared, civil war, or revolution or any act or condition incident to the  
45 foregoing, except for a MEMBER’s response to such acts or conditions.

46  
47 29. The purchase, sale, issuance and holding of securities, including but not limited to bonds.

48  
49 30. A lockout, strike, picket line, replacement or similar actions in connection with labor disputes or  
50 labor negotiations.

1  
2 This exclusion does not apply to the coverages for BODILY INJURY and PROPERTY  
3 DAMAGE.

- 4  
5 31 The cost of modifying any building or property in order to make said building or property more  
6 accessible or accommodating to any disabled person in compliance with the Americans with  
7 Disabilities Act (Public Law 101-336) or similar state law.  
8  
9

## 10 SECTION VII -- CONDITIONS

11  
12  
13 The following are conditions precedent to coverage under this MEMORANDUM:

14  
15 1. Premium and audit:

- 16  
17 a. The MEMBER shall pay the Deposit Premium designated in the Declarations, and any further  
18 premium that the LIABILITY PROGRAM requires.  
19  
20 b. BICEP may examine the MEMBER's books and records that relate to the subject matter of  
21 this MEMORANDUM at any reasonable time until ten (10) years after the final termination  
22 of coverage under this MEMORANDUM or until all known claims noticed under paragraph 3  
23 below have been closed, whichever occurs last.  
24

25 2. Inspections:

26  
27 BICEP shall be permitted, but is not obligated to, inspect the MEMBER's property and  
28 operations at any reasonable time. Neither such right to make inspections nor the making thereof,  
29 nor any report thereon, shall constitute an undertaking, on behalf of or for the benefit of the  
30 MEMBER or others, to determine or warrant that such property or operations are safe.  
31

32 3. Duties in the event of an occurrence or claim:

33  
34 The COVERED PARTY shall have the duty:

- 35  
36 a. In the event of an OCCURRENCE that falls within the LIABILITY RISK MANAGEMENT  
37 REQUIREMENTS, to give written notice as soon as possible to BICEP with reasonably  
38 obtainable information about the time, place and circumstances thereof, and the names and  
39 addresses of the involved COVERED PARTIES and witnesses.  
40  
41 b. If a CLAIM is made or legal action brought against the COVERED PARTY that falls within  
42 the LIABILITY RISK MANAGEMENT REQUIREMENTS, to forward to BICEP every  
43 demand, notice, summons or other process received by the COVERED PARTY or the  
44 COVERED PARTY's representative.  
45  
46 c. To cooperate fully with BICEP in the investigation and defense.  
47  
48 d. Upon BICEP's request, to assist in enforcing any right of contribution or indemnity against  
49 any person or organization that may be liable to the COVERED PARTY because of an  
50 OCCURRENCE with respect to which coverage is afforded under this MEMORANDUM.

1  
2 e. To attend hearings and trials and assist in securing and giving evidence and obtaining the  
3 attendance of witnesses.

4  
5 f. To comply with BICEP's LIABILITY RISK MANAGEMENT REQUIREMENTS.  
6

7 4. No voluntary payments:  
8

9 The COVERED PARTY shall not, except at its own cost, voluntarily (that is, without BICEP's  
10 approval) make any payment, assume any obligation or incur any expense, including DEFENSE  
11 COSTS, after it has exhausted its SELF-INSURED RETENTION.  
12

13 5. Bankruptcy and insolvency:  
14

15 Bankruptcy or insolvency of the COVERED PARTY shall not relieve BICEP of any of its  
16 obligations hereunder. Nor shall the bankruptcy or insolvency of the COVERED PARTY  
17 increase BICEP's obligations hereunder.  
18

19 6. Other coverage:  
20

21 Insurance or other coverage available to the COVERED PARTY for a CLAIM (whether on a  
22 primary, excess or contingent basis) shall be primary to, and shall not contribute with, this  
23 Memorandum's coverage; except that this provision shall not apply with respect to the excess  
24 insurance purchased specifically to be in excess of this Memorandum, or to insurance or  
25 reinsurance which is intended to provide the remainder of the LIMIT OF LIABILITY stated in  
26 the Declaration.  
27

28 7. Duration of an occurrence:  
29

30 An OCCURRENCE with a duration of more than one MEMORANDUM PERIOD shall be  
31 treated as a single OCCURRENCE arising during the MEMORANDUM PERIOD when the  
32 OCCURRENCE began.  
33

34 8. Endorsements to the MEMORANDUM:  
35

36 Notice to any agent or knowledge possessed by any agent or by any other person shall not affect a  
37 waiver or change in any part of this MEMORANDUM or stop BICEP from asserting any right  
38 under the terms of this MEMORANDUM, nor shall the terms of this MEMORANDUM be  
39 waived or changed, except by endorsement issued to form a part of this MEMORANDUM.  
40

41 9. No third party beneficiaries:  
42

43 Nothing in this MEMORANDUM is intended to make any person or entity, other than a  
44 COVERED PARTY, a third party beneficiary of the coverage that this MEMORANDUM  
45 provides.  
46

47 This MEMORANDUM confers no coverage or benefits on any person or entity other than a  
48 COVERED PARTY; no person or entity other than a COVERED PARTY shall have the right to  
49 bring a legal action against BICEP, without its consent, to determine BICEP's obligations to a  
50 COVERED PARTY under this MEMORANDUM.

1  
2 10. Subrogation:

3  
4 BICEP shall be subrogated to the extent of any payment hereunder to the COVERED PARTY's  
5 rights of recovery thereof, and the COVERED PARTY shall do nothing after loss to prejudice  
6 such right and shall do everything necessary to secure such right. Any amount so recovered shall  
7 be apportioned as follows:

8  
9 a. The expenses of all such recovery proceedings shall be paid before any reimbursements are  
10 made. If there is no recovery in the proceedings conducted by BICEP, then BICEP shall bear  
11 the expenses thereof.

12  
13 b. The highest layer of coverage shall be reimbursed first and, if there be sufficient recoveries,  
14 then the next highest layer, until all recoveries are used up.

15  
16 11. Assignment of interest:

17  
18 Assignment of interest under this MEMORANDUM shall not bind BICEP unless approved by  
19 the BICEP Board of Directors.

20  
21 12. Drop down exclusion:

22  
23 BICEP's LIMIT OF LIABILITY shall not be increased for any reason, including, but not limited  
24 to, the refusal or inability of the COVERED PARTY to pay the SELF-INSURED RETENTION  
25 or by the refusal or inability of any underlying insurer or joint powers authority to pay, whether  
26 by reason of insolvency, bankruptcy, or otherwise.

27  
28 13. Separate limits:

29  
30 If two or more MEMBERS are jointly or jointly and severally liable for the same CLAIM or  
31 OCCURRENCE, a separate SELF-INSURED RETENTION and LIMIT OF LIABILITY applies  
32 collectively to each MEMBER and its AGENCIES, its EMPLOYEES and any COVERED  
33 PARTY under Definition 6.e.

34  
35 14. Severability:

36  
37 This MEMORANDUM uses the term COVERED PARTY severally and not collectively, so that  
38 it applies separately to each COVERED PARTY as if it were the only COVERED PARTY.  
39 However, this provision shall not increase a MEMBER's SELF-INSURED RETENTION or  
40 BICEP's LIMIT OF LIABILITY.

41  
42 15. Interpretation:

43  
44 a. This MEMORANDUM does not provide insurance so that the rule that all ambiguities must  
45 be construed against an insurer does not apply. This MEMORANDUM shall be construed  
46 according to the principles of contract law, giving full effect to the intent of the MEMBERS  
47 and BICEP's Board of Directors in adopting it.

48  
49 b. This MEMORANDUM shall be interpreted without regard to the drafter. Its terms and  
50 intent, with respect to the rights and obligations of any COVERED PARTY or BICEP, shall

1 be interpreted and construed on the express assumption that the MEMBERS and BICEP  
2 participated equally in its drafting.  
3

4 16. Law governing the MEMORANDUM:

5  
6 This MEMORANDUM shall be governed and construed in accordance with the laws of the State  
7 of California.  
8

9 17. Cancellation:

10  
11 This MEMORANDUM may, with respect to any MEMBER, be cancelled by BICEP on ninety  
12 (90) days' notice either for the then-current MEMORANDUM PERIOD or, in the event of  
13 expulsion, permanently upon the occurrence of the events and under terms set forth in the  
14 LIABILITY PROGRAM.  
15

16 19. Named Member:

17  
18 The MEMBER first named in Item 1 of the Declarations is authorized to act on behalf of itself, its  
19 AGENCIES, its EMPLOYEES, and any COVERED PARTY under Definitions 6.e and 6.f with  
20 respect to giving and receiving Notice of Cancellation and for receiving any return premium that  
21 may become payable under this MEMORANDUM. That MEMBER is also responsible for the  
22 payment of all premiums.  
23

24 20. Additional Covered Party:

25  
26 If any primary insurance is held by the person(s), entity(ies), or organization(s) named by a duly  
27 issued certificate as an ADDITIONAL COVERED PARTY, this insurance is primary to that  
28 other insurance, but will apply in excess of the applicable COVERED PARTY's SELF-  
29 INSURED RETENTION specified in the Declarations. BICEP shall not seek contribution from  
30 the other insurance held by such ADDITIONAL COVERED PARTY for amounts payable under  
31 this insurance.  
32

33 This condition applies only with respect to liability for BODILY INJURY and PROPERTY  
34 DAMAGE arising solely out of the negligent acts of the applicable COVERED PARTY, and not  
35 with respect to any other liability.  
36

37 This condition does not apply to a person(s), entity(ies) or organization(s) unless the applicable  
38 COVERED PARTY had a specific written contract with that person(s), entity(ies) or  
39 organization(s) that meets all of the following criteria:  
40

41 a. The contract was duly approved by the MEMBER, and

42  
43 b. The contract requires that the person(s), entity(ies) or organization(s) be named as an  
44 ADDITIONAL COVERED PARTY under this Memorandum, and

45  
46 c. The COVERED PARTY received the request for designation as an ADDITIONAL COVERED  
47 PARTY before the date that the applicable COVERED PARTY begin operations or performance  
48 under the contract, and  
49

50 d. The contract requires that this insurance be primary.

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**EXHIBIT “A” TO BICEP MEMORANDUM OF COVERAGE**

**BIG INDEPENDENT CITIES EXCESS POOL  
LIABILITY RISK MANAGEMENT REQUIREMENTS**

- 1.0. DEFINITIONS. The Definitions in the BICEP MASTER MEMORANDUM OF COVERAGE (MEMORANDUM) apply to capitalized words in these Liability Risk Management Requirements (“Requirements”).
- 2.0. MEMBER’s RISK MANAGER. Each MEMBER shall have and maintain a full-time risk management employee, or subject to the unanimous approval of the Board, shall have either: (i) a risk management professional, or (ii) otherwise must be able to demonstrate a sound risk management program.

1 3.0. LOSS PREVENTION PROGRAM. Each MEMBER shall maintain a loss prevention  
2 program, and shall act upon all recommendations of BICEP concerning the reduction of unsafe  
3 conditions and the correction of policies or practices that are likely to lead to CLAIMS.

4  
5 4.0. RECORDS.

6  
7 4.1. The MEMBER shall furnish an annual audited financial statement to BICEP.

8  
9 4.2. The MEMBER shall maintain individual claim files containing the Documentation  
10 specified in Section 9.3 for all CLAIMS for the preceding ten (10) fiscal years. The files  
11 shall be referenced and stored for retrieval by City Claim Number.

12  
13 4.3. The MEMBER shall maintain a computer-generated spreadsheet showing the  
14 following information by columns for all CLAIMS in the ten (10) preceding fiscal years:

- 15  
16 a. City Claim No.  
17 b. BICEP Claim No. [If any]  
18 c. Claimant  
19 d. City Department  
20 e. Loss Date  
21 f. Claim Date  
22 g. Description  
23 h. Current Status  
24 i. Amounts Reserved  
25 j. Amounts Paid  
26 k. Date Closed

27  
28 4.4 The MEMBER shall submit copies of the above records to BICEP as directed by its  
29 General Manager or its duly constituted committees.

30  
31 5.0. DEFENSE ATTORNEYS AND FEES.

32  
33 5.1. The MEMBER shall use qualified defense attorneys experienced in litigating the type  
34 of CLAIM at issue.

35  
36 5.2. BICEP retains the right to associate its attorneys with the MEMBER's attorneys in the  
37 defense of any case that the BICEP Board of Directors determines has DAMAGES  
38 exposure that will likely exceed the MEMBER's SELF-INSURED RETENTION. This  
39 right of association extends to petitions for relief from the claim filing requirements.

40  
41 5.3. The MEMBER shall contract to pay outside defense attorneys a reasonable rate for the  
42 type of CLAIM at issue, not to exceed \$250 an hour, unless the BICEP Board of Directors  
43 authorizes a higher rate which determination shall consider the usual, customary and  
44 reasonable rate for the complexity of the CLAIM at issue.

45  
46 5.4. If the MEMBER elects to defend a CLAIM through its City Attorney Office, BICEP  
47 will credit \$150 an hour or the MEMBER's actual cost (as demonstrated by the MEMBER),  
48 whichever is greater, as DEFENSE COSTS for services in defense of a CLAIM. The City  
49 Attorney Office shall maintain hourly time records.  
50

1 5.5. The BICEP Board of Directors may periodically revise the rates in sections 5.3 and  
2 5.4 to reflect prevailing attorney hourly rates.

3  
4 5.6. The MEMBER may select, subject to BICEP's approval, an alternative method of  
5 accounting for DEFENSE COSTS, such as the resource allocation method.

6  
7 6.0. NOTICE OF CLAIMS AND OCCURRENCES.

8  
9 6.1 As soon as practicable, the MEMBER shall provide BICEP with written notice of any  
10 CLAIM or OCCURRENCE that the BICEP MEMORANDUM covers or potentially covers,  
11 if:

12  
13 a. The MEMBER reserves the CLAIM or OCCURRENCE in an amount at least  
14 equal to 50% of the MEMBER's SELF-INSURED RETENTION or \$500,000,  
15 whichever is less;

16  
17 b. The CLAIM or OCCURRENCE has a potential DAMAGES exposure at least  
18 equal to 50% of the MEMBER's SELF-INSURED RETENTION or \$500,000,  
19 whichever is less;

20  
21 c. The CLAIM or OCCURRENCE involves paralysis, brain damage,  
22 dismemberment, or death; or

23  
24 d. A single OCCURRENCE results in two or more CLAIMS that, in the aggregate,  
25 are reserved at, or have a potential DAMAGES exposure at least equal to 50% of the  
26 MEMBER's SELF-INSURED RETENTION or \$500,000, whichever is less.

27  
28 6.2. The reserves and estimates of potential DAMAGES exposure in Section 6.1 above  
29 shall include the MEMBER's potential exposure to claimant's attorney fees, costs, and  
30 prejudgment interest, if applicable.

31  
32  
33 7.0. CLAIMS ADMINISTRATION AUDIT.

34  
35 7.1. The BICEP Board of Directors shall select a claims auditor.

36  
37 7.2. Utilizing the Liability Claims Quality Control Guidelines in section 9 below, the  
38 auditor shall conduct a claims administration audit once annually, or more often at the  
39 discretion of the BICEP Board of Directors, particularly if:

40  
41 a. There is an unusual fluctuation or increase in the MEMBER's claims experience  
42 or number of claims;

43  
44 b. There is a change of liability claims administration firms; or in-house  
45 claims/litigation management; or

46  
47 c. The MEMBER is new.

