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CIS Coverage and Risk Management Requirements for Shelters

- 1) Seasonal, Short-Term or Long-Term Shelters for the Homeless (Using Member-Owned Facilities)
- 2) Temporary Shelters Using Leased Facilities (Using Non-Member Owned Facilities)
- 3) Temporary Shelters (Utilizing Hotels)
- 4) Providing Member-Owned Land for Camping
- 5) Temporary Emergency Shelters Using Member-Owned Facilities Required by Civil Authority (Less Than 90 Days)

INCLUDED:

- Exposures Requiring a Risk Management Policy
- Sample Contract Provisions

Overview

CIS is your partner in managing your risk exposure during a public health emergency, such as the COVID-19 outbreak, while you serve your community. Your CIS coverage is a key piece of your total risk management efforts during this uncertain time. In managing the risks inherent in a pandemic response, CIS' coverage is best paired with risk transfer provisions in your agreements with other service providers.

CIS provides the following coverages to members:

- 1) Liability coverage, including defense, subject to the CIS Liability Coverage Agreement
- 2) Property coverage subject to the CIS Property Coverage Agreement
- 3) Workers' Compensation coverage subject to the CIS Workers' Compensation Agreement
- 4) Employee Benefits is also provided but not the subject of this document.

Operating a shelter brings about new risks. Much of the time, non-profit agencies who are directly providing shelter services are in a better position to manage and insure the risk associated with shelter residents, staff, and volunteers, than a public agency that is merely facilitating behind the scenes.

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The idea is simply that risks should remain with organizations that have the best knowledge and ability to manage those risks.

Partnering with Non-Profit and Faith-Based Institutions: Where possible, we encourage members to take advantage of community non-profits or faith-based institutions to operate emergency shelter facilities. They should have their own insurance coverage and provide indemnification to the city or county as part of their contract. Included in this document is sample contractual language to assist in risk transfer when working with outside organizations. **CIS is unable to insure non-profits or faith-based institutions.**

Workers' Compensation: Employees are covered while in the course and scope of employment. Volunteers are covered by CIS only if the elected body adopts a resolution stating they want volunteers to be covered under workers' compensation. Employees of non-profits or faith-based organizations are not covered by CIS.

Additional Contributions: Usually, if the shelter or campground is operated by the member, CIS charges an extra contribution for the additional and unique risks associated with providing a homeless shelter or campground. If the member-owned facility is operated by a non-profit or faith-based organization that agrees to provide insurance and indemnification to the member, CIS does not require additional contribution. CIS must review the contract with the non-profit.

Exposures Requiring a Risk Management Policy: CIS requires the member develop risk management policies on each sheltering type listed on the pages that follow. Risk management plans must be approved by your CIS Risk Management Consultant.

Legislative Solutions: Members are encouraged to support legislation that provides immunity if organizations, public or private, provide land or facilities for the homeless, like recreational-use immunity, by working with their elected officials.

1) SEASONAL, SHORT-TERM OR LONG-TERM SHELTERS FOR THE HOMELESS USING MEMBER-OWNED FACILITIES

Members may want to provide seasonal, short-term or long-term shelters or surge housing for the homeless.

Liability: CIS will provide liability coverage for seasonal, short-term or long-term shelters for the homeless in facilities owned by the member, subject to the CIS Liability Coverage Agreement.

Property: CIS covers the member-owned scheduled property and equipment. If operated by a non-profit, the contract shall include the clauses found in the sample contract section of this document.

2) TEMPORARY SHELTERS USING LEASED FACILITIES (NOT MEMBER-OWNED)

Members may lease buildings from community property owners to use for surge housing, medical or social isolation due to COVID-19, or the homeless.

Liability: CIS' liability coverage would apply in the same way that it would if a member were leasing a building to use for additional office space or for any other member program. The alleged negligent acts of the member and member's employees will be covered.

CIS recommends a contract between the CIS member and the building owner. Usually, the owner will require a "defend and indemnify" clause and a "waiver of subrogation clause" for property exposures. CIS will honor contracts, however, CIS' coverage cannot extend to the sole negligence of the landowner. If a visitor to the building is injured and sues the landowner, and the injury has nothing to do with anything the member or its employees did, the CIS coverage would not extend to the landowner. CIS would not indemnify or defend the building owner.

Please keep in mind, CIS does not cover the individuals using the facility. If a resident of the facility injures another person or damages property, CIS will not provide coverage for the resident.

Property and Workers' Compensation: CIS does not provide property coverage or workers' compensation coverage to third parties.

For more information about leases, please review the ***CIS Contract Review Guidelines for Public Entities*** on the CIS website.

CIS is happy to review leases.

3) TEMPORARY SHELTERS UTILIZING HOTELS

CIS recommends against a member utilizing a hotel for temporary sheltering.

