

**AGREEMENT FOR PROFESSIONAL SERVICES**

The following is an agreement between **Marin Municipal Water District**, hereinafter "MMWD", and **ATHENS ADMINISTRATORS** hereinafter, "Consultant".

**WHEREAS**, Consultant is a duly qualified consulting firm, experienced as a Workers' Compensation Claims Administrator.

**WHEREAS**, in the judgment of the Board of Directors of the MMWD, it is necessary and desirable to employ the services of the Consultant for the administration of the workers' compensation claims program for MMWD.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

**PART A-- SPECIFIC PROVISIONS:**

**1. DESCRIPTION OF SERVICES AND PAYMENT:** Except as modified in this agreement, the services to be provided and the payment schedule are:

- a. The scope of work covered by this agreement shall be that included in Attachment A of this agreement.
- b. The fee and fee payment for such work shall be as stipulated under the fee schedule included in Attachment B of this agreement.

**PART B-- GENERAL PROVISIONS**

**1. ASSIGNMENT/DELEGATION:** Except as above, neither party hereto shall assign, sublet or transfer any interest in or duty under this agreement without written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party shall have so consented.

**2. STATUS OF CONSULTANT:** The parties intend that the Consultant, in performing the services hereinafter specified, shall act as an independent contractor and shall have the control of the work and the manner in which it is performed. The Consultant is not to be considered an agent or employee of MMWD, and is not entitled to participate in any pension plan, insurance, bonus or similar benefits MMWD provides its employees.

**3. INDEMNIFICATION:** MMWD is relying on professional ability and training of the Consultant as a material inducement to enter into this agreement. The Consultant hereby warrants that all its work will be performed in accordance with generally accepted professional practices and standards, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of the Consultant's work by MMWD shall not operate as a waiver or release.

- a. Consultant expressly agrees to defend, indemnify and hold harmless MMWD, its officers, agents, and employees from and against any and all loss, liability, expense, claims, suits and damages, including attorneys' fees, arising out of or pertaining or relating to Consultant's, its associates', employees', subconsultants', or other agents' negligence, recklessness, or willful misconduct, in the operation and/or performance under this Agreement.
- b. With respect to all other than professional services under this agreement, Consultant shall indemnify, hold harmless, release and defend MMWD, its officers, agents and employees from and against any and all actions, claims, damages, disabilities, liabilities and expenses, including attorney's and expert fees and witness costs that may be asserted by any person or entity, including the Consultant, arising out of or in connection with this agreement and the activities necessary to perform those services and complete the tasks provided for herein, but excluding liabilities due to the sole negligence or willful misconduct of MMWD.

This indemnification is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for the MMWD or its agents under workers' compensation acts, disability benefit acts or other employee benefit acts.

**4. PROSECUTION OF WORK:** The execution of this agreement shall constitute the Consultant's authority to continue with the performance the work outlined in this contract. Performance of the services hereunder shall be completed by June 30, 2022. The District has the option of extending the term of this agreement for one three-year term (until June 30, 2025) provided it approves of consultant's pricing proposal for that three-year term.

**5. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS AND MAKING PAYMENTS:** All notices, bills and payment shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

**MMWD:** Marin Municipal Water District  
Attn Vikkie Garay, Human Resources Manager  
220 Nellen Avenue  
Corte Madera CA 94925

**CONSULTANT:** Athens Administrators  
Attn James R. Jenkins, President  
P.O. Box 696  
2552 Stanwell Drive  
Concord, CA 94522-0696  
(925) 826-1100

and when so addressed, shall be deemed given upon deposit in the United States Mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of

actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving notice pursuant to this paragraph.

**6. MERGER:** This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms of the agreement, pursuant to California Code of Civil Procedure Section 1856 and as a complete and exclusive statement of the terms of the agreement. No modification of this agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

**7. SEVERABILITY:** Each provision of this agreement is intended to be severable. If any term of any provision shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this agreement and shall not affect the validity of the remainder of the agreement.

**8. TERMINATION:** At any time and without cause, the MMWD shall have the right in its sole discretion, to terminate this agreement by giving written notice to the Consultant. In the event of such termination, MMWD shall pay the Consultant for services rendered to the termination date.

In addition, if the Consultant should fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this agreement, MMWD may terminate this agreement by giving the Consultant written notice of such termination, stating the reason for such termination. In such event, the Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the agreement as the services satisfactorily rendered hereunder by the Consultant bear to the total services otherwise required to be performed for such total fee, provided, however, that there shall be deducted from such amount the amount of damage, if any, sustained by MMWD by virtue of the breach of the agreement by the Consultant.

**9. TRANSFER OF RIGHTS/OWNERSHIP OF DATA:** The Consultant assigns to MMWD all rights throughout the work in perpetuity in the nature of copyright, trademark, patent, and right to ideas, in and to all versions of any plans and specifications, reports, video tapes, photographs, and documents now or later prepared by the Consultant in connection with this contract.

The Consultant agrees to take such actions as are necessary to protect the rights assigned to MMWD in this agreement, and to refrain from taking any action which would impair those rights. The Consultant's responsibilities under this contract will include, but not be limited to, placing proper notice of copyright on all versions of documents as MMWD may direct, and refraining from disclosing any versions of the reports and documents to any third party without first obtaining written permission of MMWD. The Consultant will not use, or permit another to use, any version of all documents in connection with this contract without first obtaining written permission of MMWD.

All materials resulting from the efforts of MMWD and/or the Consultant in connection with this project, including documents, reports, calculations, maps, photographs, video tapes, computer programs, computer printouts, digital data, notes, and any other pertinent data are the exclusive property of MMWD. Reuse of these materials by the

Consultant in any manner other than in conjunction with activities authorized by MMWD is prohibited without written permission of MMWD.

If the Consultant is using data provided by the District or by the County of Marin pursuant to its data-sharing agreement with MMWD, the Consultant (Licensee) acknowledges by execution of this Agreement that it has read the disclaimer(s) of liability and warranties regarding use of said shared data, a copy of which is attached to this Agreement as Attachments D and E.