48  
49 7.3. Within sixty (60) days of receipt of the audit report, the MEMBER shall respond to  
50 any recommendations and shall either outline in writing a program for corrective action or

1 explain why the MEMBER should not be required to follow the recommendations.  
2

3 8.0 ACTUARIAL STUDY. The BICEP Board of Directors shall obtain an actuarial study  
4 performed by a Fellow of the Casualty Actuarial Society annually, or more often if indicated.  
5 Based on the actuarial recommendations, BICEP shall maintain Reserves and the MEMBER shall  
6 make funding contributions equal to or exceeding the "Projected Ultimate Losses" shown in the  
7 actuarial report.  
8

9 9.0. LIABILITY CLAIMS QUALITY CONTROL GUIDELINES

10 9.1 The MEMBER will:

- 11  
12  
13 a. Conduct investigation within thirty days of the MEMBER's knowledge of the  
14 CLAIM, including taking statements from participants and witnesses.  
15  
16 b. Develop information regarding liability issues, including immunities, comparative  
17 negligence, joint tortfeasors, and joint and several liability.  
18  
19 c. Develop information on damages, including property damage, nature and extent of  
20 bodily injury and emotional distress claims, medical costs, and economic damages  
21 such as wage loss, lost profits and loss of goodwill.  
22  
23 d. Obtain and review contracts that may be in effect relating to specific accidents,  
24 such as hold harmless and indemnity agreements, additional insured requirements,  
25 other applicable insurance policies and joint powers agreements with other public  
26 entities.  
27  
28 e. Obtain defective products and/or other evidence, and hold if at all possible or at  
29 least locate where such products are being held and obtain product information for the  
30 file.  
31  
32 f. Utilize experts appropriately in cases.  
33  
34 g. Maintain membership in Claims Index Bureau; provide the Bureau with updated  
35 indexing information as applicable; and make inquiries on claims when an index  
36 match occurs.  
37  
38 h. Arrange appraisals for damaged property.  
39  
40 i. Timely report to BICEP and all insurers that potentially provide insurance  
41 coverage.  
42

43 9.2. Tort Claim Requirements. The MEMBER shall give all notices (pertaining to claims  
44 insufficiency, returning late claims, claims rejections) in accordance with applicable law.  
45

46 9.3. Documentation:

47  
48 9.3.1 The MEMBER shall establish reasonable reserves based upon facts known,  
49 within thirty (30) days of receipt of investigative report, with expenses included. The  
50 reserves shall reflect the MEMBER's potential exposure to claimant's attorney fees,

1 costs and interest, if applicable. The MEMBER shall monitor reserves for adequacy  
2 throughout the life of the CLAIM and modify them as needed.

3  
4 9.3.2. The MEMBER shall maintain a claim file on each CLAIM against the  
5 MEMBER or its EMPLOYEE.

6  
7 9.3.3. The claims files shall contain documentation necessary to support the  
8 decisions made with respect to disposition of CLAIMS.

9  
10 9.3.4. Photos, diagrams, plans, contracts, medical and law enforcement reports,  
11 reports of investigation, attorney reports and other relevant documents shall be  
12 deposited in the claim file in a timely fashion.

13  
14 9.4. Requirements for Written Reports from MEMBER's defense attorney after the  
15 MEMBER has placed BICEP on notice of a CLAIM or OCCURRENCE.

16  
17 9.4.1. The MEMBER shall provide its outside defense attorney(s) with copies of the  
18 attached (a) BICEP Defense Attorney Reporting Requirements and (b) BICEP  
19 Litigation Plan and Budget.

20  
21 9.4.2. The MEMBER has the responsibility of ensuring that its outside defense  
22 attorney(s) complies with BICEP's reporting and budgeting requirements.

23  
24 9.4.3 If the City Attorney Office serves as lead defense attorney, it shall provide  
25 BICEP with the Preliminary Evaluation described in Section I of the attached BICEP  
26 Defense Attorney Reporting Requirements. Otherwise the City Attorney Office will  
27 be required only to copy BICEP with its internal status and evaluation reports.

28  
29 9.4.4. These requirements apply regardless of whether or not there is a coverage  
30 controversy between BICEP and the MEMBER.

31  
32 9.5. DEFENSE COSTS.

33  
34 9.5.1. Upon giving notice to BICEP of a CLAIM or OCCURRENCE, the MEMBER  
35 shall require its outside defense attorney(s) to provide the BICEP Claims  
36 Administrator with copies of monthly billings for attorney fees and other DEFENSE  
37 COSTS.

38  
39 9.5.2. The MEMBER's risk manager or claims manager shall keep a current ledger  
40 of payments of outside attorney(s) fees and other DEFENSE COSTS, and shall  
41 provide it to BICEP's Claims Administrator upon request.

42  
43 9.5.3. The City Attorney Office will not be required to submit a monthly record of  
44 DEFENSE COSTS. However, it must keep a current record documenting them.

45  
46 9.6. Settlement

47  
48 9.6.1. Once the MEMBER gives the notice required by section 6 of the  
49 Requirements, BICEP shall have the right to negotiate a settlement directly with the  
50 claimant or plaintiff, subject to the MEMBER's approval of the settlement.

1  
2 9.6.2. If the MEMBER declines to accept a settlement that BICEP recommends,  
3 BICEP's liability will be limited to the amount specified in Section III of the BICEP  
4 MEMORANDUM OF COVERAGE.

5  
6 9.6.3. The MEMBER's defense attorney(s) shall provide BICEP with fully executed  
7 releases, settlement agreements and, when appropriate, court endorsed copies of  
8 dismissals and satisfactions of judgment.

9  
10 10.0. DEFAULT.

11  
12 10.1. No MEMBER that substantially complies with these Requirements may be found in  
13 default.

14  
15 10.2. BICEP shall furnish the MEMBER with written notification of the MEMBER's  
16 failure to comply with these Requirements.

17  
18 10.3. The MEMBER shall furnish a written response outlining a program for corrective  
19 action, or showing that it has substantially complied with these Requirements, within thirty  
20 (30) days of receipt of BICEP's notification.

21  
22 10.4. If BICEP approves corrective action, the MEMBER shall implement the approved  
23 program within sixty (60) days of notice of such approval.

24  
25 10.5. Failure to cure noncompliance pursuant to sections 10.1 through 10.4 shall constitute  
26 an event of default in accordance with the LIABILITY PROGRAM.

27  
28 10.6. The MEMBER may appeal any notice of default to the BICEP Board of Directors.  
29

[Member's Letterhead]1

[Date]

[Attorney with Firm Name / Address]

Re: [Case Name, Court Number, and Bicep Claim Number]

Dear \_\_\_\_\_:

## **BICEP DEFENSE ATTORNEY(S) REPORTING REQUIREMENTS**

Our City is a member of the Big Independent Cities Excess Pool (BICEP), a governmental Joint Powers risk sharing pool that provides excess coverage to its member cities. BICEP directly covers its member cities, and may also purchase commercial excess liability insurance or reinsurance for them.

We have placed BICEP on notice of the referenced claim. Pursuant to agreements between BICEP and our City, BICEP will monitor the claim and may take an active role in overseeing the claim, litigation and settlement negotiations in cooperation with the City and you as its defense attorney(s). Depending on the amount of potential damages, commercial excess liability insurers or reinsurers may also become involved.

Under the agreements between BICEP and the City, you must adhere to the following reporting requirements. Your reports, marked Confidential Attorney Client Communication, should be addressed to the City with copies to BICEP and, if applicable, commercial excess liability insurers or reinsurers and monitoring counsel.

### **1. PRELIMINARY EVALUATION.**

Within ninety (90) days of notice to BICEP of the claim or occurrence, your firm shall submit a letter to the City captioned Preliminary Evaluation and containing the following information under separate headings:

- a. Brief Description of the Case. [A sentence or short paragraph will do.]
- b. Procedural History
- c. Trial and Settlement Conference Dates
- d. Statement of Facts
- e. Applicable Immunities
- f. City's Liability
- g. Plaintiff's Comparative Fault
- h. Comparative Fault or Other Liability of Third Parties
- i. Indemnification or Insurance Available from Other Parties
- j. Damages
- k. Litigation Cost Estimate

- 1 l. Settlement Demands/Offer
- 2 m. Evaluation and Recommendations

3

4 2. LITIGATION PLAN AND BUDGET.

5

6 Along with the Preliminary Evaluation, your firm shall complete and return the attached

7 Litigation Plan and Budget.

8

9 3. SUMMARIES OF COURT PROCEEDINGS AND DISCOVERY.

10

11 Your firm shall provide the City with timely letter reports of court proceedings, depositions

12 and written discovery. These letters shall comment on the significance of any new developments.

13

14 4. PRETRIAL EVALUATION.

15

16 Within sixty (60) days of the trial date, and one week before any settlement conference,

17 your firm shall provide the Member City with a letter report captioned Pretrial Evaluation that

18 contains an update on the topics noted in Section 1.

19

20 5. SETTLEMENT OFFERS AND DEMANDS.

21

22 Your firm shall immediately communicate all settlement demands and offers to the City,

23 BICEP's General Manager, BICEP's Claims Administrator, and when applicable, commercial

24 excess insurers and monitoring counsel. The Member City shall not enter into a settlement that

25 requires payment from BICEP's pooled funds without BICEP's consent.

26

27 6. COPIES TO BICEP AND COMMERCIAL EXCESS INSURERS.

28

29 Your firm shall direct copies of the reports in Sections 1 through 5 to BICEP's General

30 Manager and BICEP's Claims Administrator, and to any excess insurers whose layers of coverage

31 may be affected by a settlement or judgment. When requested, your firm shall also copy the reports

32 to any monitoring attorney for BICEP and/or its excess insurers.

33

34 Copies to BICEP should be directed as follows:

35

BICEP General Manager  
 Gregory Spiker  
 Ken Spiker And Associates, Inc.  
 1100 South Flower Street, Suite 3300  
 Los Angeles, CA 90015

BICEP Claims Administrator  
 Timothy Thompson  
 Claims Specialist  
 Carl Warren & Company  
 P.O. Box 25180  
 Santa Ana, CA 92799

36 These BICEP representatives may request you to add others to the circulation of your

37 reports.

38 Thank you for your attention to the above.

39

40 Very truly yours,

41

42 \_\_\_\_\_

43 [Title]

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**BICEP LITIGATION PLAN & BUDGET**

To: Timothy Thompson, Claims Specialist  
Carl Warren & Company  
P.O. Box 25180  
Santa Ana, CA 92799

Case Name: \_\_\_\_\_

BICEP Claim No.: \_\_\_\_\_

Law Firm: \_\_\_\_\_

Firm Attorney: \_\_\_\_\_

Phone: \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

Damages Exposure: \_\_\_\_\_

Case Summary: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I. FEES AND COSTS TO DATE:

Attorney Fees to Date: \$ \_\_\_\_\_

Costs to date: \$ \_\_\_\_\_

II. PREDISCOVERY (*Identify and list under each heading*) Estimated Fees

Case Evaluation/Preliminary Research \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_

1	Drafting Pleadings _____	<u>Estimated Fees</u>
2	_____	
3	_____ Estim. hrs. _____ @ _____ hour	\$ _____
4		
5	III. DISCOVERY (Identify and list under each heading)	
6	A. Fact Investigation: _____	
7	_____	
8	_____	
9	_____	
10	_____ Estim. hrs. _____ @ _____ hour	\$ _____
11		
12	B. Witness Interviews: _____	
13	_____	
14	_____ Estim. hrs. _____ @ _____ hour	\$ _____
15		
16	C. Witness Preparation for Deposition: _____	
17	_____	
18	_____ Estim. hrs. _____ @ _____ hour	\$ _____
19		
20	D. Taking Depositions: _____	
21	_____	
22	_____ Estim. hrs. _____ @ _____ hour	\$ _____
23		
24	E. Defending Depositions: _____	
25	_____	
26	_____ Estim. hrs. _____ @ _____ hour	\$ _____
27		
28	F. Drafting Discovery: _____	
29	_____	
30	_____ Estim. hrs. _____ @ _____ hour	\$ _____

1 G. Discovery Responses: \_\_\_\_\_ Estimated Fees  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_  
 4

5 H. Evaluation of Discovery: \_\_\_\_\_  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_  
 8

9 IV. MOTIONS (Identify and list under each heading)

10 A. Procedural: \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_  
 13

14 B. Discovery: \_\_\_\_\_  
 15 \_\_\_\_\_  
 16 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_  
 17

18 C. Summary Judgment: \_\_\_\_\_  
 19 \_\_\_\_\_  
 20 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_  
 21

22 D. In Limine: \_\_\_\_\_  
 23 \_\_\_\_\_  
 24 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_  
 25

26 E. Other: \_\_\_\_\_  
 27 \_\_\_\_\_  
 28 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_  
 29

1 V. PRETRIAL/TRIAL (Identify and list under each heading) Estimated Fees

2 A. Court Conferences: \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_

5

6 B. Mediation/Arbitration: \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_

9

10 C. Trial Preparation: \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_

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14 D. Trial: \_\_\_\_\_

15 \_\_\_\_\_

16 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_

17

18 VI. MISCELLANEOUS (Identify and list under each heading)

19 A. Settlement Matters: \_\_\_\_\_

20 \_\_\_\_\_

21 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_

22

23 B. Administration/Client Reports/Calls: \_\_\_\_\_

24 \_\_\_\_\_

25 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_

26

27 C. Securing Expert: \_\_\_\_\_

28 \_\_\_\_\_

29 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_

1 D. Miscellaneous: \_\_\_\_\_ Estimated Fees  
2 \_\_\_\_\_  
3 \_\_\_\_\_ Estim. hrs. \_\_\_\_\_ @ \_\_\_\_\_ hour \$ \_\_\_\_\_  
4

5 VII. ESTIMATED FUTURE EXPENSES FOR CASE

6 A. Prediscovery \$ \_\_\_\_\_  
7 B. Discovery \$ \_\_\_\_\_  
8 C. Motions \$ \_\_\_\_\_  
9 D. Pretrial/Trial \$ \_\_\_\_\_  
10 E. Miscellaneous \$ \_\_\_\_\_  
11 F. Expert Fees \$ \_\_\_\_\_  
12 Total Estimated Future Fees \$ \_\_\_\_\_  
13

14 VIII. TIME DURATION ESTIMATE (*In months*):

15 Length of Time Before Settlement or Trial: \_\_\_\_\_ Months  
16  
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**MULTI-LINE REINSURANCE AGREEMENT**

**#3128216**

ISSUED TO

Big Independent Cities Excess Pool JPA  
(BICEP)  
1100 Flower Street, Suite 3300  
Los Angeles, CA 91005

(HEREINAFTER REFERRED TO AS **REINSURED**)

BY

Great American Insurance Company  
301 East 4<sup>th</sup> Street  
Cincinnati, Ohio 45202

---

(HEREINAFTER REFERRED TO AS **Great American**)

DATED AS OF

July 1, 2014

***Words and phrases in quotation marks have special meanings and are defined in Article XX – Definitions or elsewhere in this Agreement.***

**ARTICLE I**  
**PARTIES TO THE AGREEMENT**

This Agreement is solely between REINSURED and Great American. Performance of the obligations of each party under this Agreement shall be rendered solely to the other party. This Agreement does not establish rights in any third party except as may be specifically set forth herein.

**ARTICLE II**  
**COVERED BUSINESS**

In consideration of the payment of the premium amount set forth in Schedule C, Great American hereby reinsures REINSURED to the extent and on the terms and conditions and subject to the within exceptions, exclusions and limitations.

