

## EXHIBIT B-1

### INSURANCE REQUIREMENTS FOR CONSTRUCTION CONTRACTS ABOVE \$45,000

#### Indemnity

To the fullest extent allowed by law, the Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

#### Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

##### A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier must accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

##### B. Qualifying Insurers

1. All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

EXHIBIT B-1

2. When surety bonds are required, they shall be issued by companies that meet the following minimum requirements:
  - a. For projects in excess of \$250,000:
    1. A California admitted surety with either a current A.M. Best rating of A IV or a current Standard and Poors (S&P) rating of A.

OR
    2. An admitted surety insurer which complies with the provisions of the Code of Civil Procedure, Section 995.660\*.

OR
    3. In lieu of 1 & 2, a company of equal financial size and stability that is approved by the County's Insurance Manager.
  - b. For projects under \$250,000:
    1. A California admitted surety with either a current A.M. Best rating of B or a current Standard and Poors (S&P) rating of BB.

OR
    2. An admitted surety insurer which complies with the provisions of the Code of Civil Procedure, Section 995.660\*.

OR
    3. In lieu of 1 & 2, a company of equal financial size and stability that is approved by the County's Insurance Manager.

\* California Code of Civil Procedure Section 995.660 in summary, states that an admitted surety must provide: 1) the original, or a certified copy of instrument authorizing the person who executed the bond to do so, within 10 calendar days of receipt of a request to submit the instrument; 2) a certified copy of the Certificate of Authority issued by the Insurance Commissioner, within 10 calendar days of receipt of a request to submit the copy; 3) a certificate from County Clerk of Santa Clara County that Certificate of Authority has not been surrendered, revoked, canceled, annulled or suspended, within 10 calendar days of receipt of the certificate; 4) copies of the surety's most recent annual statement and quarterly statement filed with the Department of Insurance pursuant to Article 10, within 10 calendar days of receipt of a request to submit the statements.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

EXHIBIT B-1

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:

- a. Each occurrence - \$1,000,000
- b. General aggregate - \$2,000,000
- c. Products/Completed Operations aggregate \*\* - \$2,000,000
- d. Personal Injury - \$1,000,000

A minimum of 50% of each of the aggregate limits must remain available at all times unless coverage is project specific.

2. General liability coverage shall include:

- a. Premises and Operations
- b. \*\*Products/Completed Operations with limits of two million dollars (\$2,000,000) per aggregate to be maintained for three (3) years following acceptance of the work by the County. For contracts whose maximum value is less than \$80,000, Products/Completed Operations limits shall be one million dollars (\$1,000,000) and two (2) years.
- c. Contractual Liability expressly including liability assumed under this Agreement. If the Contractor is working within fifty (50) feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, underpass or crossway shall be deleted, or a railroad protective policy provided.
- d. Personal Injury liability
- e. Owners' and Contractors' Protective liability
- f. Severability of interest
- g. Explosion, Collapse, and Underground Hazards (X, C and U)
- h. Broad Form Property Damage liability

3. General liability coverage shall include the following endorsements, copies of which shall be provided to the County:

- a. **Additional Insured Endorsement**, which shall read:

## EXHIBIT B-1

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

**b. Contractual Liability Endorsement:**

Insurance afforded by this policy shall apply to liability assumed by the insured under written contract with the County of Santa Clara.

**c. X C & U (Explosion, Collapse and Underground) Endorsement:**

Insurance afforded by this policy shall provide X, C and U Hazards coverage.

**4. Claims Made Coverage**

If coverage is written on a claims made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Contractor's start of work (including subsequent policies purchased as renewals or replacements).
- b. Contractor will make every effort to maintain similar insurance during the required extended period of coverage following project completion, including the requirement of adding all additional insureds.
- c. If insurance is terminated for any reason, Contractor agrees to purchase an extended reporting provision of at least two years to report claims arising from work performed in connection with this Agreement or Permit.
- d. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

## EXHIBIT B-1

### 5. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

### 6. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

### 7. Contractors' Equipment Insurance

On an "all risk" basis covering equipment owned, leased, or used by the Contractor. If the total value of equipment is less than \$100,000 Contractor may self-insure this exposure. If total equipment value is \$100,000 or more, insurance is required. Such insurance shall include an insurer's waiver of subrogation in favor of the County. Contractor shall hold harmless the County for any loss or damage to the Contractor's equipment. This coverage may be waived by the Insurance Manager, but the Contractor hereby releases and holds harmless the County for any loss or damages to its equipment.

### 8. Builder's Risk Insurance

The County shall provide Builder's Risk insurance (first party property insurance) on an all risk basis including flood with a limit of no less than the full replacement value of the work, and covering the work and all materials incorporated therein, and insuring the interests of the County, Contractor, and subcontractors. Insurance shall contain insurer's waiver of subrogation in favor of the Contractor and subcontractors. The Contractor shall be responsible for the first \$50,000 of any loss. The County's provision of Builder's risk insurance is an economic convenience to the County, and does not change or revise the Contractor's responsibility for the Work until County Acceptance, including but not limited to, losses that may exceed the insurance limits. Contractor may secure additional insurance, in Contractor's sole and absolute discretion, and Contractor must include the cost of such insurance in Contractor's bid.

## EXHIBIT B-1

### E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractors obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

### F. Bond Requirements

1. Contract Bonds - Prior to execution of the Contract, Contractor shall file with the County on the approved forms, the two surety bonds in the amounts and for the purposes noted below, duly executed by a reputable surety company satisfactory to County, and Contractor shall pay all premiums and costs thereof and incidental thereto.

Each bond shall be signed by both Contractor and the sureties.

- a) The "payment bond for public works" shall be in an amount of one hundred percent (100%) of the Contract price, as determined from the prices in the bid form, and shall insure to the benefit of persons performing labor or furnishing materials in connection with the work of the proposed Contract. This bond shall be maintained in full force and effect until all work under the Contract is completed and accepted by the County, and until all claims for materials and labor have been paid.
- b) The "performance bond" shall be in an amount of one hundred percent (100%) of the Contract price as determined from the prices in the bid form, and shall insure the faithful performance by Contractor of all work under

## EXHIBIT B-1

the Contract. It shall also insure the replacing of, or making acceptable, any defective materials or faulty workmanship.

Should any surety or sureties be deemed unsatisfactory at any time by the County notice will be given Contractor to that effect and Contractor shall forthwith substitute a new surety or sureties satisfactory to the County. No further payment shall be deemed due or will be made under the Contract until the new sureties qualify and are accepted by the County.

All alterations, time extensions, extra and additional work, and other changes authorized by the Specifications, or any part of the Contract, may be made without securing consent of the surety or sureties on the contract bonds.

2. Fidelity Bonds – Required only if contractor will be receiving advanced funds or payments. Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.