**10. COST DISCLOSURE:** In accordance with Government Code Section 7550, the Consultant agrees to state in a separate portion of any report provided MMWD, the numbers and amounts of all contracts and subcontracts relating to the preparation of the report.

**11. NONDISCRIMINATION:** The Consultant shall comply with all applicable federal, state and local laws, rules and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or physical handicap.

**12. EXTRA (CHANGED) WORK:** Extra work may be required. The Consultant shall not proceed nor be entitled to reimbursement for extra work unless that work has been authorized, in writing, in advance, by MMWD. The Consultant shall inform the District as soon as it determines work beyond the scope of this agreement may be necessary and/or that the work under this agreement cannot be completed for the amount specified in this agreement. Failure to notify the District shall constitute waiver of the Consultant's right to reimbursement.

**13. CONFLICT OF INTEREST:** The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Consultant further covenants that in the performance of this contract no person having any such interest shall be employed.

**14. INSURANCE:** The Consultant shall obtain insurance acceptable to MMWD in a company or companies with a Best's rated carrier of at least "A". The required documentation of such insurance shall be furnished to MMWD at the time the Consultant returns the executed contract. The Consultant shall not commence work nor shall it allow its employees or subcontractors or anyone to commence work until all insurance required hereunder has been submitted and approved.

The Consultant shall have and maintain at all times during the life of this agreement, up to the date of acceptance, the following policies of insurance:

- a. **Workers' Compensation Insurance:** Workers' Compensation Insurance to cover its employees, as required by the State of California, and shall require all subcontractors similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of the subcontractors' employees. All Workers' Compensation policies shall be endorsed with the following specific language:

"This policy shall not be canceled without first giving thirty (30) days prior notice to MMWD, Attn: Charlie Duggan, Administrative Services Division Manager/Treasurer, by certified mail."

The Workers' Compensation Insurance self-insured deductibles and retentions for both the Consultant and its subcontractors shall not exceed \$1,000.00 (One Thousand Dollars and 00/100).

- b. Public Liability Insurance: Personal Injury (including bodily injury) and Property Damage Insurance for all activities of the Consultant and its subcontractors arising out of or in connection with this agreement, written on a commercial general liability form which provides coverage at least as broad as ISO Commercial General Liability Occurrence Form CG 00 01 11 85 or 88 or any subsequent revision or equivalent including benefit contractual coverage, completed operations coverage, Consultant's protective coverage, and automobile coverage. The automobile coverage should be at least as broad as ISO Business Auto Form CA001 edition 187 or equivalent including employer's non-ownership liability. All deductibles or self-insured retentions shall not exceed \$5,000 (Five Thousand Dollars and 00/100). Coverage in an amount not less than \$2,000,000.00 (Two Million Dollars and 00/100) combined single limit personal injury, including bodily injury, and property damage for each occurrence is required. Each such policy shall be endorsed with the following language:
1. The Marin Municipal Water District, its officers, agents, employees and volunteers are additional insureds under this policy.
  2. The insurance shall be primary as respects the insured shown in the schedule above.
  3. The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail return receipt requested has been given to the MMWD.
  4. The referenced policy does not exclude explosion, collapse, underground excavation hazards or removal of lateral support.
  5. The inclusion of more than one insured shall not operate to impair the right of one insured against another insured, and the coverage afforded in the policy shall apply as though separate policies had been issued to each insured.

Consultant's policy shall be endorsed with "Attachment C - Additional Insured Endorsement" form.

The General Aggregate Limits of Insurance in the referenced policies apply separately to this project.

- c. Professional Liability Insurance: The Consultant shall procure and maintain throughout the term of this agreement, Professional Liability Insurance in an amount not less than \$1,000,000.00 (One Million Dollars and 00/100). All insurance deductibles or self-insured retentions shall not exceed \$1,000.00 (One Thousand Dollars and 00/100). All Professional Liability Insurance policies shall be endorsed with the following specific language:
  - (i) This policy shall not be canceled without first giving thirty (30) days prior notice to MMWD by certified mail.
- d. Documentation: The following documentation of insurance shall be submitted to MMWD:
  - (i) A Certificate of Insurance for Workers' Compensation Insurance for Consultant. A copy of the required policy endorsements specified in subparagraph a. shall be attached to each such Certificate submitted.
  - (ii) Certificates of Liability Insurance showing the limits of insurance provided. Copies of the required endorsements specified in subparagraphs b. and c. shall be attached to each Certificate submitted.

**15. DISPUTE RESOLUTION:** Any dispute or claim in law or equity between District and Consultant arising out of this agreement, if not resolved by informal negotiation between the parties, shall be mediated by referring it to the nearest office of Judicial Arbitration and Mediation Services, Inc. (JAMS) for mediation. Each party shall provide the others with a list of four mediators. The parties shall confer on the list and select a mutually agreeable mediator. Mediation shall consist of an informal, non-binding conference or conferences between the parties and the judge-mediator jointly, then in separate caucuses wherein the judge will seek to guide the parties to a resolution of the case. If the parties cannot agree to a mutually acceptable member from the JAMS panel of retired judges, a list and resumes of available mediators with substantial experience in mediating claims of the type at issue between the parties, numbering one more than there are parties, will be sent to the parties, each of whom will strike one name leaving the remaining name as the mediator. If more than one name remains, JAMS arbitrations administrator will choose a mediator from the remaining names. The mediation process shall continue until the case is resolved or until such time as the mediator makes a finding that there is no possibility of resolution.

At the sole election of the District, any dispute or claim in law or equity between District and Consultant arising out of this agreement which is not settled through mediation shall be decided by neutral binding arbitration and not by court action, except as provided by California law for judicial review of arbitration proceedings. The arbitration shall be conducted

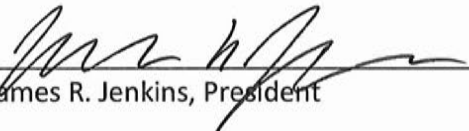
in accordance with the rules of Judicial Arbitration Mediation Services, Inc. (JAMS). The parties to an arbitration may agree in writing to use different rules and/or arbitrators.

**16. BILLING AND DOCUMENTATION:** The Consultant shall bill MMWD for work on a monthly or agreed upon basis or as articulated in Attachment B and shall include a summary of work for which payment is requested. The summary shall include time and hourly rate of each individual, a narrative description of work accomplished, and an estimate of work completed to date.