**ARTICLE III**  
**COMMENCEMENT AND TERMINATION**

- A. This Agreement shall take effect at 12:01 AM, local time at the offices of REINSURED, on the date as of date above (the "Effective Date") and shall expire on the "Termination Date." As used herein the term "Termination Date" means 12:01 A.M. local time at the offices of REINSURED, one calendar year after the Effective Date or any earlier date arising from an early termination of this Agreement. As used herein the phrase "Term of this Agreement" means the period of time beginning on the Effective Date and ending on the Termination Date. The obligations of the parties with respect to "Policies" reinsured under this Agreement shall remain in effect until all obligations of the parties under this Agreement have been satisfied.
- B. This Agreement may be terminated only upon the prior written consent of both parties.

**ARTICLE IV**  
**REINSURING AGREEMENT & LOSSES NOT COVERED**

- A. Subject to REINSURED's payment of REINSURED's "Per Occurrence Retained Amounts" and subject to the applicable per "Occurrence," and Policy Period Aggregate limit of liability, and Subsidence Aggregate limit of liability set forth in Schedule A, Great American shall indemnify REINSURED for "Ultimate Net Loss" each "Occurrence" for those losses occurring during the Term of this Agreement and covered by the "Policies" issued to those insured members of REINSURED.
- B. REINSURED's "Per Occurrence Retained Amount" is REINSURED's direct obligation and REINSURED shall directly pay all amounts within REINSURED's "Per Occurrence Retained Amount" as those amounts become due. If REINSURED refuses to timely respond to its obligation for the payment of amounts within REINSURED's "Per Occurrence Retained Amount" for any reason, the reinsurance provided by this Agreement shall not make any payments for amounts within REINSURED's "Per Occurrence Retained Amount".
- C. If Great American is legally compelled to make or, if in Great American's sole discretion, Great American makes any payment outside of Great American's Limit of Liability, REINSURED shall immediately reimburse Great American for the full amount paid outside of Great American's Limit of Liability and until Great American is fully reimbursed, the unreimbursed payments made by Great American shall reduce the applicable limits of liability available under this reinsurance.
- D. In the event of losses caused by one "Occurrence", that are covered by the Policies involving multiple lines of business reinsured hereunder, only one "Per Occurrence Retained Amount" will apply to all "Ultimate Net Loss" caused by the one "Occurrence". The applicable retention will be determined by comparing the "Per Occurrence Retained Amount" for each involved line of business and choosing the highest applicable "Per Occurrence Retained Amount".
- E. This Agreement does not reinsure REINSURED nor does it provide protection for:
1. "Ultimate Net Loss" occurring before the Effective Date or after the Termination Date;
  2. "Declaratory Judgment Expense";
  3. "Losses In Excess Of Policy Limits";

4. "Extra Contractual Obligations";
5. "Policies" issued by REINSURED to members that are not in conformity with Great American's underwriting and eligibility guidelines (See Reinsurance Referral Guidelines in Appendix A) unless Great American shall have accepted such risk in writing;
6. That portion of any "Ultimate Net Loss" in excess of Great American's Limit of Liability;
7. That portion of any "Ultimate Net Loss" below REINSURED's "Per Occurrence Retained Amount";
8. "Ultimate Net Loss" arising from:
  - a) Workers Compensation;
  - b) Crime;
  - c) Property, Boiler & Machinery, or any other first party coverage;
  - d) All business derived directly or indirectly from any Pool, Association or Syndicate, whether participation is voluntary or involuntary;
  - e) Any actual, alleged, or threatened discharge, dispersal, release or escape of nuclear energy or radioactive contamination;
  - f) Contamination of the environment by "**Pollutants**" introduced at anytime, into, under or upon land, the atmosphere, or any watercourse or body of water or aquifer. This exclusion applies whether or not the contamination is introduced into the environment intentionally or accidentally or gradually or suddenly, and whether or not the REINSURED or any other person or organization is responsible for the contamination.

"**Contamination**" includes any unclean, unsafe, or unhealthful condition, either actual or potential, which arises out of the presence in the environment of any "**Pollutant**" whether permanent or transient.

"**Environment**" includes land, bodies of water, underground water or water table or aquifer, the atmosphere, and any other natural feature of the earth, whether or not altered, developed or cultivated.

This exclusion does not apply to:

- a. Any discharge, dispersal, seepage, migration, release or escape of "**Pollutants**" that meets all of the following conditions:
  - i. It was accidental and neither expected nor intended by the REINSURED or an insured member of the REINSURED. This condition would not serve to deny coverage for a specific incident where such discharge, dispersal, seepage, migration, release or escape of "**Pollutants**" was a result of an attempt by the **Pollutants** to mitigate or avoid a situation where substantial third party bodily injury, property damage or personal injury could occur;

- ii. It was demonstrated as having commenced on a specific date during the term of this Agreement;
- iii. Its commencement became known to the REINSURED or an insured member of the REINSURED within twenty-one (21) calendar days and was further reported to the person responsible for risk management at the Covered Member within a reasonable time frame;
- iv. Its commencement was reported in writing to REINSURED or an insured member of the REINSURED within sixty (60) calendar days of becoming known to the person responsible for risk management at the Covered Member; and
- v. Reasonable effort was expended by the REINSURED or an insured member of the REINSURED to terminate the situation as soon as conditions permitted,

However, nothing contained in this provision shall operate to provide any coverage with respect to:

- (1) Any site or location principally used by the REINSURED or an insured member of the REINSURED or by others on behalf of the REINSURED or an insured member of the REINSURED, for the handling, storage, disposal, dumping, processing or treatment of waste material;
  - (2) Any fines or penalties;
  - (3) Any clean up costs ordered by the superfund program, or any federal, state or local governmental authority. However this specific exception shall not serve to deny coverage for third party clean up costs otherwise covered by this Agreement simply because of the involvement of a governmental authority;
  - (4) Acid rain;
  - (5) Clean up, removal, containment, treatment, detoxification or neutralization of "**Pollutants**" situated on premises the Covered Member owns, rents or occupies at the time of the actual discharge, dispersal, seepage, migration, release or escape of said "**Pollutants**"; or
  - (6) Water pollution caused by oil or its derivatives.
- b. Damages caused by heat, smoke or fume from a hostile fire. Hostile fire means one that becomes uncontrollable or breaks out where it was not intended to be;
  - c. Firefighting activities, including training fires, or intentional ignition of fires for the purpose of limiting a fire, or to the discharge of "**Pollutants**" for the purpose of controlling a fire;
  - d. Police use of mace, oleoresin capsicum (O.C. or pepper gas), or tear gas;
  - e. Weed abatement, tree spraying or sudden and accidental sewer backups.
  - f. Use of chlorine for domestic water, swimming pools or other routine sanitation.

- g) Governmental orders, directions or requests that the REINSURED or an insured member of the REINSURED test for, monitor, clean up, remove, remedy, contain, treat, detoxify or neutralize "**Pollutants**".
- h) A governmental unit or other third party's loss or expenses, including attorney fees, for efforts to monitor, clean up, remove, remedy, contain, trace, detoxify or neutralize "**Pollutants**".
- i) Any liability or expense arising from the handling, processing, manufacture, sale, distribution, storage or use of asbestos, asbestos products, and/or products of containing asbestos;
- j) Reinsurance assumed by REINSURED whether voluntarily or involuntarily.
- k) Any "Policies" issued by REINSURED that do not conform to the underwriting guidelines and forms that were submitted to Great American for underwriting acceptability and development of Great American's premium in connection with Great American's underwriting of this Agreement.

#### **ARTICLE V** **MANAGEMENT OF CLAIMS**

- A. REINSURED shall be responsible for the investigation and settlement or defense of all claims and losses. When requested by Great American, REINSURED shall permit Great American, at the expense of Great American, to be associated with REINSURED in the defense of claim(s), loss(es), or legal proceeding(s) which involve or, in the opinion of Great American, are likely to involve Great American.
- B. Great American acknowledges that claims reinsured under this Agreement may be adjusted by a third party administrator (TPA) under contract with Reinsured. The TPA(s) set forth in Schedule B is the authorized TPA(s) as of the Effective Date of this Agreement. Changes to the approved TPA(s) must be approved by Great American 90 days prior to the effective date of change.
- C. This Article shall survive termination of this Agreement.

#### **ARTICLE VI** **LIMITS OF LIABILITY & PREMIUM**

- A. The Limits of Liability set forth in Schedule A and the rules below describe the limits of Great American's liability for "Ultimate Net Loss" under this Agreement regardless of the number of insureds, claimants, claims or suits.
  - 1. This reinsurance only applies to "Ultimate Net Loss" in excess of REINSURED's "Per Occurrence Retained Amount".
  - 2. The Subsidence Aggregate limit of liability set forth in Schedule A is the most Great American will pay for "Ultimate Net Loss" arising from any and all property damage claims arising out of Subsidence.
  - 3. Subject to A 2 above, The Policy Period Aggregate limit of liability incorporated in Schedule A is the most we will pay for "Ultimate Net Loss" arising under coverages commonly known as employment practices liability, law enforcement legal liability, and public official's errors and omissions liability.

4. Subject to A 2 above, the per "Occurrence" limit of liability incorporated in Schedule A is the most we will pay for "Ultimate Net Loss" arising from any one "Occurrence" covered by "Policies" issued to an insured member of the REINSURED.
  5. "Allocated Loss Adjustment Expense" erodes (a) REINSURED's "Per Occurrence Retained Amount" and (b) the applicable per "Occurrence" limit of liability.
- B. As a condition precedent to Great American's obligations hereunder, REINSURED shall timely pay to Great American the premium due Great American.
- C. Premium under this Agreement shall be paid in full within 45 days of the Effective Date. Additional or return premium due either party will be remitted within 30 days of the issue date of the amendment to which the premium relates.
- D. Premium adjustments will be made as soon as practical, but no later than 60 days after Great American has been provided all information necessary to confirm the premium adjustment amount.

**ARTICLE VII**  
**REPORTING**

- A. Within 30 days after the close of each quarter, REINSURED shall deliver to Great American on forms acceptable to Great American the following information regarding REINSURED's loss(es) and "Allocated Loss Adjustment Expense" subject to reinsurance under this Agreement:
1. losses paid by REINSURED during the quarter and inception to date losses paid by REINSURED;
  2. losses reported to REINSURED during the quarter and inception to date losses reported to REINSURED;
  3. increases and decreases in all of REINSURED's outstanding loss reserves during the quarter and inception to date increases and decreases in all of REINSURED's outstanding loss reserves;
  4. identification of and detail regarding any loss which REINSURED's estimates will exceed 50% of the applicable "Per Occurrence Retained Amount" ;
  5. "Serious Injuries" and identification of and detail regarding any loss involving "Serious Injuries;" and
  6. "Allocated Loss Adjustment Expense" paid by REINSURED during the quarter and inception to date "Allocated Loss Adjustment Expense" paid by REINSURED.

B. General

In addition to the reports required in paragraph A. above, REINSURED shall furnish such other information as may be required by Great American for the completion of Great American's quarterly and annual statements, reports to Great American's reinsurers and Great American's internal records.

- C. All reports and information shall be rendered on forms or in format acceptable to Great American.

**ARTICLE VIII**  
**REINSURANCE SETTLEMENTS**

Upon Great American's review of satisfactory proof of loss and sufficient evidence of the amount of "Ultimate Net Loss" payable under the Policy, any amounts falling within Great American's Limit of Liability may be forthwith paid to the approved TPA or REINSURED, at Great American's option. Payments by Great American to the approved TPA shall be deemed to be payments made directly to REINSURED under this Agreement.

**ARTICLE IX**  
**OTHER REINSURANCE / RECOVERIES**

- A. If other valid and collectible reinsurance or insurance is available and applicable to any loss or expense covered by this Agreement, other than reinsurance or insurance which is specifically written as excess of the reinsurance afforded by this Agreement, the reinsurance or insurance afforded by this Agreement shall be in excess of and shall not contribute with such other reinsurance or insurance. Nothing herein shall be construed to make this Agreement subject to the terms of any other reinsurance or insurance.
- B. REINSURED shall pay to or credit Great American with Great American's portion of any recovery obtained from salvage, subrogation, other insurance or other reinsurance. Adjustment expenses for recoveries shall be deducted from the amount recovered.
- C. Great American shall be subrogated to the rights of REINSURED to the extent of its payments to REINSURED. REINSURED agrees to enforce its rights of salvage, subrogation, and its rights against insureds or to assign these rights to Great American.
- D. Recoveries shall be distributed to the parties in the reverse of the order in amounts were paid.
- E. This Article shall survive termination of this Agreement.

**ARTICLE X**  
**CURRENCY**

All amounts payable hereunder shall be made in United States dollars. Wherever the word "Dollars" or the sign "\$" appear in this Agreement, they shall be construed to mean United States dollars. For purposes of this Agreement, where premium or "Ultimate Net Loss" is paid in currencies other than United States dollars, such amounts shall be converted into United States dollars at the actual rates of exchange as of the first date such amounts are due and payable.

**ARTICLE XI**  
**ERRORS AND OMISSIONS**

Any inadvertent delay, omission or error shall not be held to relieve either party hereto from any liability which would attach to it hereunder if such delay, omission or error had not been made, provided such delay, omission or error is rectified immediately upon discovery.

**ARTICLE XII**  
**RESERVES AND TAXES**

- A. Great American shall determine and maintain reserves as to Great American's portion of unearned premium, claims, losses, and adjustment expenses.
- B. REINSURED shall be liable for all premium taxes on premium ceded to Great American under this Agreement. If Great American is obligated to pay any premium taxes on this premium, REINSURED shall reimburse Great American immediately upon Great American providing evidence that REINSURED is so obligated.

**ARTICLE XIII**  
**ACCESS TO RECORDS**

The parties, or their representatives, shall have access to the books and records of the other party at all reasonable times for the purpose of obtaining information concerning this Agreement or the subject matter of this Agreement.

**ARTICLE XIV**  
**ARBITRATION**

- A. Any dispute or difference arising with reference to the formation, interpretation or effect of this Agreement, or any part thereof, shall be referred to a Board of Arbitration consisting of two arbitrators and an umpire.
- B. The members of the Board of Arbitration shall be active or retired disinterested officers of or lawyers for insurance or reinsurance companies.
- C. One arbitrator shall be chosen by the party initiating the arbitration and designated in the letter requesting arbitration. The other party shall respond within fifteen days advising of its arbitrator. The umpire shall thereafter be chosen by the two arbitrators. In the event either party fails to designate its arbitrator as indicated above, the other party is hereby authorized and empowered to name the second arbitrator, and the other shall be deemed to have waived its right to designate an arbitrator and shall not be aggrieved thereby. The two arbitrators shall then have thirty days within which to choose an umpire, and if unable to do so may apply to the American Arbitration Association for appointment of an umpire.
- D. Each party shall submit its case to the Board of Arbitration within one month from the date of the appointment of the umpire, but this period of time may be extended by unanimous written consent of the Board of Arbitration.
- E. The sittings of the Board of Arbitration shall take place at such site as near as practical equidistant between the parties and shall be governed by the United States Arbitration Act, Title 9 U.S.C. §1 et seq. unless otherwise mutually agreed by the parties to the arbitration. The written decision of the Board of Arbitration, or a majority of said Board, shall make specific findings of law and findings of fact in support of the final decision and shall be rendered at the earliest convenient date and shall be final and binding upon the parties both as to law and fact, and may not be appealed to any court of any jurisdiction and may be enforced in accordance with Article XVII below.
- F. REINSURED and Great American shall each bear the fees and expenses of the arbitrator selected by or on its behalf, and each party shall bear one-half of the fees and expenses of the umpire.