Liability: CIS' liability coverage would apply in the same way that it would if a member were leasing a building to use for additional office space or for any other member program. The alleged negligent acts of the member and member's employees will be covered (see above).

The sole negligence of the hotelier would not be covered.

Property: CIS will not offer property coverage for the hotel.

Workers' Compensation: CIS is not able to offer workers' compensation coverage to hotel employees.

4) PROVIDING MEMBER-OWNED LAND FOR CAMPING

A few members are considering providing member-owned land for homeless camping.

Liability: CIS' liability coverage would apply as usual for the members' exposures. There is limited coverage for third-party pollution which include viruses. Claims related to zoning and land use are excluded from the CIS coverage.

Property: CIS property coverage covers member-owned buildings or equipment as scheduled. Pollution is excluded unless caused by a covered loss, and then limited to \$25,000.

5) TEMPORARY EMERGENCY SHELTERS USING MEMBER-OWNED FACILITIES REQUIRED BY CIVIL AUTHORITY (LESS THAN 90 DAYS)

Members may be asked by order or a civil authority to use member-owned facilities for temporary sheltering.

Liability: The CIS Liability Coverage Agreement provides coverage for claims under the Oregon Tort Claims Act and several federal statutes. Coverage is for the named member, employees, elected officials, and volunteers. Claims are covered in accordance with the terms and conditions of the CIS Liability Coverage Agreement.

It is important to note that the coronavirus is excluded as pollution, however, there is a \$100,000 limited third-party pollution coverage which may apply.

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Property: The CIS Property Coverage Agreement covers most perils associated with members owning and operating a building. CIS does not cover the personal property of facility users.

The coronavirus is excluded as pollution, however, if the facility is used by "order or civil authority" CIS will pay up to \$25,000 for clean-up and restoration for member-owned facilities. The maximum is \$50,000.

No Additional Contributions: If required by Civil Authority, CIS will not charge any additional liability or property contributions.

IMPORTANT TIP: If a civil authority directs a city to offer shelters, ask the civil authority if they will accept any of the liability, property, or workers' compensation risks.

Sample Contract Provisions

Liability Insurance:

Contractor (Lessor) shall obtain, at contractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract and Product and Completed Operations. Such insurance shall be primary and non-contributory. Coverage shall be a minimum of \$2 million per occurrence, and \$2 million aggregate.

Contractor shall also obtain, at contractor's expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage — including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1 million.

Property Insurance:

Contractor (Lessor) will maintain all-risks property insurance on contractor's property and equipment.

Sample Waiver of Subrogation:

Neither the lessor nor the lessee shall be liable to the other for loss arising out of damage to or destruction of the leased premises, or the building or improvements of which the leased premises are a part or with which they are connected, or the contents leased any thereof, when such loss is caused by any of the perils which are or could be included within or insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All such claims for any and all loss, however caused, hereby are waived. Such absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either lessor or lessee or by any of their respective agents, servants or employees. It is the intention and agreement of the lessor and the lessee that the rental reserved by this lease has been fixed in contemplation that each party shall fully provide his own insurance protection at his own expense, and that each party shall look to his respective insurance 14 carriers for reimbursement of any such loss, and further, that the insurance carriers shall not be entitled to subrogation under any circumstance against any party to this lease. Neither the lessor nor the lessee shall have any interest or claim in the other's insurance policy, or the proceeds thereof, unless specifically covered therein as a joint assured.

Defacement of Facility:

It is understood and agreed that the City leases the Community Center to CONTRACTOR "as is" and that CONTRACTOR will make, at its own expense, all changes and installations therein that are previously agreed to by City, and that CONTRACTOR will restore, at its own expense, the Facility to the same condition in which it existed prior to any installations made therein. CONTRACTOR shall be responsible for any costs to repair or replace any property at the Facility which becomes damaged or lost during the term of this Agreement. Ordinary wear and tear are excepted.

Indemnification of Member:

CONTRACTOR (Name of non-profit) agrees to indemnify, defend, and hold harmless the CITY, and its officers, agents and employees against all liability, loss, and costs arising from actions, suits, claims, or demands arising from CONTRACTOR's use of the CITY's community center or in any way related to the performance of this contract.

Exposures Requiring a Risk Management Policy/Plan

Abuse Protection
Physical Distancing
Shelter Residency Eligibility
Sanitation
Rodent Control
Cooking/Food Handling/
Food Storage
Electric, Gas, Propane Heating
Drugs and Alcohol
Crime/Victimization
Environmental Clean-up Plan
Spill Response Plan
Individual Camp/Room Clean-Up Plan
Damage/Theft of Personal Property
Plan
Security Plan
Safety Plan
Medical Response Plan
Communication Plan
Natural Disaster and Adverse Weather
Response Plan
Safety Audits/Inspections Plan
Incident Reporting Plan
Accident Investigations
Zoning and Neighborhood Conflicts