**17. REASONABLE ASSURANCES:** Each party to this agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise, with respect to performance of either party, the other may, in writing, demand adequate assurance of due performance and until the requesting party receives such assurance may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of the party with respect to performance under this agreement but also conduct with respect to other agreements with parties to this agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, not to exceed 30 days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

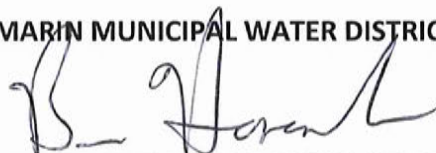
**ATHENS ADMINISTRATORS**

Dated: 6.21.19

By   
James R. Jenkins, President

**MARIN MUNICIPAL WATER DISTRICT**

Dated: 6-28-19

By   
Bennett Horenstein, General Manager

**ATHENS ADMINISTRATORS  
SCOPE OF WORK  
WORKERS COMPENSATION ADMINISTRATION**

CONSULTANT shall perform the following tasks:

1. Forms

Consultant shall provide all forms necessary for the processing of benefits or claims information including a DISTRICT's special Employer's Report of Injury, Division of Workers Compensation (DWC) Form I, lost time information reports, vouchers, checks, and other related forms.

2. Claim File Set Up and Diary Review

Upon receipt of the Employer's Report of Injury, the Consultant will prepare an individual claim file within one working day for each claim. All claim files shall be reviewed at least every thirty (30) days for active claims and at least every four (4) months for claims that have settled but are open for the employee's future medical care. The examiner shall distinguish the regular diary review from routine file documentation in the computer note pad within the consultant's secured database. The supervisor shall monitor the diary reviews by printing a "No Activity" report each month to identify any files that have fallen off the diary system.

3. Confidentiality

All services performed under this agreement are confidential and will not be disclosed to any third party by Administrator without Employer's prior written consent.

4. Administrator Duties and Services

4.1. Administrator agrees to meet on a regular basis with Employer to:

- a. Develop procedures, forms, instructions, schedules and other materials related to claim management, including a procedure manual for Employer's use, within thirty (30) days of the effective date of this Agreement and update such materials as needed.
- b. Provide claim reporting kits including, but not limited to, claim and accident report forms, required notices, and procedural instructions, for distribution by Employer to Employer's staff on or before the effective date of this Agreement, and as needed thereafter.
- c. Provide group education for Employer's management personnel regarding claim management as requested.



- d. Assist Employer's personnel in the development of directives, notices, and other program communication to employees as requested.
- e. Provide and review case management and program compliance quarterly with Employer, or more often as requested by Employer.
- f. Provide all forms and supplies necessary for the efficient operation of the self-insurance program, including customized benefit checks bearing Employer 's name and logo, and to prepare all legally required forms and documents including but not limited to, Self- Insurer's Annual Reports, 1099 reports to the I.R.S. and any and all other documents and reports now or in the future required by the state or federal government or any other agency associated with Employer 's self-insured workers' compensation program

4.2. Administrator agrees to administer all claims as follows:

- a. Administer all claims established by and transferred from the previous administrator(s), and administer all claims reported to Administrator during the effective dates of this Agreement for the term of the Agreement.
- b. Establish and maintain a claim file, with a diary date not to exceed thirty (30) days, on each active claim upon which indemnity benefits are being paid; a diary system not to exceed sixty (60) days on all other open, active Indemnity claims; and a supervisory review diary not to exceed one-hundred-twenty (120) days, or more often when needed.
- c. Manage timely receipt of all pertinent claim information from Employer providers and other sources.
- d. Determine, on behalf of Employer for each reported employee injury or illness, those benefits, if any that should be paid or rendered under the California Workers ' Compensation Laws. Such determination shall include an estimate of future claim payment. Retain outside services with prior approval of Employer for the investigation and management of the claims. Outside services include but are not limited to:
  - AOE/COE Investigators;
  - Activities Check/Sub-rosa Investigator;
  - Medical Case Management and Rehabilitation Nurses/Consultants; and
  - Subrogation Investigators and Experts.
- e. Exhibit in each Indemnity claim file good faith efforts to contact all injured workers by telephone within at least twenty-four hours of receipt of claim, and in no event any later than forty-eight hours of receipt of claim, excluding weekends and holidays. Establish phone contact with appropriate Employer department for initial discussion of claims, as needed, within three (3) working days of receipt of claim.
- f. Initiate investigations, subject to approval by Employer, to determine compensability of reported and actual claim status. Employer shall have prior approval of the selection of any investigator used to investigate Employer's claims of industrial injury or illness. Take necessary

statements and investigate facts of the case within thirty (30) days receipt of claim, when warranted.

- g. Prepare documentation of cases for litigation and continue to monitor legal counsel representing Employer in legal action(s) and assist counsel as necessary in preparation of litigation. Employer shall select and approve counsel prior to each referral. In addition, Administrator shall promptly provide Employer with copies of all correspondence generated on those claim files which are litigated and shall immediately notify Employer in writing and shall keep Employer closely informed on those claims involving allegations of Serious and Willful Misconduct or alleged violation(s) of California Labor Code Section 132(a). At time of case referral to defense counsel, administrator shall prepare a letter of direction to defense counsel outlining work to be done, by whom, and in what time frame. All assignments, instructions and communication with defense counsel must be documented in the claim file and computer note pads. Administrator shall manage defense counsel on an ongoing basis and obtain status reports from defense counsel every sixty (60) days. Administrator shall actively manage litigated files and not perform functions and shall not require defense counsel to perform activities which can be accomplished effectively by claims staff. Examples of required examiner activity on litigated files include but are not limited to:

- Scheduling medical appointments;
- Writing cover letters to doctors;
- Subpoenaing medical records;
- Answering applications; and
- Filing and serving requisite documents.

Administrator shall obtain defense counsels' written evaluation within sixty (60) days of submission, including evaluation of liability, verdict potential, settlement value, and case strategy.