**ARTICLE XV**  
**OFFSET**

Each party hereto shall have and may exercise at any time and from time to time, the right to offset any balance or balances, whether on account of premiums or on account of losses or otherwise, due from such party to the other party under this Agreement or under any other reinsurance agreement heretofore or hereafter entered into by and between them, and may offset the same against any balance or balances due or to become due to the former from the latter under the same or any other reinsurance agreement between them; and the party asserting the right of offset shall have and may exercise such right whether the balance or balances due or to become due to such party from the other are on account of premiums or on account of losses or otherwise and regardless of the capacity, whether as assuming insurer or as ceding insurer, in which each party acted under the agreement or, if more than one, the different agreement involved. However, a notice and accounting will be sent to the other party 10 (ten) days prior to any offset.

**ARTICLE XVI**  
**GOVERNING LAW**

This Agreement shall be deemed to have been entered into in the State of Ohio and shall be construed and governed in all respects as a contract made, executed to be performed and enforced entirely within the State of Ohio and without regard to Ohio conflicts of law principles.

**ARTICLE XVII**  
**SEVERABILITY**

If any provision of this Agreement or the application thereof is unenforceable, such shall not affect any other provision or application of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared severable.

**ARTICLE XVIII**  
**INTERMEDIARY**

The intermediary set forth in Schedule D, if any, is recognized as the intermediary negotiating this Agreement through whom all correspondence, accounts and settlements shall be passed. Payments by Great American to the intermediary shall constitute payment to REINSURED and payments by REINSURED to the intermediary shall constitute payment to Great American. Great American, however, reserves the right at its discretion to make payments of claims or receive payments or premiums hereunder directly to or from REINSURED or the authorized TPA, as the case may be. REINSURED acknowledges that Great American will pay commission to the intermediary listed in Schedule D, if any, in connection with its role as intermediary under this Agreement, the precise amount of which will vary based on various factors. Great American will share commission information or a description of the commission plan applicable to the intermediary listed in Schedule D, if any, in connection with this Agreement upon REINSURED's written request.

**ARTICLE XIX**  
**NOTICES**

Any notice required to be sent shall be delivered by hand or mailed, return receipt requested:

1. If to REINSURED:

BICEP  
c/o Ken Spiker and Associates  
1100 South Flower Street, Suite 3300  
Los Angeles, CA 90015

2. If to Great American:

Other than Claims or Accounting:  
Attn: Andrew Kay  
Great American Insurance Company  
4510 Cox Road  
Suite 301  
Glen Allen, VA 23060  
Email: akay@gaig.com  
804-396-6012

Claims:  
Attn: Carole Lofness  
Great American Insurance Company  
301 East Fourth Street  
Cincinnati, OH 45202-4201  
Email: PublicSectorClaims@gaig.com  
513-763-8656

3. If to Intermediary:

See Schedule D

**ARTICLE XX**  
**DEFINITIONS**

A. The term "**Allocated Loss Adjustment Expense**" means all costs and expenses allocable to a specific claim that are incurred by REINSURED in the investigation, appraisal, adjustment, settlement, litigation, defense or appeal of a specific claim, including court costs and costs of supersedes and appeal bonds, and including;

1. Pre-judgment interest, unless included as part of the award or judgment;
2. Post-judgment interest; and
3. Legal expenses and costs incurred in connection with coverage questions and legal action connected thereto.

"Allocated Loss Adjustment Expense" shall not include any REINSURED employee salaries or REINSURED overhead such as office expenses or amounts paid to REINSURED's TPA that do not fall expressly within the above definition of "Allocated Loss Adjustment Expense." However, "Allocated Loss Adjustment Expense" shall include allocated defense costs incurred in the investigation, defense or appeal of a claim or suit to which this insurance applies by attorneys who are employees of the REINSURED or an insured member of the REINSURED.

B. The term "**Declaratory Judgment Expense**" means all court costs, attorney's fees, and expenses incurred by REINSURED in contesting coverage on the business reinsured hereunder.

C. The term "**Extra Contractual Obligations**" means all liabilities or obligations of REINSURED, other than those arising under the express terms of and within the express limits of the "Policies," whether to an insured, governmental entities or any other person, which liabilities and obligations shall include, without limitation, any liability for punitive, exemplary, special or any other form of extra-contractual damages relating to the "Policies" which arises from any act, error or omission, whether or not intentional, in bad faith or otherwise, including, without limitation, any act, error or omission relating to (i) the marketing, underwriting, production, issuance, cancellation or administration of the "Policies," (ii) the investigation, defense, trial, settlement or handling of claims, benefits, or payments arising out of or relating to the "Policies," (iii) the failure to pay or the delay in payment of benefits, claims or any other amounts due or alleged to be due under or in connection with the "Policies," or (iv) alleged or actual negligence, fraud or bad faith in rejecting an offer of settlement or in the preparation of the defense or in the trial of any action against its insured or in the preparation or prosecution of an appeal consequent upon such action..

D. The term "**Losses In Excess Of Policy Limits**" means losses in excess of the applicable limits of the "Policies," but otherwise within the terms and conditions of the "Policies" and resulting from an action against REINSURED or a TPA alleging negligence or bad faith in rejecting a settlement within the limits of the "Policies" or in discharging its duty to defend an insured under the "Policies" including prosecuting any appeals; plus all Allocated Loss Adjustment Expense attributable to such losses.

E. The term "**Occurrence**" shall mean an accident, event, disaster, occurrence, loss or casualty, or series of accidents, events, disasters, occurrences, losses or casualties, or any other circumstances which is traceable to the same single act, offense, event, omission, cause, mistake or error or series of acts, offenses, events, omissions, causes, mistakes or errors.

- F. The term "**Per Occurrence Retained Amount**" means the sum total of losses paid by REINSURED under "Policies" arising from any one "Occurrence", plus paid "Allocated Loss Adjustment Expense" applicable to the paid losses on the one "Occurrence", less recoveries, salvages and claims upon all reinsurance or insurance of REINSURED benefiting Great American up to the amount set forth as such in Schedule A.
- G. The term "**Policies**" means policies of insurance and binders of insurance and certificates of insurance that were in force at the inception of, and those policies of insurance and binders of insurance attaching with new or renewal policy periods during the "Term of this Agreement" that were issued to REINSURED's insured members covering General Liability or Automobile Liability issued by REINSURED and that were underwritten in all material respects in accordance with REINSURED's underwriting guidelines and that were issued on forms, which guidelines and forms were submitted to Great American for underwriting acceptability and development of Great American's premium in connection with Great American's underwriting of this Agreement.
- H. The term "**Pollutants**" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkali, chemicals, silt, airborne particles or fibers, mold, fungus, "Waste;" or electromagnetic field. "Waste" includes materials to be recycled, reconditioned or reclaimed.
- This Definition excludes potable water, agricultural water, water furnished to commercial users, or water used for fire suppression.
- I. The term "**Serious Injury**" means claims or suits involving the following:
1. the naming of REINSURED, the TPA, Great American, an agent of Great American or the reinsurance intermediary;
  2. punitive damages, bad faith or extra contractual liabilities against: Reinsured, the TPA or Great American;
  3. coverage questions including those arising from tenders of defense and indemnity from parties claiming additional insured rights under a Policy;
  4. class action;
  5. any other type of claim or set of circumstances that Great American shall direct.
- J. The term "**Ultimate Net Loss**" means the sum total actually paid by REINSURED and arising from an "Occurrence" that is covered by the "Policies" *equal to*: (1) REINSURED's contractual indemnity loss arising from an "Occurrence" with respect to General Liability losses or Automobile Liability losses (2) less recoveries, salvages and claims upon all other reinsurance or insurance of REINSURED benefiting Great American; (3) *plus* "Allocated Loss Adjustment Expense."

**ARTICLE XXI**  
**REPRESENTATIONS OF REINSURED**

REINSURED hereby represents, warrants, covenants and agrees that it is a duly formed validly existing public entity pool with full power and authority, to bear risk on behalf of its members and where applicable is a duly qualified self-insurer with full power and authority to issue insurance to its member

insureds, to enter into this Agreement, and has received and will maintain through out the "Term of this Agreement" all licenses, approvals and other evidences of authority from any government authority having jurisdiction and has complied and will comply with all applicable laws, including, without limitation all required reporting to governmental agencies. REINSURED shall not be entitled to assert as a defense to enforceability of this Agreement, REINSURED's lack of authority to enter into this Agreement or non-compliance with any applicable law, or any member insureds lack of authority or non-compliance with applicable law. REINSURED acknowledges and agrees that Great American is relying on these representations, warranties, covenants and agreements in connection with the issuance of this Agreement and in connection with Great American's review of regulatory requirements and taxes applicable to this Agreement. REINSURED agrees to execute and deliver promptly such additional agreements, instruments and documents and to do such further acts and things as may be reasonably necessary or proper to carry out the intent of this Agreement as an assumed reinsurance agreement and if Great American determines it necessary because of regulatory requirements to recast this Agreement as an excess insurance agreement, REINSURED agrees to co-operate with Great American in the recasting of this Agreement, meeting with authorities having regulatory jurisdiction and to execute and deliver promptly such revised agreements, instruments and documents and to do such further acts and things as may be reasonably necessary or proper to carry out the intent of this Agreement in conformity with regulatory requirements.

REINSURED hereby represents, warrants, covenants and agrees to Great American that all policy coverage forms including, without limitation, endorsements and exclusions submitted for review at the inception of this Agreement will not be amended, deleted or superseded without Great American's approval.

[INTENTIONALLY LEFT BLANK; THE SIGNATURE PAGE IS NEXT]

IN WITNESS WHEREOF the parties, intending to be legally bound, have caused this Agreement to be executed by duly authorized personnel as of the Effective Date.

Signed in duplicate, in \_\_\_\_\_, \_\_\_\_\_

this        day of                    , 2014

**REINSURED**

**BIG INDEPENDENT CITIES EXCESS POOL JPA**

**BY:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

Signed in Glen Allen, VA

this        day of                    , 2014

**GREAT AMERICAN INSURANCE COMPANY**

**BY:** \_\_\_\_\_

Andrew Kay  
Vice President, Public Sector Division

**SCHEDULE A**  
**REINSURANCE DECLARATIONS**

**LINE OF BUSINESS, RETAINED AMOUNTS, AND LIMITS OF LIABILITY**

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**LINE OF BUSINESS:** General Liability (including Employment Practices Liability, Public Entity Errors and Omissions Liability, Law Enforcement Legal Liability); and Automobile Liability

**PER OCCURRENCE RETAINED AMOUNT:** \$ 1,000,000 Applies per Member

**GREAT AMERICAN'S LIMIT OF LIABILITY:** \$ 1,000,000 Per Occurrence,  
Applies Per Member

\$ 1,000,000 Subsidence Aggregate,  
Applies to Policy

\$ 3,000,000 Policy Period Aggregate,  
Applies per Member

**SCHEDULE B**  
**APPROVED THIRD PARTY ADMINISTRATOR**

Name &	Carl Warren
Address:	P.O.Box 25180 Santa Ana, CA 92799
Claims Contact:	Timothy Thompson PO Box 25180 Santa Ana, CA 92799
Telephone:	(714) 572 – 5200 Ext. 5281
E-mail:	tthompson@carlwarren.com

**SCHEDULE C**  
**PREMIUM**

The annual deposit premium due Great American at Agreement inception is \$ 1,449,000

The minimum premium payable to Great American for this reinsurance is \$ 362,250.

**SCHEDULE D**  
**NAME AND ADDRESS OF RECOGNIZED INTERMEDIARY, IF ANY**

AmWINS Insurance Brokerage of California, LLC  
19867 Prairie Street, Suite 250  
Chatsworth, CA 91311  
Attn: Adam Najdowski

**SCHEDULE E**  
**SCHEDULE OF PARTICIPATING MEMBERS**

- **City of Huntington Beach - MOC Certificate Number BO-01**
  - Successor Agency to Huntington Beach Redevelopment Agency
  - Huntington Beach Public Facilities Corporation
  - Huntington Beach Parking Authority
  - Huntington Beach Civic Improvement Corporation
  - Huntington Beach Public Financing Authority
- **City of Oxnard - MOC Certificate Number BO-02**
  - Successor Agency to the Community Development Commission of the City of Oxnard
  - Housing Authority of City of Oxnard
  - Industrial Development Financing Authority of the City of Oxnard
  - City of Oxnard Financing Authority
  - Oxnard Performing Arts Center Corporation
  - Las Cortes, Inc., a non-profit housing development corporation
- **City of San Bernardino - MOC Certificate Number BO-04**
  - San Bernardino Joint Powers Financing Authority
  - City of San Bernardino One Stop Career Center (Employment & Training Agency)
  - San Bernardino Civic Center Authority
  - City of San Bernardino Successor Agency to San Bernardino Economic Development Agency and its Sub-Agencies
- **City of Santa Ana - MOC Certificate Number BO-05**
  - City of Santa Ana, a Charter City and a Municipal Corporation duly organized and existing under the constitution and laws of the State of California
  - The Community Redevelopment Agency of the City of Santa Ana and the Successor Agency, a public body, corporate and public
  - The Industrial Development Authority of the City of Santa Ana, a public, corporate instrumentality of the State of California
  - The Housing Authority of the City of Santa Ana, a public body, corporate and public
  - Santa Ana Financing Authority, a joint powers agency
  - Santa Ana Empowerment Corporation, Incorporated, a 501(c)(3) entity created by the City Council
  - Workforce Investment Board (WIB)
  - The Friends of Santa Ana Parks and Recreation Community Services, a 501 C-3 nonprofit
  - Santa Ana Police Athletic & Activity League (SAPAAL)
  - The Southland Economic Development Corporation, a non-profit public benefit corporation
- **City of West Covina - MOC Certificate Number BO-06**
  - City of West Covina Community Development Commission
  - Successor Agency of the West Covina Redevelopment Agency
  - West Covina Parking Authority
  - West Covina Public Financing Authority

**EXCLUDED: No coverage afforded for City of San Buenaventura**

APPENDIX A

REINSURANCE REFERRAL GUIDELINES

Entities with any of the following exposures must be referred to Great American Insurance for approval prior to binding.

All new members must be referred to Great American for approval prior to binding.

**APPENDIX B**  
**RATE INDICATION PAGE**

Not Applicable

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE  
DECLARATIONS**

**Issued By  
Wesco Insurance Company  
59 Maiden Lane, 43rd Floor  
New York, NY 10038**

Reinsurance Certificate No: WPP1028724 03  
Renewal of No: WPP1028724 02

1. Company and Address:

Big Independent Cities Excess Pool (BICEP)  
1100 Flower Street, Suite 3300  
Los Angeles, CA 90015

2. Reinsurance of Policy No: BICEP Master Memorandum of Liability Coverage

3. Reinsured Name and Address:

Big Independent Cities Excess Pool (BICEP), et al, as per Endorsement # 2

4. Term of **Policy Reinsured**: 07/01/2014 – 07/01/2015

5. Term of Reinsurance: 07/01/2014 – 07/01/2015

6. Type of Insurance: Big Independent Cities Excess Pool (BICEP) Liability Coverage, as provided in BICEP Master Memorandum of Liability Coverage

7. Limit(s) of **Policy Reinsured**: \$27,000,000 Total Limit of Liability including all reinsurance or insurance and Member City's Retained Limit; \$25,000,000 Annual Aggregate combined for all BICEP members if no coverage is available through commercial insurance or reinsurance.

8. Basis of Acceptance:  **Contributing Excess or Other Proportional**  
 **Excess of Loss**

9. **Retention**: \$2,000,000 each occurrence

10. Declared Facultative: Reinsurance Agreement #3128216 issued by Great American Insurance Company

11. Reinsurance Limit(s): \$10,000,000 each occurrence and aggregate where applicable in excess of **Retention**; \$10,000,000 policy aggregate for Property Damage as respects coverage for subsidence in excess of **Retention**.