- h. Disburse payments on behalf of Employer out of the bank account provided by Employer, all "Allocated Loss Expenses", which is defined to include all costs incurred on behalf of Employer specifically related to an individual claim, including but not limited to, attorneys, independent adjusters or investigators, expert witnesses, copying records or transcripts, court costs or Appeals Board fees or other costs deemed proper and necessary to represent Employer.
- i. Use best efforts to achieve an average monthly closure ratio of one hundred percent (100%) over the term of this Agreement.
- j. Examine, on behalf of Employer, all reports of industrial injury or illness relating to Employer's employees or former employees and reported to Administrator and to conduct investigations on such cases by Administrator's salaried employees as in Administrator's judgment is deemed necessary.
- k. Pay compensation, medical expense, "Allocated Loss Expense", and all other benefits as prescribed by law out of funds provided by Employer. Payments made by Administrator without

Employer approval, where approval is required elsewhere in this Agreement, shall be the responsibility of the Administrator.

- l. Maintain a claim file on each reported claim which shall be available to Employer at all times for inspection and to conduct, at a time and frequency to be determined by Employer, claim file reviews with Employer at either Employer's or Administrator 's offices.
- m. Subscribe to and pay for, on Employer's behalf, enrollment in the Index Bureau System and to report to the Index Bureau on each and every Indemnity claim.
- n. Create, reserve, and enter required claim data into Administrator's computer system within five (5) working days of receipt of notice of claim from Employer. Enter all payments, reserved revisions, and file closings into the information system within three (3) working days.
- o. Review employer's medical bills and other medical charges and treatment relating to Employer's claims of industrial injury or illness, for causal relationship to all claims of injuries/illness, and reasonableness of treatment prior to payment. Solicit all medical bills, medical reports and records, and documentation of alleged wage loss prior to settlement negotiations.
- p. Make all disability payments and send all notices in a timely manner, abiding by all applicable provisions of the California Labor Code and California Workers' Compensation Laws, Rules and Regulations.
- q. Make payments of bills within thirty (30) days of receipt, and assure timely review and payment of all medical bills in accordance with statutory deadlines and requirements.
- r. Acknowledge to Employer all claims reported to Administrator within three (3) working days of receipt of the notice of claim and to notify Employer and injured workers within five (5) working days of the notice of claim to Employer, whether the claim has been accepted, delayed for further investigation, or denied.
- s. Convert all Medical Only Claims to Indemnity Claims status when the paid amount reaches two thousand five hundred dollars (\$2,500) or when the claim remains open in excess of one (1) year.
- t. Recognize and where appropriate investigate all subrogation and/or contribution possibilities, preserving evidence and utilizing appropriate investigators and experts, as needed, after first obtaining Employers permission to engage such investigators/experts. As respect to subrogation and contribution cases, any compromise settlements or lien reductions must have the prior approval of Employer.

4.3. Administrator agrees to monitor relevancy of medical treatment by the following:

- a. Maintain continual contact with medical practitioners in order to monitor claimant treatment process and a timely return to work. Administrator shall make a good faith effort to establish contact with attending physician within twenty-four (24) hours of receipt of injury report and shall make contact with attending physician's office within forty-eight (48) hours of receipt of injury report and shall document such contact in the claim file.

- b. Review and discuss Vocational Rehabilitation Program(s) with Employer prior to its initiation for an individual claimant.
- c. Monitor individual vocational rehabilitation programs to determine appropriateness and progress.

4.4. Administrator agrees to the following record keeping and reporting requirements:

- a. Provide Employer with monthly reports consisting of:
  - (1) Check Registers including all claim disbursements made on behalf of Employer.
  - (2) Computerized loss reports in an acceptable format as mutually agreed upon at the effective date of this Agreement, showing descriptive data, details of each month's payments, total payments, reserves and total experience and incurred loss values for each claim.
  - (3) Any and all other reports as required by Employer.
- b. Provide oral claims reports on demand, special specific-focus loss run reports within twenty-four (24) hours and larger or major computer analysis reports within seven (7) working days, excluding weekends and holidays. It is further agreed and understood that should Employer require that Administrator prepare for Employer special reports that require additional programming costs there may be an additional charge for said reports.
- c. Provide within ten (10) days notification and explanation for any changes in claim reserves in excess of five thousand dollars (\$5,000) or more associated with a particular claim. Notify immediately the Employer of any claims involving serious injury as defined below:
  - Fatality;
  - Quadriplegia,
  - Paraplegia,
  - Amputation of a major extremity,
  - Heart attack,
  - Back problems involving surgery,
  - Serious burns or disfigurement,
  - Loss of sight or hearing,
  - Brain damage,
  - Any other extreme permanent injury, and
  - Surgical intervention.

Provide initial case analysis within thirty (30) days of receipt of these claims. Supplemental reports on these claims shall be submitted to Employer at least every ninety (90) days following initial case report and shall include all pertinent information which could reasonably affect the

future of the claim(s). In addition, Administrator shall notify Employer immediately of any employee who has a perceived alcohol or drug abuse problem.

- d. Maintain all records and statistical data on each employee claim of injury or illness, including, but not limited to, a record of each denial, delay, litigated claim and loss, which records and data shall be available upon request by Employer. Employer, at Employer's discretion, may audit all records maintained by Administrator including, but not limited to, all payments made on behalf of Employer. Such audit may incorporate random sampling or other audit procedures suitable to Employer.
- e. Prepare and submit to Employer within sixty (60) days of Plan Year closure, the Self-insurer's Annual Report, for submission by Employer to Self-Insurance Plans.
- f. Prepare and submit Federal Information Return (Form 1099) by statutory deadline for applicable payments made by Administrator on Employer's behalf, during the term of this Agreement and as specified under Section 4 of the Agreement.
- g. Prepare all other reports as necessary to remain in compliance with all Workers' Compensation Laws and other state and federal laws, rules and regulations.
- h. Provide Employer with a comprehensive Annual Management Report within sixty (60) days of fiscal year end that includes, but is not limited to:
  - (1) Analysis of past and projected fiscal year costs.
  - (2) Interpretation of data on losses and trends.
  - (3) Recommendations for program improvements.
- i. Provide report to Accounting Department of Employer of all payments when made and any other information necessary for Employer to adequately fund the loss fund account. All such payments shall be supported with check payment detail and monthly summary report showing all payees, payment amounts and dates of payment.
- j. Provide for Employer the ability to be on-line with Administrator's computer system. This system will provide Employer with all financial and statistical data relating to Employer's workers' compensation claims, together with narrative topical "notepad" reports, on each individual claim. This system will also include electronic mail service between Administrator and Employer; the ability to electronically transmit 5020's (Employer's First Report of Industrial Injury/Illness); OSHA Log generation; and complete report generation capabilities.

#### 5. Employer Contact

- a. Consultant shall immediately request the Employer's Report of Injury form when or if the Doctor's First Report of Injury is received first.
- b. If the DWC Form 1 has not been received by the Consultant within one to two days after receiving the Employer's Report of Injury, the examiner will contact the DISTRICT's Human

Resources Manager to ensure that the DWC Form 1 was given to the employee within one working day of knowledge of the injury. If a DWC Form 1 had not been given to the injured employee, the Consultant shall immediately send the DWC Form 1 directly to the employee.

- c. The Consultant shall contact the DISTRICT's Human Resources Manager within twenty-four (24) hours of receipt of notice of a claim. Such contact with the DISTRICT shall be documented in the computer notepad.
  - d. When a claim reaches or exceeds \$50,000 in total incurred value, the Consultant shall report to the DISTRICT every sixty (60) days regarding the status of the claim. Such report shall include the examiner's plan of action for the future handling of the claim.
  - e. The examiner will provide on-site file reviews quarterly if requested by the DISTRICT. Other periodic on-site file reviews will be scheduled based upon the needs of the DISTRICT. The examiner will be available for scheduled telephone conference calls with appropriate DISTRICT staff as needed to determine a course of action on a particular file.
6. Employee Contact
- a. In all non-litigated, lost time cases, where the employee has not returned to work, telephone or personal contact will be established with the injured employee within twenty-four (24) hours of receipt of notice of claim. Such contact will continue as often as necessary, but at least monthly. Such contact with the employee shall be documented in the computer notepad.
  - b. Return phone calls to employees will be accomplished within twenty-four (24) hours.
  - c. All correspondence from employees will be responded to within five (5) days of receipt.
7. Reserves
- a. Reserves shall be established based upon the ultimate probable cost of each claim. All reserve categories shall be reviewed on a regular basis but not less than at least every ninety (90) days. Such review shall be indicated in the computer notepad. The examiner shall utilize a reserve worksheet which has been approved by the Local Agency Workers' Compensation Excess Joint Powers Authority pursuant to that JPA's Resolution Establishing a Claims Management Policy. Any changes to reserves shall include an explanation for the change.
  - b. The claims assistant shall have the authority to establish reserves up to \$3,000. An examiner shall have authority to establish reserves up to \$50,000. A senior examiner shall have authority to establish reserves up to \$75,000. The supervisor shall have authority to recommend reserves up to \$150,000. A director, vice president, or president Consultant shall review and recommend all reserves in excess of \$150,000. The DISTRICT must approve all reserves of \$75,000 or more.
8. Medical Administration

- a. Upon request from DISTRICT, the Consultant shall make available a panel of general practitioners, specialists, hospitals, and emergency treatment facilities to which injured employees should be referred.
- b. The physician's office will be contacted within five (5) days of notice of claim. Such contact will continue as needed during the continuation of temporary disability to assure that treatment is related to a compensable injury or illness.
- c. The Consultant shall maintain contact with treating physicians to ensure employees receive proper medical treatment and are returned to full or modified employment at the earliest possible date.
- d. The Consultant shall maintain direct contact with medical service providers to ensure their reports are received in a timely manner.
- e. The Consultant shall arrange medical evaluations when needed, reasonable, and/or requested in compliance with the current Labor Code.
- f. The Consultant shall ensure that medical bills are reduced to the Relative Value Schedule (RVS) and recommended rates established by the Administrative Director of Workers' Compensation. The use of a service contractor is acceptable, provided the DISTRICT's approval is first obtained. The DISTRICT shall pay for the use and benefits of the services provided; however, fees charged by the service contractor shall have been approved by the DISTRICT prior to the provision of services.
- g. The Consultant shall provide, at the DISTRICT's expense, utilization review and/or professional managed care services on an as-needed basis to injured employees, provided the member DISTRICT and/or DISTRICT's approval is obtained prior to the provision of such service.

#### 9. Medical Payments

Medical bills will be matched to the file, reviewed for correctness, approved for payment, and paid within sixty (60) days of receipt. If all or part of the bill is being disputed, the Consultant will notify the medical provider, on the appropriate form letter, within thirty (30) days.

#### 10. Plan of Action

Each claim file shall contain the examiner's plan of action for the future handling of that claim. Such plan of action will be identified in the computer notepad.

#### 11. Investigation

The Consultant shall subscribe to the Index Bureau. The examiner shall request a report from the Index Bureau on all new indemnity claims. Subsequent requests should be made every six to twelve months thereafter on all active indemnity claims.

#### 12. Compensability

- a. The compensability determination (accept claim, deny claim, or delay acceptance pending the results of additional investigation) and the reasons for such determination will be made and documented in the file within three (3) working days of the receipt of the notification of the loss. Delay of benefit letters shall be mailed in compliance with the Division of Industrial Relations' guidelines.
- b. In no case shall a final compensability decision be extended beyond ninety (90) days from the DISTRICT's knowledge of the claim.

### 13. Provision of Benefits

The Consultant shall provide all compensation and medical benefits in a timely manner and in compliance with the statutory requirements of the California Labor Code. The Consultant shall compute and pay temporary disability benefits to injured employees based upon earnings information and authorized disability periods. The Consultant shall review, compute, and pay all informal ratings, death benefits, findings and awards, life pensions, or compromise and release settlements. However, all such benefits shall be paid by the DISTRICT from the established trust fund.