12. Reinsurance Premium: \$1,578,960 due in full within 45 days of effective date  
(non-auditable except for the addition of New Members)

13. Intermediary and Address: Specialty Risk Solutions, LLC  
10 S LaSalle Suite 1400  
Chicago, IL 60603

14. Additional Reinsurance Conditions: Per attached **Terms** and conditions

MANU.DEC.001

## CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE

### GENERAL CONDITIONS

Subject to the **Terms** of this Certificate, the liability of the **Reinsurer** named in this Certificate shall follow that of the **Company** under the **Policy Reinsured**.

1. **DEFINITIONS** - As used in this Certificate, the following **Terms** shall mean:

**Company** —The entity or entities ceding reinsurance under this Certificate.

**Contributing Excess or Other Proportional**- The liability of the **Reinsurer** is proportional to the liability of the **Company** under the **Policy Reinsured** in the percentage stated in the Reinsurance Limit(s) Section of the **Declarations**. The **Policy Reinsured** may apply in excess of other insurance, reinsurance, or self-insured retention or include a deductible,

**Declarations** —shall mean an applicable slip, cover note, or binder (including the **Terms** therein) when used in lieu of a declarations page.

**Excess of Loss** — The liability of the **Reinsurer** for **Loss** and/or **Expense** attaches only after any applicable **Retention** has been satisfied.

**Expense** - Amounts paid by the **Company** as settlement or in satisfaction of claims for expense under the **Policy Reinsured** or otherwise in connection with the investigation, adjustment, or disposition of claims (whether for loss or expense) under the **Policy Reinsured**. **Expense** shall include legal fees, court costs, pre— and post-judgment interest, and charges and expenses of affiliated claims or technical services but exclude office expenses and payments to any salaried employee of the **Company**.

**Include; Including** — include but not be limited to; including but not limited to.

**Insured** — The entity or entities (re)insured under the Policy(s) Reinsured.

**Loss** - Amounts paid by the **Company** as settlement or in satisfaction of claims for loss under the **Policy Reinsured**.

**Policy Reinsured** — The (re)insurance contract(s), including Memorandum Of Coverage(s) reinsured by this Certificate.

**Proof of Loss** – Shall mean an interim or final report for the Loss Occurrence from the **Company** in the form of any of the following: (i) a judgment of the applicable court of law that **Company** does not intend to appeal; (ii) an arbitration or mediation award; (iii) a signed release; or (iv) other written confirmation of a settlement or covered expense paid or to be paid according to the Policy(s) Reinsured.

**Reinsurer** - The entity or entities assuming reinsurance under this Certificate.

**Retention** — The amount stated in the **Retention** Section of the **Declarations** (if no amount is stated therein, the **Retention** shall be zero), which may be retained and/or protected by reinsurance as provided in General Condition #2.

**Terms** —**Terms** and/or conditions, including limits, premium, and any exclusions.

## 2. RETENTION

The **Retention**, if any, may consist of: (i) amounts retained by the **Company** or any company under common management, ownership, or control with the **Company**; (ii) amounts protected by any treaty reinsurance; and/or (iii) amounts protected by any facultative reinsurance that the **Company** declares to the **Reinsurer** as comprising part of the applicable **Retention**. The **Company** shall notify the **Reinsurer** promptly of any facultative reinsurance comprising part of such **Retention**. If it fails to do so, the liability of the **Reinsurer** shall be reduced in the ratio that such undeclared facultative reinsurance bears to such **Retention**.

## 3. THIRD-PARTY RIGHTS

Except as provided in General Condition #7, in no event shall any person or entity other than the **Company** and the **Reinsurer** have any rights under this Certificate, and said Certificate shall not be assignable by either party.

## 4. POLICY REINSURED, ENDORSEMENTS & RECORDS

Upon request, the **Company** shall furnish the **Reinsurer** with a copy of the **Policy Reinsured** and all endorsements thereto that affect this reinsurance and make available for inspection at reasonable times any of its records relating to this reinsurance or claims in connection therewith.

The **Company** shall notify the **Reinsurer** promptly of any change in the **Policy Reinsured** affecting this Certificate. Any change in the **Terms** of the **Policy Reinsured** subsequent to the effective date of this Certificate shall not increase or extend the **Reinsurer's** liability hereunder unless such change is made part of this Certificate by written amendment executed by the **Reinsurer**.

## 5. CLAIMS & SETTLEMENTS

The **Company** shall give the **Reinsurer** written notice as soon as reasonably practicable of any occurrence, accident, event, or circumstance that in the opinion of the **Company** will likely involve this Certificate, including, if this reinsurance is on a **Contributing Excess or Other Proportional** basis, any occurrence, accident, event, or circumstance for which the **Company** establishes an initial loss reserve; or, if this reinsurance is on an **Excess of Loss** basis, when a loss reserve equals or exceeds fifty percent of the applicable **Retention**.

The **Company** in its full discretion shall investigate, defend, and resolve claims or proceedings affecting this reinsurance. While the **Reinsurer** does not undertake to investigate or defend claims or proceedings, it shall nevertheless have the right and be given the opportunity, at its request and with the cooperation of the **Company**, to appoint representatives at its own expense and to become associated with the **Company** and the **Company's** representatives in the investigation or defense of any claims or proceedings involving this Certificate. All good faith settlements, compromises, and adjustments of claims under the **Policy Reinsured** made by the **Company**, including those involving coverage issues and/or the resolution of whether such claims are required by law, regulation, or regulatory authority to be covered (or not to be excluded) there under, shall be binding on the **Reinsurer**. Upon receipt of a **Proof of Loss**, the **Reinsurer** shall promptly pay its share of **Loss** and/or **Expense** paid by the **Company**. Unless otherwise provided in the Additional Reinsurance Conditions Section of the **Declarations**, the treatment of **Expense** shall follow form with the **Policy Reinsured**. If **Expense** is included within the limits of the **Policy Reinsured**: (i) the **Retention** shall be satisfied by **Loss** and/or **Expense**; and (ii) the Reinsurance Limit(s) stated in the **Declarations** shall be exhausted by **Loss** and/or **Expense**. If **Expense** is payable in addition to the limits of the **Policy Reinsured**: (i) the **Retention** shall be satisfied only by **Loss**; (ii) the Reinsurance Limit(s) shall be exhausted only by **Loss**; and (iii) **Expense** shall be payable by the **Reinsurer** in addition to the Reinsurance Limit(s). If this reinsurance is on a **Contributing Excess or Other Proportional** basis,

**Expense** shall be payable hereunder in the percentage stated in the Reinsurance Limit(s) Section of the **Declarations**. If this reinsurance is on an **Excess of Loss** basis and **Expense** is payable in addition to the limits of the **Policy Reinsured**, **Expense** shall be payable hereunder in the ratio that the **Reinsurer's** liability for **Loss** under the Certificate bears to the **Company's** gross liability for **Loss** under the **Policy Reinsured**. (The references to the "**Retention**" in this paragraph shall apply to **Excess of Loss** reinsurance only.)

## 6. SUBROGATION & SALVAGE

If this reinsurance is on a **Contributing Excess or Other Proportional** basis, the **Reinsurer** will be paid or credited by the **Company** with its proportion of subrogation and/or salvage, namely, reimbursement obtained or recovery made by the **Company**, less the actual cost (excluding office expenses and payments to any salaried employee of the **Company**) of obtaining such reimbursement or making such recovery. If this reinsurance is on an **Excess of Loss** basis, subrogation and/or salvage shall be in the inverse order in which liability attaches.

## 7. INSOLVENCY

In the event of the insolvency of the **Company**, this reinsurance shall be payable directly to the **Company**, or to its liquidator, receiver, conservator, or statutory successor immediately upon demand on the basis of the liability of the **Company** without diminution because of the insolvency of the **Company** or because the liquidator, receiver, conservator, or statutory successor of the **Company** has failed to pay all or a portion of any claim. It is agreed, however, that the liquidator, receiver, conservator, or statutory successor of the **Company** shall give written notice to the **Reinsurer** of the pendency of a claim against the **Company** which would involve a possible liability on the part of the **Reinsurer**, indicating the policy or bond reinsured, within a reasonable time after such claim is filed in the conservation or liquidation proceeding or in the receivership. It is further agreed that during the pendency of such claim the **Reinsurer** may investigate such claim and interpose, at its own **Expense**, in the proceeding where such claim is to be adjudicated, any defense or defenses that it may deem available to the **Company** or its liquidator, receiver, conservator, or statutory successor. The **Expense** thus incurred by the **Reinsurer** shall be chargeable, subject to the approval of the Court, against the **Company** as part of the expense of conservation or liquidation to the extent of a pro rata share of the benefit which may accrue to the **Company** solely as a result of the defense undertaken by the **Reinsurer**.

Where two or more **Reinsurers** are involved in the same claim and a majority in interest elect to interpose defense to such claim, the expense shall be apportioned in accordance with the **Terms** of this Certificate as though such expense had been incurred by the **Company**.

## 8. Cancellation

The reinsurance shall be payable by the **Reinsurer** to the **Company** or to its liquidator, receiver, conservator, or statutory successor, except: (a) where this Certificate specifically provides another payee of such reinsurance in the event of the insolvency of the **Company**; (b) where the **Reinsurer** with the consent of the direct **Insured** or **Insured's** has voluntarily assumed such original policy obligations of the **Company** as direct obligations of the **Reinsurer** to the payees under the **Policy Reinsured** and in substitution for the obligations of the **Company** to the payees; or (c) where provided otherwise under applicable law. Then, with the prior approval of the applicable regulatory authority, if required, the **Company** is entirely released from its obligation and the **Reinsurer** shall pay any loss directly to payees under the **Policy Reinsured**. 8. CANCELLATION

A. In the event that the **Policy Reinsured** is canceled or terminated, the reinsurance provided hereunder shall terminate simultaneously, in which case the **Company** shall be entitled to a return of premium on the Certificate, less any corresponding ceding commission, in proportion to the premium returned by the **Company** under the **Policy Reinsured**. The **Reinsurer** may cancel this Certificate, effective at any time during its term, by giving prior written notice (as provided in C below) of not less than 90 days, in which case the **Company** shall be entitled to a return of premium on the Certificate, less any corresponding ceding commission, on a pro rata basis.

B. In the event of non-payment of premium when due, the **Reinsurer** may cancel this Certificate by giving prior written notice (as provided in C below) of not less than 30 days.

C. Notwithstanding any General Condition of this Certificate to the contrary, no notice of cancellation by the **Reinsurer** shall be effective unless sent directly to the **Company** at the address provided in the **Declarations** through an internationally recognized courier capable of providing written confirmation of delivery (e.g., Federal Express) at least 30 or 90 days (whichever is applicable) before the stated date of cancellation, and received by the **Company**. Any cancellation for which notice is required shall be effective at midnight of the last day of the notice period.

## 9. ARBITRATION

Any dispute between the **Company** and the **Reinsurer** arising out of the provisions of this Agreement, or concerning its interpretation or validity shall be submitted to arbitration before a panel of three arbitrators.

All notices in connection with arbitration will be in writing and sent certified or registered mail, return receipt requested, or via overnight/Federal Express mail. The term "days" as used herein shall mean calendar days. Either party may initiate arbitration by giving a written notice of demand for arbitration. Such notice will reference this Article, will state issues to be resolved in the view of the claimant, and will appoint the arbitrator selected by the claimant. Within 30 days after receipt of such notice, the respondent will notify the claimant of any additional issues to be resolved and of the name of its appointed arbitrator. As time is of the essence, if the respondent fails to appoint its arbitrator within 30 days after receipt of notice requesting arbitration, the claimant is authorized to and will appoint the second arbitrator.

The two arbitrators named shall appoint a third arbitrator. Should they fail to agree on a third arbitrator, within 30 days after the appointment of the second arbitrator, either party may apply to a Judge of the US District Court having jurisdiction over the Southern District of New York to appoint the third arbitrator with the qualifications set forth in this Article. The arbitrators shall be disinterested current or former officials of property and casualty insurance or reinsurance companies not under the control or management of either party. In the event of resignation or death of any member of the arbitration panel, a replacement will be appointed in the same manner as the resigning or deceased member was appointed.

Within 30 days after notice of appointment of the third arbitrator, the claimant and respondent will each submit an initial brief to the panel. Within 45 days after notice of appointment of the third arbitrator, the panel will meet and determine timely periods for the submission of reply briefs and amended briefs, procedures for discovery and a schedule for the hearing. Such hearing will be held in New York, New York.

The panel will be relieved of all judicial formality and formal rules of evidence and procedure; and will be authorized to issue interim orders and awards in the interest of fairness and the prompt and orderly resolution of issues in dispute. To the extent permitted by law, the panel will be empowered to issue orders to enforce their decisions.

To the extent and only to the extent that the provisions of this Agreement are unclear or ambiguous, the arbitrators may give due consideration to the customs and usage of the insurance and reinsurance industry as evidence of such intent.

The panel will make its award within 30 days after the close of the hearing. Each award by the panel will be in writing and may state grounds for the award; will be by a majority of the panel members, and will be final and binding on all parties to the proceeding. Any party may apply to a court of competent jurisdiction for an order confirming the award, and a judgment of that court will thereupon be entered on the award. If such an order is issued, the attorney's fees of the party so applying and the court costs will be paid by the party against whom confirmation is sought.

Each party will bear the expense of the arbitrator appointed on its behalf, and all remaining costs of the arbitration will be finally allocated by the panel. Punitive, exemplary, special and/or consequential damages will not be awarded. Notwithstanding the foregoing, however, the panel may additionally award the actual costs and expenses of arbitration as it deems appropriate, including attorney's fees, to the extent permitted by law.

10. **INTERMEDIARY** - (Applicable only as between the **Company** and broker market reinsurers)

The entity named in the Intermediary Section of the **Declarations** is hereby recognized as the intermediary negotiating this Certificate for all business hereunder. Except as otherwise provided in General Condition #12, all communications (including notices, statements, premiums, return premiums, commissions, taxes, **Loss, Expense**, salvage, and settlements) relating thereto shall be transmitted to the **Company** or the **Reinsurer** through the intermediary at the address listed on the **Declarations**. Payments by the **Company** to the intermediary shall constitute payment to the **Reinsurer** to the extent of such payments. Payments by the **Reinsurer** to the intermediary shall only constitute payment to the **Company** to the extent that such payments are actually received by the **Company**.

11. **NOTICES** — (Applicable only as between the **Company** and direct market reinsurers)

Any written notice required under this Certificate shall be transmitted to the **Company** or the **Reinsurer** at the address listed on the **Declarations**.

12. **TAXES** –

If Any taxes are payable on the premiums ceded hereunder, they shall be paid by the **Company** reinsured.

13. **GOVERNING LAW**

This Certificate shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflicts of law principles.

14. **CONFIDENTIALITY**

All **Terms** of this Certificate, all materials provided by the **Company** to the **Reinsurer** in connection with this Certificate, and, unless otherwise in the possession of the **Reinsurer** on a non-confidential basis, all information contained in such materials (collectively, "Confidential information") shall be kept confidential by the **Reinsurer**, unless the disclosure is required pursuant to process of law, or the disclosure is to the **Reinsurer's** affiliates, retrocessionaires, legal counsel, financial auditors, or governing regulatory authorities. If the **Reinsurer** is required to disclose any Confidential information pursuant to process of law, it shall give prompt written notice to the **Company** so that the **Company** may seek a protective order or otherwise object to the disclosure. Disclosure or use of confidential information for

any purpose beyond the scope of this Certificate is expressly forbidden without the prior written consent of the **Company**.

This General Condition shall survive the expiration or termination of this Certificate.

**15. SEVERABILITY**

If any provision of this Certificate shall be rendered illegal or unenforceable by the laws, regulations, or public policy of any jurisdiction, such provision shall be considered void in such jurisdiction, but this shall not affect the validity or enforceability of any other provision of this Certificate or the validity or enforceability of such provision in any other jurisdiction.