### 14. Initial Indemnity Payment

- a. The initial indemnity payment or voucher will be issued and mailed to the injured employee together with a properly completed DWC A within fourteen (14) days of the first day of disability. The DISTRICT will issue all temporary disability payments while the employee is still on DISTRICT payroll. The DISTRICT also has a 60 day industrial injury leave program per month which the DISTRICT will continue to pay to the employee for the first 60 days of an accepted workers compensation injury.
- b. Late payments must include the self-imposed 10% penalty in accordance with Labor Code Section 4650.

### 15. Subsequent Indemnity Payments

All indemnity payments or vouchers subsequent to the first payment will be verified, except for obvious long-term disability, and issued in compliance with Labor Code Section 4651.

### 16. Return to Work

- a. The Consultant shall provide assistance to the DISTRICT in establishing a modified work program, which is appropriate for injured employees while recovering and prior to their return to regular duties.
- b. The Consultant shall consult frequently with the DISTRICT in those cases where the injury residuals might involve permanent work restrictions and/or retirement potential.

### 17. Transportation Expense



Transportation reimbursement will be mailed within five (5) days of the receipt of the claim for reimbursement. Advance travel expense payments will be mailed to the injured employee ten (10) days prior to the anticipated date of travel.

#### 18. Permanent Disability

- a. The Consultant shall explain and assist injured employees in completing the necessary forms to obtain a permanent disability rating.
- b. The Consultant shall determine the nature and extent of permanent disability and arrange for an informal disability rating whenever possible to avoid Workers' Compensation Appeals Board litigation.
- c. All permanent disability benefit notices shall be sent to the employee as required by the Labor Code.

#### 19. Litigated Cases

- a. The Consultant shall promptly initiate an investigation of issues identified as material to potential litigation. The DISTRICT shall be alerted to the need for an outside investigation as soon as possible and the examiner shall appoint an investigator who is acceptable to the DISTRICT. The DISTRICT shall be kept informed on the scope and results of all investigations.
- b. When defense counsel is not necessary, the Consultant shall work closely with the applicant's attorney in informal disposition of litigated cases. All assignments to outside counsel will be made with the authorization and consent of the DISTRICT's General Counsel. In conjunction with the DISTRICT, the Consultant shall monitor the outside counsel's progress and supply the General Counsel and Human Resources Manager with copies of all correspondence. The Consultant shall audit all bills before payment.
- c. The Consultant or defense counsel in a concise and clear written form shall forward settlement proposals directed to the General Counsel with copies to DISTRICT's Human Resources Manager with a reason(s) for such recommendation.
- d. All preparation for a trial shall involve communication with the General Counsel so that all material evidence and witnesses are utilized to obtain a favorable result for the defense.
- e. The supervisor or the examiner shall attend Workers' Compensation Appeals Board hearings, rehabilitation hearings, meetings with defense counsel, and meetings with DISTRICT staff, departments, and employee groups as necessary and as requested to do so.

#### 20. Settlements

The Consultant shall obtain the DISTRICT's authorization on all settlement or stipulations. All requests for settlement authority shall include a written claim summary, estimate of permanent disability, and the defense counsel's comments and recommendations, if any, and shall be sent to the General Counsel, with copies to the DISTRICT's Human Resources Manager.

#### 21. Subrogation

- a. In all cases where a third party is responsible for the injury to the employee, the Consultant will send a letter to the DISTRICT's Human Resources Manager indicating they will pursue subrogation unless instructed otherwise by the DISTRICT. When subrogation is to be pursued, the third party shall be contacted within ten (10) days with notification of the DISTRICT's right to subrogation and the recovery of certain claim expenses. If the third party is a governmental agency, a claim shall be filed with the governing board within six (6) months of the injury or notice of injury.
- b. Periodic contact shall be made with the responsible party and/or insurer to provide notification of the amount of the estimated recovery to which the DISTRICT will be entitled.
- c. If the injured worker brings a civil action against the party responsible for the injury, the Consultant shall consult with the DISTRICT's Human Resources Manager about the value of the subrogation claim and other considerations. Upon receipt of the DISTRICT's authorization, subrogation counsel shall be assigned to file a Lien or a Complaint in Intervention in the civil action.
- d. Whenever practical, the Consultant should take advantage of any settlement in a civil action by attempting to settle the workers' compensation claim by means of a third party compromise and release. If such attempt does not succeed, then every effort should be made through the Workers Compensation Appeals Board (WCAB) to offset claim expenses through a credit against the proceeds from the injured worker's civil action.

## 22. Vocational Rehabilitation

Determination of the Qualified Injured Worker/Non-Qualified Injured Worker status shall be made in accordance with Labor Code Section 4637. The Consultant shall advise the injured worker of his/her rehabilitation benefits in accordance with the Rules of the Division of Workers' Compensation, within ten (10) days of knowledge of medical eligibility. The Consultant will:

- 1) make timely referral to a Qualified Rehabilitation Representative in accordance with Labor Code Section 4637,
- 2) control rehabilitation costs, and
- 3) secure the prompt conclusion of vocational rehabilitation benefits.

## 23. Claim Reconciliation

All claim files shall be reconciled to ensure all medical, indemnity, and expense payments have been made correctly. The reconciliation should verify that payments were made to the correct provider, in the correct amount, and from the correct claim file. The physical file should be verified with the computer/electronic information. All open claim files shall be reconciled 1) any time there is a change from one benefit to another (e.g., from temporary disability to permanent disability), 2) when ten indemnity checks have been issued, or 3) at least annually. Proof of the reconciliation should remain in the claim file.

#### 24. Excess Coverage or Other Insurance

Administrator, as a part of the regular claims administration process, shall comply with the reporting provisions, guidelines, and requirements imposed by the Employer's Excess Workers' Compensation Insurance Carrier(s) and other carriers that may be involved in the administration of the Employer's Workers' Compensation Program. However, Employer as policyholder shall continue to be liable for all the duties, requirements, obligations, and penalties imposed by Employer's Carrier(s).

- a. Cases that have the potential to exceed the DISTRICT's self-insured retention shall be reported to the DISTRICT's General Counsel and Human Resources Manager and in accordance with the reporting criteria established by the pool excess insurance provider.
- b. All cases, which meet the established reporting criteria, are to be reported within ten (10) days of the day on which it is known the criterion is met.

#### 25. Award Payment

Payments on awards, computations, or compromise and release agreements will be issued within ten (10) days following receipt of the appropriate document.

#### 26. Penalties

Administrator and Employer acknowledge the obligations and penalties contained in the California Workers' Compensation Reform Act of 1989 that may be imposed on both employers and claim administrators and agree to the following:

- a. Penalties for errors or omissions caused by Employer's failure to act or timely report claims or issues to Administrator that create a delay in payment of benefits, incorrect payment of benefits, or administrative fine(s) or penalty(ies) shall be the responsibility of Employer. Penalties for errors or omissions caused by Administrator's performance of services under this contract that create a delay in payment of benefits, incorrect payment of benefits, or administrative fine(s) or penalty(ies) shall be the responsibility of Administrator.
- b. Administrator shall provide Employer with a quarterly accounting of penalties paid by Administrator on behalf of Employer including a description and detailed listing of each penalty payment and the specific claim file to which the penalty payment was charged. Penalties that are computed by the Administrator shall be paid out of the Employer's benefit account and Administrator shall, within thirty (30) days from the end of the quarter, reimburse Employer quarterly for those penalties that are the responsibility of Administrator under the terms and conditions of this Agreement, with pro-rated interest at the prevailing prime interest rate.
- c. Without limiting the provisions set forth in the above two paragraphs, it is agreed that upon receipt by Administrator of a notice of claim from Employer, upon which indemnity benefits shall be paid or notice given promptly to the employee in order to avoid late payment or notice

of benefit penalties, Administrator shall have ten (10) (10) working days (excluding weekends and holidays) from the date of receipt of the claim from Employer, to investigate and pay the temporary disability or send the required wage continuation notice, and that failure on the part of the Administrator to do so within this time frame shall be the financial responsibility of Administrator for any fine imposed for late notice or payment of benefits. Any fines or penalties for late payment or notice of benefits on claims that are received from Employer by Administrator on or after the ninth (9th) day following the date Employer knew or should have known about the claim(s) shall be the responsibility of the Employer.

- d. Administrator will be responsible for any fines or penalties associated with questionable or controverted claims which Administrator denies without first consulting and obtaining approval by Employer for denial of the claim(s). Administrator will not be responsible for any fines or penalties levied by the Division of Workers ' Compensation or any other judicial or quasi-judicial organization for improper denial of a claim(s) if, over the written objections of Administrator, Administrator has denied said claim(s) at the express written direction of Employer.

27. Definition of "Medical-Only" and "Indemnity" Claims

- a. The definition of an "Indemnity Claim" shall be any alleged work-related claim for which any of the following is claimed:
  - 1) Temporary Disability;
  - 2) Permanent Disability;
  - 3) Vocational Rehabilitation;
  - 4) Life Pension; or
  - 5) Death.
  
- b. The definition of a "Medical Only Claim" shall be any alleged work-related injury or illness for which medical treatment is sought, the claimant is not hospitalized, temporary disability does not exceed the waiting period as defined by the Workers' Compensation Laws of California, and no other Indemnity benefits are claimed.

28. Case Closure

- a. The Consultant shall close all claims on which all medical and compensation benefits have been provided within a reasonable amount of time. Claim files shall not be allowed to go without examiner attention for a period of time longer than six months. Medical only claims shall not remain open longer than six months without good cause.
- b. Medical only cases must be closed within sixty (60) days from the date the letter went to employee indicating there is no permanent disability.
- c. The Consultant will monitor stipulated cases with future medical provisions. Reserves for future medical will be reviewed semi-annually and adjusted according to use.

## 29. Loss Runs

- a. The loss run shall be issued by the 12th of the month following the closing date. Any corrections that are requested to be made to the loss run shall be made within thirty (30) days.
- b. Requests for status of claims generated by the DISTRICT shall be provided within thirty (30) days.

## 30. Claims Reporting

- a. The Consultant shall maintain all loss information as required by the Workers' Compensation Insurance Rating Bureau.
- b. The Consultant shall assist in the preparation of all reports, which are now, or will be required by the State of California or other government agencies with respect to self-insurance programs. The Consultant will also assist in the preparation of all reports or databases required by the California Institute for Public Risk Analysis (CIPRA) or other statistical database organizations as requested by the DISTRICT.

## 31. Record Retention

All claim files shall be maintained in accordance with statutory time requirements and the DISTRICT's Record Retention Policy (Policy attached as Exhibit 1).

## 32. Claim Supervision

The Consultant shall provide supervisory staff who will regularly review the work product of the claims examiners. The supervisor shall review at least ten percent (10%) of each examiner's caseload each month to ensure each examiner is following today's best practices and laws/requirements and following the performance standards outlined in the RFP for the original contract. In addition, the supervisor shall conduct a regular quarterly review of all open indemnity claims with reserves in excess of \$50,000 and all problem or complex claims.

## 33. Availability of Personnel

- a. The Consultant shall at all times, have one or more of the examiners assigned to the DISTRICT's dedicated unit, or in their absence, the supervisor or Vice President of Workers' Compensation available by telephone for emergencies through a 24-hour emergency telephone number.
- b. The Consultant shall ensure at least one dedicated examiner assigned to the DISTRICT is on-site and available to the DISTRICT every business day throughout the term of the contract period.

## 34. Examiner Training

The Consultant shall ensure each claims examiner handling the DISTRICT's claims will receive continuing education training each year. Consultant shall annually certify this in writing to the DISTRICT's Human Resources Manager.

35. Services

- a. All services as described in this Agreement shall be performed in accordance with all applicable laws, rules and regulations of any and all governmental authorities and applicable standards, and specifically performed in accordance with all applicable Workers ' Compensation Laws of the State of California .
- b. The Consultant shall provide special on-site training services annually to personnel from the DISTRICT to ensure that the people within the DISTRICT who process workers' compensation claims are effectively carrying out the procedures required for a successful program. A copy of the DISTRICT's claims manual should be readily available for review by the appropriate DISTRICT staff or representative.
- c. The Consultant shall require one of the dedicated unit examiners to meet with DISTRICT personnel, at the DISTRICT's location, at least once annually to review program procedures regarding workers ' compensation reporting requirements and other program matters that require the timely participation of the DISTRICT's personnel.
- d. The Consultant shall require an examiner to be available and readily respond to a DISTRICT's request for assistance with problem cases, including on-site visits to the DISTRICT.
- e. The Consultant shall provide the DISTRICT with information regarding statutes, proposed changes to statutes, and changes to the rules and regulations affecting the DISTRICT and its responsibility as a legally uninsured workers' compensation authority.