**16. ENTIRE AGREEMENT, INTERPRETATION**

With respect to the **Policy Reinsured**, (i) this Certificate constitutes the entire agreement between the parties, and (ii) there are no understandings or agreements between the parties other than those expressed in this Certificate. Any change to or modification of this Certificate will be made by written amendment to this Certificate and signed by the parties hereto.

This Certificate is entered into between sophisticated parties, each of which has reviewed the Certificate and is fully knowledgeable about its **Terms**. The parties therefore agree that this Certificate shall be construed without regard to the authorship of the language and without any presumption or rule of construction in favor of either of them.

The parties by their authorized representatives have signed this Certificate of Casualty Facultative Reinsurance to be effective as of the date set forth in the Declarations:

Big Independent Cities Excess Pool (BICEP)

Wesco Insurance Company

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

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

Name: \_\_\_\_\_

Name: Christopher J. Bellis

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

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

WPP1028724 03

**ENDORSEMENT # 1**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT  
CAREFULLY.

This endorsement, effective 12:01 a.m.: July 1, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance - Amendatory Endorsement**

**SCHEDULE OF ENDORSEMENTS**

(ATTACHED TO THE REINSURANCE CERTIFICATE AT INCEPTION)

MANU.DEC.001	Declarations
1. MANU.END.001	Schedule of Endorsements
2. MANU.END.002	Schedule of Participating Members Endorsement
3. MANU.END.003	Asbestos Exclusion Endorsement
4. MANU.END.004	Notification of Claim or Suit Endorsement
5. MANU.END.005	Inverse Condemnation Exclusion Endorsement
6. MANU.END.006	Land Use Exclusion Endorsement
7. MANU.END.007	Cancellation Amendatory Endorsement
8. MANU.END.008	Medical Malpractice Exclusion Endorsement
9. MANU.END.009	Property Damage from Subsidence Endorsement

All other **Terms**, definitions, conditions, and exclusions of this reinsurance certificate remain unchanged.

MANU.END.001

WPP1028724 03

**ENDORSEMENT #2**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT  
CAREFULLY,

This endorsement, effective 12:01 a.m.: July 1, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance - Amendatory Endorsement**

**SCHEDULE OF PARTICIPATING MEMBERS ENDORSEMENT**

The **DECLARATIONS** of The Certificate of Facultative Reinsurance, Insured is hereby amended to include the following;

**CITY OF HUNTINGTON BEACH**

**Successor Agency to Huntington Beach Redevelopment Agency  
Huntington Beach Public Facilities Corporation  
Huntington Beach Parking Authority  
Huntington Beach Civic Improvement Corporation  
Huntington Beach Public Financing Authority**

**CITY OF OXNARD**

**Successor Agency to the Community Development Commission of the City of Oxnard  
Housing Authority of City of Oxnard  
Industrial Development Financing Authority of the City of Oxnard  
City of Oxnard Financing Authority  
Oxnard Performing Arts Center Corporation  
Las Cortes, Inc., a non-profit housing development corporation**

**CITY OF SAN BERNARDINO**

**San Bernardino Joint Powers Financing Authority  
City of San Bernardino One Stop Career Center (Employment & Training Agency)  
San Bernardino Civic Center Authority  
City of San Bernardino Successor Agency to San Bernardino Economic Development Agency and its Sub-Agencies**

**CITY OF SANTA ANA**

**City of Santa Ana, a Charter City and a Municipal Corporation duly organized and existing under the constitution and laws of the State of California;  
The Community Redevelopment Agency of the City of Santa Ana and the Successor Agency, a public body, corporate and public;**

MANU.END.002

**The Industrial Development Authority of the City of Santa Ana,  
a public, corporate instrumentality of the State of California;  
The Housing Authority of the City of Santa Ana, a public body,  
corporate and public;  
Santa Ana Financing Authority, a joint powers agency;  
Santa Ana Empowerment Corporation, Incorporated,  
a 501(c)(3) entity created by the City Council;  
Workforce Investment Board (WIB)  
The Friends of Santa Ana Parks and Recreation Community Services, a 501 C-3 non profit  
Santa Ana Police Athletic & Activity League (SAPAAL)  
The Southland Economic Development Corporation, a non-profit public benefit  
corporation.**

**CITY OF WEST COVINA**

**City of West Covina Community Development Commission;  
Successor Agency of the West Covina Redevelopment Agency  
West Covina Parking Authority;  
West Covina Public Financing Authority**

All other **Terms**, definitions, conditions, and exclusions of this reinsurance certificate remain unchanged.

MANU.END.002

WPP1028724 03

**ENDORSEMENT # 3**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT  
CAREFULLY.

This endorsement, effective 12:01 a.m.: July 1, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance — Amendatory Endorsement**

**ASBESTOS EXCLUSION ENDORSEMENT**

The Certificate of Facultative Reinsurance is hereby amended to include the following exclusion:

This endorsement excludes any **Loss**, cost, **Expense**, and/or liability, whether actual, alleged, or threatened, including, but not limited to, "bodily injury", "property damage", "personal injury", "employment practices" or "public entity errors or omissions", that in way, form or manner, directly or indirectly, including but not limited to, contractually assumed liability or liability imposed by law, arises out of, is caused by, is in connection with, or is related to, regardless of how remote and howsoever arising, any asbestos or asbestos product, including but not limited to the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, or disposing of or in any way responding to or assessing the effects of asbestos or asbestos product by the **Insured** or by any other person or entity.

All other **Terms**, definitions, conditions, and exclusions of this reinsurance certificate remain unchanged.

MANU.END.003

WPP1028724 03

**ENDORSEMENT # 4**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT  
CAREFULLY.

This endorsement, effective 12:01 a.m.: July 1, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance — Amendatory Endorsement**

**NOTIFICATION OF CLAIM OR SUIT ENDORSEMENT**

**SECTION 5. CLAIMS & SETTLEMENT** of the Certificate of Facultative Reinsurance is hereby amended to include the following:

Notice of any occurrence, accident, event, or circumstance likely to involve this reinsurance certificate, is to be sent with all pertinent facts to:

AmTrust North America  
135 S. LaSalle St, Suite 1925  
Chicago, IL 60603  
Attn: Paul Poppish, Director  
Fax: (877) 207-3961  
Telephone: 1-866-272-9267  
Email: mary.prugh@amtrustgroup.com or anaclaimsreporting@amtrustgroup.com

All other **Terms**, definitions, conditions, and exclusions of this reinsurance certificate remain unchanged.

MANU.END.004

WPP1028724 03

**ENDORSEMENT # 5**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT CAREFULLY.

This endorsement, effective 12:01 a.m.: July 1, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance — Amendatory Endorsement**

**INVERSE CONDEMNATION EXCLUSION ENDORSEMENT**

The Certificate of Facultative Reinsurance is hereby amended to include the following exclusion:

This endorsement excludes any **Loss**, cost, **Expense**, and/or liability, including, but not limited to, "bodily injury", "property damage", "personal injury", "employment practices" or "public entity errors or omissions" or that, in whole or in part, directly or indirectly, howsoever remote, is caused by, is in connection with, is related to, is contributed to by, and/or arises out of:

The principles of eminent domain, condemnation proceedings or inverse condemnation, by whatever name called, whether grounded in federal or state law, regardless of whether such claims are made directly against the **Insured** or by virtue of any agreement entered into by or on behalf of the **Insured**.

This exclusion shall not apply to any inverse condemnation where any **suits** or claims for inverse condemnation are a result of negligence on the part of an **Insured**;

MANU.END.005

WPP1028724 03

**ENDORSEMENT # 6**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT CAREFULLY.

This endorsement, effective 12:01 a.m.: July 1, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance — Amendatory Endorsement**

**LAND USE EXCLUSION ENDORSEMENT**

The Certificate of Facultative Reinsurance is hereby amended to include the following exclusion:

This endorsement excludes any **Loss**, cost, **Expense**, and/or liability, including, but not limited to, "bodily injury", "property damage", "personal injury", "employment practices" or "public entity errors or omissions" or that, in whole or in part, directly or indirectly, howsoever remote, is caused by, is in connection with, is related to, is contributed to by, and/or arises out of:

The enactment of any zoning ordinance, specific plan, general plan, or similar regulation or use or improvement of real property, and the granting, denying or the conditional granting of a discretionary entitlement in the use of real property such as but not limited to, a conditional use permit or variance.

This exclusion shall not apply, however, to any inverse condemnation where any suits or claims for inverse condemnation are a result of negligence proven on the part of any Member of the **Insured**.

All other **Terms**, definitions, conditions, and exclusions of this reinsurance certificate remain unchanged.

MANU.END.006

WPP1028724 03

**ENDORSEMENT # 7**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT  
CAREFULLY.

This endorsement, effective 12:01 a.m.: July 1, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance - Amendatory Endorsement**

**CANCELLATION AMENDATORY ENDORSEMENT**

**SECTION 8. CANCELLATION** of the Certificate of Facultative Reinsurance is hereby amended to include the following:

The **Reinsurer** may cancel this Certificate solely for non-payment of premium when due. All other conditions relating to cancellation remain in force.

All other **Terms**, definitions, conditions, and exclusions of this reinsurance certificate remain unchanged

MANU.END.007

WPP1028724 03

**ENDORSEMENT # 8**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT CAREFULLY.

This endorsement, effective 12:01 a.m.: July 1, 2014

Forms part of reinsurance binder no.: WPP1028724 02

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance — Amendatory Endorsement**

**MEDICAL MALPRACTICE EXCLUSION ENDORSEMENT**

The Certificate of Facultative Reinsurance is hereby amended to include the following exclusion:

This endorsement excludes any **Loss**, cost, **Expense**, and/or liability, including, but not limited to, "bodily injury", "property damage", "personal injury", "employment practices" or "public entity errors or omissions" or that, in whole or in part, directly or indirectly, howsoever remote, is caused by, is in connection with, is related to, is contributed to by, and/or arises out of:

- a. The use, ownership or operation by or on behalf of the **Insured** of any clinic, infirmary or established healthcare facility that:
  - i. Maintains overnight facilities; or
  - ii. Performs invasive surgery of any kind; or
- b. The use or operation of any pharmacy operated by or on behalf the **Insured** or its Agency.

MANU.END.008

WPP1028724 03

**ENDORSEMENT # 9**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT CAREFULLY.

This endorsement, effective 12:01 a.m.: July 1, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance — Amendatory Endorsement**

**PROPERTY DAMAGE FROM SUBSIDENCE ENDORSEMENT**

The Certificate of Facultative Reinsurance is hereby amended to include the following provision:

Notwithstanding anything to the contrary, the **Reinsurer's** maximum limit of liability for any **Loss** because of "property damage" arising out of "subsidence" for the term of this Certificate, regardless of the number of occurrences and/or respective **Insureds** members of the **Insured**, shall not exceed the policy aggregate for "subsidence" as stated in Item.11 of the **Declarations** of this Certificate.

For purposes of this Endorsement, "subsidence" means land or earth movement, including, but not limited to, sinking or settling of land, earthquake, earth movement, earth expansion and/or contraction, landslide, slipping, falling away, caving in, eroding, earth sinking, and earth rising or shifting or tilting.

MANU.END.009

**ADDENDUM 1**

as respects the

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

Effective July 1, 2014

Issued to and executed by

**Big Independent Cities Excess Pool (BICEP)**

It is agreed that **CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE DECLARATIONS** is amended to read as follows effective 7/25/2014:

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE  
DECLARATIONS**

**Issued By**

**Wesco Insurance Company  
59 Maiden Lane, 43rd Floor  
New York, NY 10038**

Reinsurance Certificate No: WPP1028724 03  
Renewal of No: WPP1028724 02

1. Company and Address:  
Big Independent Cities Excess Pool (BICEP)  
1100 Flower Street, Suite 3300  
Los Angeles, CA 90015
2. Reinsurance of Policy No: BICEP Master Memorandum of Liability Coverage
3. Reinsured Name and Address:  
  
Big Independent Cities Excess Pool (BICEP), et al, as per Endorsement # 2
4. Term of **Policy Reinsured**: 07/01/2014 – 07/01/2015
5. Term of Reinsurance: 07/01/2014 – 07/01/2015
6. Type of Insurance: Big Independent Cities Excess Pool (BICEP) Liability Coverage, as provided in BICEP Master Memorandum of Liability Coverage
7. Limit(s) of **Policy Reinsured**: \$27,000,000 Total Limit of Liability including all reinsurance or insurance and Member City's Retained Limit; \$25,000,000 Annual Aggregate combined for all BICEP members if no coverage is available through commercial insurance or reinsurance.
8. Basis of Acceptance:  **Contributing Excess or Other Proportional**  
 **Excess of Loss**
9. **Retention**: See Endorsement # 10 Schedule of Retentions Endorsement
10. Declared Facultative: Reinsurance Agreement #3128216 issued by Great American Insurance Company

11. Reinsurance Limit(s): \$10,000,000 each occurrence and aggregate where applicable in excess of **Retention**; \$10,000,000 policy aggregate for Property Damage as respects coverage for subsidence in excess of **Retention**.

12. Reinsurance Premium: \$1,578,960 due in full within 45 days of effective date  
(non-auditable except for the addition of New Members)

13. Intermediary and Address: Specialty Risk Solutions, LLC  
10 S LaSalle Suite 1400  
Chicago, IL 60603

14. Additional Reinsurance Conditions: Per attached **Terms** and conditions

MANU.DEC.001

It is agreed that **Endorsement #1, SCHEDULE OF ENDORSEMENTS** is amended to read as follows effective 7/25/2014:

WPP1028724 03

**ENDORSEMENT # 1**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT CAREFULLY.

This endorsement, effective 12:01 a.m.: July 25, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance - Amendatory Endorsement**

**SCHEDULE OF ENDORSEMENTS**

MANU.DEC.001	Declarations
1. MANU.END.001	Schedule of Endorsements
2. MANU.END.002	Schedule of Participating Members Endorsement
3. MANU.END.003	Asbestos Exclusion Endorsement
4. MANU.END.004	Notification of Claim or Suit Endorsement
5. MANU.END.005	Inverse Condemnation Exclusion Endorsement
6. MANU.END.006	Land Use Exclusion Endorsement
7. MANU.END.007	Cancellation Amendatory Endorsement
8. MANU.END.008	Medical Malpractice Exclusion Endorsement
9. MANU.END.009	Property Damage from Subsidence Endorsement
10. MANU.END.010	Schedule of Retentions Endorsement

All other **Terms**, definitions, conditions, and exclusions of this reinsurance certificate remain unchanged.