**ATTACHMENT B**

**ATHENS ADMINISTRATORS  
FEE SCHEDULE  
WORKERS COMPENSATION ADMINISTRATION**

**Claim Administration Renewal Pricing Proposal**

Athens is presenting three year flat rate renewal; no rate increase over your current in force agreement. We are proposing that all components of our pricing will remain unchanged for the proposed contract period.

TERM	Annual Administrative Fee	Charge Per New Indemnity Claim	Charge Per New Medical Only Claim	Charge Per First Aid Claim	Monthly Charge Per Indemnity Claim Open Beyond Service Year
7.1.2019 – 6.30.2020	\$5,000	\$928	\$152	\$84	\$148
7.1.2020 – 6.30.2021	\$5,000	\$928	\$152	\$84	\$148
7.1.2021 – 6.30.2022	\$5,000	\$928	\$152	\$84	\$148

**Administrative Services**

Administration	Included
Data Management	Included
Account Management	Included
Claim Reporting (web, fax, telephonic)	Included
Dashboard Risk Management Website	Included
Web Site Access (2 Users)	Included
Annual Stewardship Report & Presentation	Included
Electronic Delivery of Monthly Loss Runs	Included

ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

Commercial General Liability Coverage: Policy# [REDACTED]

Policy Period 1/1/2019 – 1/1/2020

Automobile Liability: Policy# [REDACTED]

Policy Period 1/1/2019 – 1/1/2020

INSURED: Name: Athens Insurance Services, Inc.

Address: PO Box 696

City/State/Zip: Concord, CA 94524

SCHEDULE

The Marin Municipal Water District, its officers, officials, agents, employees and volunteers (MMWD).

WHO IS AN INSURED

Is amended to include as an insured the organization shown in the schedule above.

- 1. The insurance shall be primary concerning the insured shown in the schedule above.
2. The insurance afforded by this policy shall not be cancelled except after thirty days prior written notice by certified mail return receipt requested has been given to the MMWD.
3. The referenced policy does not exclude explosion, collapse, underground excavation hazards or removal of lateral support.
4. The inclusion of more than one insured shall not operate to impair the right of one insured against another insured, and the coverage afforded in the policy shall apply as though separate policies had been issued to each insured.

Authorized Insurance Representative

Signature

Date

Print Name and Title



ATTACHMENT D

COUNTY OF MARIN REQUIREMENTS

(for data provided by County of Marin)

Disclaimer of Liability and Warranties

- A. Licensee understands and agrees that it is possible that errors and omissions will occur in data input or programming done by the County and Signatories to provide the Parcel Base Map in the form desired. The Licensee further understands and agrees that it is probable that errors and omissions will occur in record keeping processes, especially when large numbers of records are developed and maintained, and that data may not meet the Licensee's standards as to accuracy or completeness. Notwithstanding, the Licensee agrees to take the data "as is", fully expecting that there may be errors and omissions associated with the data.
- B. Licensee further understands and agrees that the County and its Signatories make absolutely no warranty whatsoever, whether expressed or implied, as to the accuracy, thoroughness, value, quality, validity, merchantability, suitability, condition or fitness for a particular purpose of the data or any programming used to obtain the data, nor as to whether the data are error-free, up-to-date, complete or based upon accurate or meaningful facts.
- C. Licensee further understands and agrees that it will forever waive any and all rights, claims, causes of action or other recourse that it might otherwise have against the County and its Signatories for any injuries or damages of any type, whether direct, indirect, incidental, consequential or otherwise, resulting from any error or omission in the data or in any programming used to obtain the data, or in any manner arising out of or related to this Agreement or the data provided hereunder. Licensee agrees that the County and its Signatories shall not be liable to Licensee for any liability, claim, loss, damage, injury or expense of any kind caused or alleged to be caused, directly or indirectly, by the inadequacy of data obtained from the County or Signatories, by any deficiency of County or Licensee systems, by any delay or failure to provide any service, or by any other interruption, disruption or loss of Licensee operations.

**ATTACHMENT E**

**MARIN MUNICIPAL WATER DISTRICT  
DATA DISCLAIMER**

(for data provided by the District)

Disclaimer of Liability and Warranties

- A. All materials provided to Licensee by the District are the exclusive property of the District. Re-use of these materials by the Licensee in any manner other than in conjunction with activities authorized by the District is prohibited without the written permission of the District.
- B. Licensee understands and agrees that it is possible that errors and omissions will occur in data input or programming done by the District to provide the data in the form desired. The Licensee further understands and agrees that it is probable that errors and omissions will occur in record keeping processes, especially when large numbers of records are developed and maintained, and that data may not meet the Licensee's standards as to accuracy or completeness. Notwithstanding, the Licensee agrees to take the data "as is", fully expecting that there may be errors and omissions associated with the data.
- C. Licensee further understands and agrees that the District makes absolutely no warranty whatsoever, whether expressed or implied, as to the accuracy, thoroughness, value, quality, validity, merchantability, suitability, condition or fitness for a particular purpose of the data or any programming used to obtain the data, nor as to whether the data are error-free, up-to-date, complete or based upon accurate or meaningful facts.
- D. Licensee further understands and agrees that it will forever waive any and all rights, claims, causes of action or other recourse that it might otherwise have against the District for any injuries or damages of any type, whether direct, indirect, incidental, consequential or otherwise, resulting from any error or omission in the data or in any programming used to obtain the data, or in any manner arising out of or related to this Agreement or the data provided hereunder. Licensee agrees that the District shall not be liable to Licensee for any liability, claim, loss, damage, injury or expense of any kind caused or alleged to be caused, directly or indirectly, by the inadequacy of data obtained from the District, by any deficiency of District or Licensee systems, by any delay or failure to provide any service, or by any other interruption, disruption or loss of Licensee operations.