MANU.END.001

It is agreed that **Endorsement # 2, SCHEDULE OF PARTICIPATING MEMBERS ENDORSEMENT** is amended to read as follows effective 7/25/2014:

WPP1028724 03

**ENDORSEMENT #2**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT CAREFULLY,

This endorsement, effective 12:01 a.m.: July 25, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance - Amendatory Endorsement**

**SCHEDULE OF PARTICIPATING MEMBERS ENDORSEMENT**

The **DECLARATIONS** of The Certificate of Facultative Reinsurance, Insured is hereby amended to include the following;

**CITY OF HUNTINGTON BEACH – MOC Certificate Number BO-01**

**Successor Agency to Huntington Beach Redevelopment Agency  
Huntington Beach Public Facilities Corporation  
Huntington Beach Parking Authority  
Huntington Beach Civic Improvement Corporation  
Huntington Beach Public Financing Authority**

**CITY OF OXNARD- MOC Certificate Number BO-02**

**Successor Agency to the Community Development Commission of the City of Oxnard  
Housing Authority of City of Oxnard  
Industrial Development Financing Authority of the City of Oxnard  
City of Oxnard Financing Authority  
Oxnard Performing Arts Center Corporation  
Las Cortes, Inc., a non-profit housing development corporation**

**CITY OF SAN BERNARDINO – MOC Certificate Number BO-04**

**San Bernardino Joint Powers Financing Authority  
City of San Bernardino One Stop Career Center (Employment & Training Agency)  
San Bernardino Civic Center Authority  
City of San Bernardino Successor Agency to San Bernardino Economic Development Agency and its Sub-Agencies**

**CITY OF SAN BUENAVENTURA – MOC Certificate Number BO-07**

**Successor Agency to the former Redevelopment Agency of the City of San Buenaventura  
Ventura Industrial Development Authority**

**CITY OF SANTA ANA – MOC Certificate Number BO-05**

**City of Santa Ana, a Charter City and a Municipal Corporation duly organized and  
existing under the constitution and laws of the State of California;  
The Community Redevelopment Agency of the City of Santa Ana and the Successor Agency,  
a public body, corporate and public;  
The Industrial Development Authority of the City of Santa Ana,  
a public, corporate instrumentality of the State of California;  
The Housing Authority of the City of Santa Ana, a public body,  
corporate and public;  
Santa Ana Financing Authority, a joint powers agency;  
Santa Ana Empowerment Corporation, Incorporated,  
a 501(c)(3) entity created by the City Council;  
Workforce Investment Board (WIB)  
The Friends of Santa Ana Parks and Recreation Community Services, a 501 C-3 non profit  
Santa Ana Police Athletic & Activity League (SAPAAL)  
The Southland Economic Development Corporation, a non-profit public benefit  
corporation.**

**CITY OF WEST COVINA – MOC Certificate Number BO-06**

**City of West Covina Community Development Commission;  
Successor Agency of the West Covina Redevelopment Agency  
West Covina Parking Authority;  
West Covina Public Financing Authority**

All other **Terms**, definitions, conditions, and exclusions of this reinsurance certificate remain unchanged.

It is agreed that **Endorsement # 10, SCHEDULE OF RETENTIONS ENDORSEMENT** is added to the certificate effective 7/25/2014:

**ENDORSEMENT #10**

THIS ENDORSEMENT CHANGES THE REINSURANCE CERTIFICATE. PLEASE READ IT CAREFULLY.

This endorsement, effective 12:01 a.m.: July 25, 2014

Forms part of reinsurance binder no.: WPP1028724 03

Issued to: Big Independent Cities Excess Pool (BICEP)

Issued by: Wesco Insurance Company

**Certificate of Casualty Facultative Reinsurance — Amendatory Endorsement**

**SCHEDULE OF RETENTIONS ENDORSEMENT**

SECTION 2. RETENTION of the Certificate of Facultative Reinsurance is hereby amended to include the following:

**Members' Retentions:**

- ✓ **As respects the following Members: City of San Buenaventura:**
  - \$1,000,000 Each Occurrence
- ✓ **As respects the following Members: City of Huntington Beach, City of Oxnard, City of San Bernardino, City of Santa Ana, City of West Covina:**
  - \$2,000,000 Each Occurrence

All other terms, definitions, conditions, and exclusions of this reinsurance certificate remain unchanged.

MANU.END.010

Endorsement Effective: 7/25/2014	Policy No. WPP1028724 03	Addendum # 1
Insured: Big Independent Cities Excess Pool (BICEP)		Additional Premium: \$230,292
Insurance Company: Wesco Insurance Company	Countersigned by:	

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

ISSUED BY

**STARR INDEMNITY & LIABILITY COMPANY  
DECLARATIONS**

Reinsurance Certificate No: 8090027

Covered Parties: Big Independent Cities Excess Pool (BICEP)

1. Address: C/O Greg Spiker, General Manager  
Ken Spiker and Associates, Inc.  
1100 South Flower Street, Suite 3300  
Los Angeles, CA 90015

2. Term of Memorandum of Liability Coverage ("MOLC") Reinsured:

From: July 1, 2014 To: July 1, 2015  
At 12:01 A.M. Standard Time at the address of the Covered Parties

3. Term of Reinsurance:

From: July 1, 2014 To: July 1, 2015  
At 12:01 A.M. Standard Time at the address of the Covered Parties

4. Type of Insurance: EXCESS LIABILITY MEMORANDUM OF COVERAGE

5. DESCRIPTION OF COVERAGE: Reinsurance of the BICEP Master Memorandum of Liability Coverage (03-05-06) and Individual Members Memorandum of Liability Coverage

6. SECTION A-MOLC LIMITS: \$25,000,000 each occurrence and  
\$25,000,000 in the aggregate, where applicable

SECTION B-MOLC RETENTION(S): \$2,000,000 each occurrence

SECTION C-REINSURANCE ACCEPTED: \$15,000,000 each occurrence  
\$15,000,000 in the aggregate, where applicable

excess of underlying reinsurance of

\$10,000,000 each occurrence and  
\$10,000,000 in the aggregate, where applicable

excess of the MOLC Retention(s).

7. Basis of Acceptance:  Contributing Excess or Other Proportional  
 Excess of Loss

8. Reinsurance Premium & Due Date:      Advanced Premium: \$368,000  
   Minimum Earned Premium: \$92,200  
    Premium is due and payable within 30 days from effective date
9. Additional Reinsurance Conditions: The binder issued by Starr Indemnity & Liability Insurance Company attaches to and forms part of the Certificate of Casualty Facultative Reinsurance. (See attached)

Date of Issue: July 21, 2014

By:   
\_\_\_\_\_  
Authorized Representative, President

  
\_\_\_\_\_  
Authorized Representative, General Counsel

- A.** The members, referred to as “Covered Parties” under the Subject Memorandum of Liability Coverage (MOLC), warrant to retain for their own account, the amount of liability specified in Section 6. B. above and the liability of the STARR INDEMNITY & LIABILITY COMPANY (hereafter “STARR INDEMNITY”) specified in Section 6. C. above shall follow that of the Covered Parties, except as otherwise provided by this Certificate.
- B.** The Covered Parties shall furnish STARR INDEMNITY with a copy of their MOLC and all endorsements thereto and agrees to notify STARR INDEMNITY promptly of all changes which in any manner affect this reinsurance, and shall make available for inspection and place at the disposal of STARR INDEMNITY at reasonable times any of their records relating to this reinsurance or claims in connection therewith.
- C.** The reinsurance hereunder is subject to the “Nuclear Incident Exclusion Clause – Liability – Reinsurance” U.S.A. NMA 1590.
- D.** Prompt written notice shall be given as soon as reasonably practicable by the Covered Parties to STARR INDEMNITY of any occurrence, accident, or wrongful act (whichever may be applicable), which, without regard to liability, appears likely to involve this reinsurance including:
- i) A serious occurrence, accident or wrongful act in which in the Covered Parties’ judgment or the judgment of the Covered Parties’ counsel the exposure may exceed fifty percent (50%) of the applicable retention;
  - ii) Any claim where a reserve of fifty percent ( 50%) or more of the applicable retention has been posted by the Covered Parties;
  - iii) Fatality or death of a person;
  - iv) Paralysis, paraplegia, quadriplegia;
  - v) Loss of eye(s) or limb(s);
  - vi) Spinal cord or brain injury;
  - vii) Sensory organ or nerve injury, or neurological deficit;
  - viii) Serious burns involving twenty five percent (25%) or more of the body regardless of degree;
  - ix) Sexual abuse or molestation;
  - x) Substantial disability or disfigurement;
  - xi) Loss of work time of six months or more;
  - xii) All claims that exhibit a pattern, or could potentially create a class action, as well as all class actions.

Upon request by STARR INDEMNITY, the Covered Parties shall furnish material claim information known to the Covered Parties in respect of claims or possible claims notified in accordance with this clause.

- E. While STARR INDEMNITY does not undertake to investigate or defend claims or suits it shall nevertheless have the right and be given the opportunity to associate with the Covered Parties and their representative at STARR INDEMNITY'S own expense in the defense and control of any claim, suit or proceeding which may involve this reinsurance with the full cooperation of the Covered Parties.
- F. No liability shall be admitted and no claim or suit shall be settled for an amount involving STARR INDEMNITY funds without the prior written consent of STARR INDEMNITY. Such consent shall not be unreasonably withheld. Upon receipt of such prior written consent, all claims or suits covered by this reinsurance and settled by the Covered Parties shall be binding on STARR INDEMNITY, which shall be bound to pay its proportion of such settlement. In addition, STARR INDEMNITY shall pay expense (other than the Covered Parties' salaries and office expenses) incurred by the Covered Parties in the investigation and settlement of claims or suits as follows:
- (a) With respect to reinsurance provided on an excess of loss basis, if expense is included within the limits of the MOLC reinsured: (i) the MOLC retention(s) shall be satisfied by loss and/or expense; and (ii) the MOLC Limit(s) stated in the Declarations shall be exhausted by loss and/or expense.
- (b) With respect to reinsurance provided on a pro rata (or quota share) basis, in the ratio that STARR INDEMNITY's limit of liability bears to the Covered Parties' gross limit of liability.
- Expense shall only include amounts covered under the reinsured MOLC that are incurred by the Covered Parties in the defense of an insured.
- STARR INDEMNITY will also pay its proportion of the court costs and interest on any judgment or award, such proportion to be on the same basis as set forth in (a) and (b) above, provided STARR INDEMNITY has given prior consent to such trial proceedings.
- G. STARR INDEMNITY's agreement to promptly pay its proportion of loss and expense incurred by the Covered Parties is predicated upon receipt by it of a satisfactory proof of such loss and expense from such Covered Parties.
- H. STARR INDEMNITY will be paid or credited by the Covered Parties with its proportion of salvages, i.e., reimbursement obtained or recovery made by the Covered Parties, less the actual cost (excluding the Covered Parties' salaries and office expenses) of obtaining such reimbursement or making such recovery. If the reinsurance afforded by this Certificate is on an excess of loss basis, salvage shall be applied in the inverse order in which liability attaches, as if recovery preceded any claim settlement.
- I. If any taxes are payable on the premiums ceded hereunder, they shall be paid by the Covered Parties.
- J. If the reinsurance hereunder attaches prior to the date of acceptance, all Covered Parties warrant that there are no known or reported losses which might be recoverable under this Certificate as of the date this reinsurance is accepted.

- K.** In the event of a Covered Party(ies) insolvency, the reinsurance afforded by this Certificate will be payable by STARR INDEMNITY on the basis of a Covered Party(ies) liability under the policies reinsured without diminution because of a Covered Party(ies) insolvency or because its liquidator, receiver, conservator, or statutory successor has failed to pay all or a portion of any claims, subject however to the right of STARR INDEMNITY to offset against such funds due hereunder, any sums that may be payable to them by said insolvent Covered Party(ies) in accordance with applicable law. The reinsurance will be payable by STARR INDEMNITY directly to a Covered Party(ies), or to its liquidator, receiver, conservator, or statutory successor except (a) where this MOLC specifically provides another payee of such reinsurance in the event of a Covered Party(ies) insolvency or (b) where STARR INDEMNITY with the consent of the direct insured or insureds, have assumed such policy obligations of a Covered Party(ies) as direct obligations of themselves to the payees under such policies in substitution for a Covered Party(ies) obligation to such payees.

A Covered Party(ies) liquidator, receiver, conservator, or statutory successor will give written notice of the pendency of a claim against a Covered Party(ies) under the policies reinsured within a reasonable time after such claim is filed in the insolvency proceeding. During the pendency of such claim, STARR INDEMNITY may investigate said claim and interpose in the proceeding where the claim is to be adjudicated, at their own expense, any defense that they may deem available to a Covered Party(ies), or to its liquidator, receiver, conservator, or statutory successor. The expense thus incurred by STARR INDEMNITY will be chargeable against a Covered Party(ies), subject to court approval, as part of the expense of conservation or liquidation to the extent that such proportionate share of the benefit will accrue to a Covered Party(ies) solely as a result of the defense undertaken by STARR INDEMNITY.

- L.** Cancellation of the MOLC by the Covered Parties shall constitute automatic cancellation of this Certificate. This Certificate may also be cancelled on a pro rata basis by either STARR INDEMNITY or the Covered Parties mailing or delivering to the other party written notice stating when, not less than ninety (90) days thereafter, such cancellation shall be effective. In the event of non-payment of premium, the Reinsurer may cancel this Certificate upon ten (10) days written notice.
- M.** The terms of this reinsurance certificate shall not be waived or changed except by endorsement issued to form a part hereof, executed by a duly authorized representative of STARR INDEMNITY.

**N. ARBITRATION**

- i) As a condition precedent to any right of action hereunder, any dispute arising out of the interpretation, performance or breach of this Agreement, including the formation or validity thereof, shall be submitted for decision to a panel of three arbitrators. Notice requesting arbitration will be in writing and sent certified or registered mail, return receipt requested.
- ii) Each Party shall choose one arbitrator and the two arbitrators shall, before instituting the hearing, choose an impartial third arbitrator who shall preside at the hearing. If either Party fails to appoint its arbitrator within thirty (30) days after being requested to do so by the other Party, the latter, after ten (10) days notice by certified or registered mail of its intention to do so, may appoint the second arbitrator.

- iii) If the two arbitrators are unable to agree upon the third arbitrator within thirty (30) days of their appointment, the arbitrators shall implement the ARIAS-US umpire appointment procedure to select the arbitrator.
- iv) All arbitrators shall have at least ten (10) years of insurance or reinsurance experience, be disinterested and active or former officers of insurance or reinsurance companies with knowledge about the lines of business at issue.
- v) Within thirty (30) days after notice of appointment of all arbitrators, the panel shall meet and determine timely periods for briefs, discovery procedures and schedules of hearings.
- vi) The panel shall be relieved of all judicial formality and shall not be bound by the strict rules of procedure and evidence. Unless the panel agrees otherwise, arbitration shall take place in New York, but the venue may be changed when deemed by the panel to be in the best interest of the arbitration proceeding. Insofar as the arbitration panel looks to substantive law, it shall follow the law of New York in accordance with the dictates of the Governing Law Clause. The decision of any two arbitrators when rendered in writing shall be final and binding. The panel is empowered to grant interim relief as it may deem appropriate.
- vii) The panel shall interpret this Agreement as an honorable engagement rather than as merely a legal obligation and shall make its decision considering the custom and practice of the applicable insurance and reinsurance business as promptly as possible following the termination of the hearings. Judgment upon the award may be entered in any court having jurisdiction thereof.
- viii) Each Party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other Party the cost of the third arbitrator. The panel shall allocate the remaining costs of the arbitration. The panel may, at its discretion, award such further costs and expenses as it considers appropriate, including but not limited to attorneys fees, to the extent permitted by law.

#### **O. GOVERNING LAW**

This reinsurance certificate will be governed by and construed in accordance with the laws of New York.

#### **P. ERRORS AND OMISSIONS**

Any inadvertent delays, errors or omissions made in connection with this reinsurance certificate or any transaction hereunder will not relieve either party from any liability which would have attached had such delay, error or omission not occurred, provided always that such delay, error or omission is rectified as soon as possible after discovery.

#### **Q. NO THIRD PARTY RIGHTS**

This Certificate is solely between the Covered Party and STARR INDEMNITY, and in no instance shall any other person, or other entity, have any rights under this reinsurance certificate except as may be expressly provided otherwise in the Insolvency Article.

By: **REINSURER**

By: **Covered Parties**

**Company Name: Starr Indemnity & Liability Company**

**Company Name: Big Independent Cities Excess Pool**

**Address: 399 Park Ave, 8th Floor**

**Address: C/O Greg Spiker, General Manager, Ken Spiker and Associates, Inc.**

**1100 S. Flower Street, Suite 3300**

**City, State & Zip Code: New York, NY**

**City, State & Zip Code: Los Angeles**

**10022**

**CA, 90015**

IN WITNESS WHEREOF the undersigned have duly executed this Agreement:  
**AGREED:**

**Date: July 21, 2014**

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

**Nehemiah E. Ginsburg**  
(Please print name)

\_\_\_\_\_  
(Please print name)



\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Title)

**General Counsel**  
(Title)

**Charles H. D'Angelo**  
(Please print name)



\_\_\_\_\_  
(Authorized Signature)

**President**  
(Title)

**PE CFRC (07-13)**

**Page 7 of 7**

**SCHEDULE OF ENDORSEMENTS**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

This Schedule attaches to and forms part of the facultative certificate issued by Starr Indemnity and Liability Company (hereinafter referred to as "Certificate"), Certificate Number 8090027 reinsuring Big Independent Cities Excess Pool (BICEP) (hereinafter "Covered Parties") for its Memorandum of Liability Coverage (hereinafter "MOLC"), BICEP Master Memorandum of Liability Coverage.

<b>Endorsement Number</b>	<b>Endorsement Name</b>
1	Schedule of Participating Members
2	Exclusion – Property Damage from Subsidence
3	Exclusion – Asbestos
4	Exclusion – Eminent Domain and Inverse Condemnation
5	Exclusion – Medical Malpractice
6	Exclusion – Land Use
7	Certificate Changes
8	Claims Notice

**Signed for STARR INDEMNITY & LIABILITY COMPANY**



**Charles H. Dangelo, President**



**Nehemiah E. Ginsburg, General Counsel**

**ENDORSEMENT NUMBER 1**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

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**SCHEDULE OF PARTICIPATING MEMBERS**

Item 1 of the Declarations is amended to include:

City of Huntington Beach - MOC Certificate Number BO-01

Successor Agency to Huntington Beach Redevelopment Agency  
Huntington Beach Public Facilities Corporation  
Huntington Beach Parking Authority  
Huntington Beach Civic Improvement Corporation  
Huntington Beach Public Financing Authority

City of Oxnard - MOC Certificate Number BO-02

Successor Agency to the Community Development Commission of the City of Oxnard  
Housing Authority of City of Oxnard  
Industrial Development Financing Authority of the City of Oxnard  
City of Oxnard Financing Authority  
Oxnard Performing Arts Center Corporation  
Las Cortes, Inc., a non-profit housing development corporation

City of San Bernardino - MOC Certificate Number BO-04

San Bernardino Joint Powers Financing Authority  
City of San Bernardino One Stop Career Center (Employment & Training Agency)  
San Bernardino Civic Center Authority  
City of San Bernardino Successor Agency to San Bernardino Economic Development Agency and its Sub-Agencies

**ENDORSEMENT NUMBER 1 (CONTINUED)**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

**SCHEDULE OF PARTICIPATING MEMBERS (CONTINUED)**

**City of Santa Ana - MOC Certificate Number BO-05**

City of Santa Ana, a Charter City and a Municipal Corporation duly organized and existing under the constitution and laws of the State of California

The Community Redevelopment Agency of the City of Santa Ana and the Successor Agency, a public body, corporate and public

The Industrial Development Authority of the City of Santa Ana, a public, corporate instrumentality of the State of California

The Housing Authority of the City of Santa Ana, a public body, corporate and public

Santa Ana Financing Authority, a joint powers agency

Santa Ana Empowerment Corporation, Incorporated, a 501(c)(3) entity created by the City Council Workforce Investment Board (WIB)

The Friends of Santa Ana Parks and Recreation Community Services, a 501 C-3 nonprofit

Santa Ana Police Athletic & Activity League (SAPAAL)

The Southland Economic Development Corporation, a non-profit public benefit corporation

**City of West Covina - MOC Certificate Number BO-06**

City of West Covina Community Development Commission

Successor Agency of the West Covina Redevelopment Agency

West Covina Parking Authority

West Covina Public Financing Authority

**Signed for STARR INDEMNITY & LIABILITY COMPANY**



**Charles H. Dangelo, President**



**Nehemiah E. Ginsburg, General Counsel**

**ENDORSEMENT NUMBER 2**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

This Endorsement attaches to and forms part of the facultative certificate issued by Starr Indemnity and Liability Company (hereinafter referred to as "Certificate"), Certificate Number 8090027 reinsuring Big Independent Cities Excess Pool (BICEP) (hereinafter "Covered Parties") for its Memorandum of Liability Coverage (hereinafter "MOLC"), BICEP Master Memorandum of Liability Coverage.

**EXCLUSION – PROPERTY DAMAGE FROM SUBSIDENCE**

This Certificate does not apply to any loss, cost, expense and/or liability, whether actual, alleged, or threatened, from "property damage" caused by, arising out of, resulting from, attributable to or contributed to, or aggravated by "subsidence".

For the purposes of this exclusion, "subsidence" means movement of land or earth, including, but not limited to, sinking or settling of land, earthquake, earth movement, earth expansion or contraction, landslide, slipping, falling away, caving in, eroding, earth sinking, and earth rising or shifting or tilting.

**Signed for STARR INDEMNITY & LIABILITY COMPANY**



Charles H. Dangelo, President



Nehemiah E. Ginsburg, General Counsel

**ENDORSEMENT NUMBER 3**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

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**EXCLUSION - ASBESTOS**

This Certificate does not apply to any loss, cost, expense, and/or liability, whether actual, alleged, or threatened, including, but not limited to, "bodily injury", "property damage", "personal injury", "employment practices", or "public entity errors or omissions", that in way, form or manner, directly or indirectly, including but not limited to, contractually assumed liability or liability imposed by law, arises out of, is caused by, is in connection with, or is related to, regardless of how remote and howsoever arising, any asbestos or asbestos product, including but not limited to the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, or disposing of or in any way responding to or assessing the effects of asbestos or asbestos product by the Covered Parties or by any other person or entity.

**Signed for STARR INDEMNITY & LIABILITY COMPANY**



Charles H. Dangelo, President



Nehemiah E. Ginsburg, General Counsel

**ENDORSEMENT NUMBER 4**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

This Endorsement attaches to and forms part of the facultative certificate issued by Starr Indemnity and Liability Company (hereinafter referred to as "Certificate"), Certificate Number 8090027 reinsuring Big Independent Cities Excess Pool (BICEP) (hereinafter "Covered Parties") for its Memorandum of Liability Coverage (hereinafter "MOLC"), BICEP Master Memorandum of Liability Coverage.

**EXCLUSION – EMINENT DOMAIN AND INVERSE CONDEMNATION**

This Certificate does not apply to any loss, cost, expense, and/or liability, whether actual, alleged, or threatened, including, but not limited to, "bodily injury", "property damage", "personal injury", "employment practices", or "public entity errors or omissions" or that, in whole or in part, directly or indirectly, howsoever remote, is caused by, is in connection with, is related to, is contributed to by, and/or arises out of:

The principles of eminent domain, condemnation proceedings or inverse condemnation, by whatever name called, whether grounded in federal or state law, regardless of whether such claims are made directly against the Covered Parties or by virtue of any agreement entered into by or on behalf of the Covered Parties.

This exclusion shall not apply to any inverse condemnation where any suits or claims for inverse condemnation are a result of negligence on the part of the Covered Parties.

**Signed for STARR INDEMNITY & LIABILITY COMPANY**



Charles H. Dangelo, President



Nehemiah E. Ginsburg, General Counsel

**ENDORSEMENT NUMBER 5**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

This Endorsement attaches to and forms part of the facultative certificate issued by Starr Indemnity and Liability Company (hereinafter referred to as "Certificate"), Certificate Number 8090027 reinsuring Big Independent Cities Excess Pool (BICEP) (hereinafter "Covered Parties") for its Memorandum of Liability Coverage (hereinafter "MOLC"), BICEP Master Memorandum of Liability Coverage.

**EXCLUSION – MEDICAL MALPRACTICE**

This Certificate does not apply to any loss, cost, expense, and/or liability, whether actual, alleged, or threatened, including, but not limited to, "bodily injury", "property damage", "personal injury", "employment practices", or "public entity errors or omissions" or that, in whole or in part, directly or indirectly, howsoever remote, is caused by, is in connection with, is related to, is contributed to by, and/or arises out of:

1. The use, ownership or operation by or on behalf of the Covered Parties of any clinic, infirmary or established healthcare facility that:
  - a. Maintains overnight facilities; or
  - b. Performs invasive surgery of any kind; or
2. The use or operation of any pharmacy operated by or on behalf of the Covered Parties or its Agency.

**Signed for STARR INDEMNITY & LIABILITY COMPANY**



**Charles H. Dangelo, President**



**Nehemiah E. Ginsburg, General Counsel**

**ENDORSEMENT NUMBER 6**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

This Endorsement attaches to and forms part of the facultative certificate issued by Starr Indemnity and Liability Company (hereinafter referred to as "Certificate"), Certificate Number 8090027 reinsuring Big Independent Cities Excess Pool (BICEP) (hereinafter "Covered Parties") for its Memorandum of Liability Coverage (hereinafter "MOLC"), BICEP Master Memorandum of Liability Coverage.

**EXCLUSION – LAND USE**

This Certificate does not apply to any loss, cost, expense, and/or liability, whether actual, alleged, or threatened, including, but not limited to, "bodily injury", "property damage", "personal injury", "employment practices", or "public entity errors or omissions" or that, in whole or in part, directly or indirectly, howsoever remote, is caused by, is in connection with, is related to, is contributed to by, and/or arises out of:

The enactment of any zoning ordinance, specific plan, general plan, or similar regulation or use or improvement of real property, and the granting, denying or the conditional granting of a discretionary entitlement in the use of real property such as but not limited to, a conditional use permit or variance.

This exclusion shall not apply to any inverse condemnation where any suits or claims for inverse condemnation are a result of a negligence proven on the part of any member of the Covered Parties.

**Signed for STARR INDEMNITY & LIABILITY COMPANY**



Charles H. Dangelo, President



Nehemiah E. Ginsburg, General Counsel

**ENDORSEMENT NUMBER 7**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

This Endorsement attaches to and forms part of the facultative certificate issued by Starr Indemnity and Liability Company (hereinafter referred to as "Certificate"), Certificate Number 8090027 reinsuring Big Independent Cities Excess Pool (BICEP) (hereinafter "Covered Parties") for its Memorandum of Liability Coverage (hereinafter "MOLC"), BICEP Master Memorandum of Liability Coverage.

**CERTIFICATE CHANGES**

This Certificate of Casualty Facultative Reinsurance is hereby amended as follows:

Paragraph N. vi) is deleted and replaced by the following:

- vi) The panel shall be relieved of all judicial formality and shall not be bound by the strict rules of procedure and evidence. Unless the panel agrees otherwise, arbitration shall take place in New York, but the venue may be changed when deemed by the panel to be in the best interest of the arbitration proceeding. Insofar as the arbitration panel looks to substantive law, it shall follow the law of California in accordance with the dictates of the Governing Law Clause. The decision of any two arbitrators when rendered in writing shall be final and binding. The panel is empowered to grant interim relief as it may deem appropriate.

Paragraph O is deleted and replaced by the following:

This reinsurance certificate will be governed by and construed in accordance with the laws of California.

**Signed for STARR INDEMNITY & LIABILITY COMPANY**



Charles H. Dangelo, President



Nehemiah E. Ginsburg, General Counsel

**ENDORSEMENT NUMBER 8**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

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**CLAIMS NOTICE**

All claims for **Starr Excess Liability Program**, regardless of severity or location should be reported to the YORK Claims Intake Center. The YORK Claims Intake Center is ready to accept new losses and provides three ways for you to submit new loss reports:

1. Email: [4869excessclaims@yorkrsg.com](mailto:4869excessclaims@yorkrsg.com)
2. Fax: (866) 695-3651
3. Telephone: 1-866-391-9675 (YORK)
4. Mail: York Risk Services Group, Inc.  
Attn: OSC  
P.O. Box 183188  
Columbus, OH 43218-3188

**To expedite the handling of your new claim, the following information must be provided when reporting a claim:**

1. Named Insured: \_\_\_\_\_
2. Policy Number: \_\_\_\_\_

The York Claims Intake Center will review all claims notices upon receipt and assign to the York handling branch office. A claim acknowledgement will then be transmitted to the designated individuals advising of the York claim number and the adjuster assigned to the claim.

**Key Contacts:**

- OSC Contact: Jacob A. Banker, Assistant Vice President  
Email: [Jacob.Banker@Yorkrsg.com](mailto:Jacob.Banker@Yorkrsg.com)
- York SAM Contact: Jennifer J. Cordi, Senior Account Manager - WC  
Email: [Jennifer.Cordi@Yorkrsg.com](mailto:Jennifer.Cordi@Yorkrsg.com)  
Contact #: (908) 783-1278
- Starr Contact: Lee Sheridan, Excess Casualty Claim Manager  
Email: [lee.sheridan@starrcompanies.com](mailto:lee.sheridan@starrcompanies.com)  
Contact #: (646) 560-0016, Cell #: (347) 276-9574

By: REINSURER

By: Covered Parties

Company Name: Starr Indemnity & Liability Company

Company Name: Big Independent Cities Excess Pool

Address: 399 Park Ave, 8th Floor

Address: C/O Greg Spiker, General Manager, Ken Spiker and Associates, Inc.

1100 S. Flower Street, Suite 3300

City, State & Zip Code: New York, NY

City, State & Zip Code: Los Angeles

10022

CA, 90015

IN WITNESS WHEREOF the undersigned have duly executed this Agreement:  
AGREED:

Date: July 21, 2014

Date: JANUARY 6, 2015

Nehemiah E. Ginsburg

(Please print name)

*Nehemiah E. Ginsburg*

(Authorized Signature)

General Counsel

(Title)

CREEBRY J. SPIKER

(Please print name)

(Authorized Signature)

GENERAL MANAGER

(Title)

Charles H. D'Angelo

(Please print name)

*CD Angelo*

(Authorized Signature)

President

(Title)

PE CFRC (07-13)

Page 7 of 7

**ENDORSEMENT NUMBER 9**

**TO THE**

**CERTIFICATE OF CASUALTY FACULTATIVE REINSURANCE**

**ISSUED BY**

**STARR INDEMNITY AND LIABILITY COMPANY**

Dallas, Texas

Administrative Office: 399 Park Ave., 8<sup>th</sup> Floor New York, New York 10022

(Hereinafter called the Reinsurer)

This Endorsement attaches to and forms part of the facultative certificate issued by Starr Indemnity and Liability Company (hereinafter referred to as "Certificate"), Certificate Number 8090027 reinsuring Big Independent Cities Excess Pool (BICEP) (hereinafter "Covered Parties") for its Memorandum of Liability Coverage (hereinafter "MOLC"), BICEP Master Memorandum of Liability Coverage.

In consideration of an additional premium of \$44,365, effective 7/25/14 the Schedule of Participating Members as shown in Endorsement Number 1 is hereby amended to include the following:

**Participating Member:**

City of San Buenaventura – MOC Certificate Number BO-07  
Successor Agency to the former Redevelopment Agency  
Ventura Industrial Development Authority

Reinsurance Accepted:                   \$16,000,000 Each Occurrence  
  \$16,000,000 Aggregate, where applicable

Excess of Underlying reinsurance of:   \$10,000,000 Each Occurrence  
  \$10,000,000 Aggregate, where applicable

Excess of \$1,000,000 MOLC Retention

**Signed for STARR INDEMNITY & LIABILITY COMPANY**



Charles H. Dangelo, President



Nehemiah E. Ginsburg, General Counsel