# Supplemental General conditions

## Section 00810

***THIS SECTION MUST BE EDITED BY PROJECT MANAGER TO MEET SPECIFIC PROJECT NEEDS.*** *Delete this and all other instruction boxes prior to final printing.*

The Supplemental General Conditions contained herein amend or supplement the General Conditions, Section 00700.

**ARTICLE 1 – DEFINITIONS**

*Include the following modification of 1.20 in all Contracts.*

*Add to the following definition:*

**1.20** Engineer/Architect (E/A): The OWNER’s design professional for this contract is:

*Name:*

 *Address:*

*If Project is part of Rolling Owner Controlled Insurance Program (ROCIP), include the following paragraphs 1.51, 1.52, 1.53 & 1.54; otherwise delete.*

*Add the following definitions*:

**1.51** Insurance Cost Form - Section 00425A of the Contract, submitted by CONTRACTOR with its Bid, used to notify OWNER of insurance costs not included in CONTRACTOR’s Bid as a result of the OWNER providing insurance through ROCIP.

**1.52** Payment Form - A form used by the ROCIP Administrator to notify the OWNER’s Project Manager that all required insurance information and documentation has been received from CONTRACTOR.

**1.53** OWNER’s ROCIP Administrator - The insurance broker responsible for administering the OWNER’s Rolling Owner Controlled Insurance Program (ROCIP).

**1.54** Rolling Owner Controlled Insurance Program (ROCIP) - A specialized insurance program provided by OWNER for specifically identified Capital Improvements Program (CIP) projects.

*If appropriate to the Project, include the following paragraph 1.55; otherwise delete (renumber as needed).*

*Add the following definition*:

**1.55** Commissioning Authority or Agent - A consultant retained by the OWNER charged with supporting E/A in monitoring the Work for conformance with the Contract Documents, and with assisting in the facility's start-up and testing as a member of the commissioning team.

*If the Project uses Allowances, include the following paragraph 1.56 (renumber as needed); otherwise delete.*

*Add the following definition:*

**1.56** Allowance - Allowance is defined as "a not-to-be-exceeded amount”, either individually or in the aggregate, which is established between the Owner and the Contractor as part of its Bid Proposal when the precise scope of a particular line item(s) has not been defined to a level which is adequate for the Contractor to provide a definitive line item pricing for that particular scope of Work. The use of any Allowances by the Contractor will be subject to the Owner’s sole approval and it is the Owner’s intent to minimize the use of Allowances to the fullest extent possible. For any Allowances which the Owner allows the Contractor to use, the following rules shall apply: (i)Allowances shall cover the cost to the Contractor of the Cost of Work; (ii) Contractor’s overhead and profit associated with the stated Allowance shall be included in the Allowance; and (iii) upon completion of the portion of the Work subject to an Allowance, the Contract Amount for that portion of the Work will be adjusted based upon the approved actual cost of the Work, which will not exceed the approved aggregate amount of the Allowances.

*For construction projects with a cost estimate greater than $2,000,000, include the Mobilization Prompt Payment Program by including the following paragraph 1.57. Renumber as needed.*

*Also add edits to 2.4.2.1 and 14.1.1 below.*

*Add the following definition*:

1.57 Mobilization Prompt Payment Program - The Owner’s Mobilization Prompt Payment Program, will allow bimonthly payments during “critical mobilization stages” as specified in the Contract Documents by the Prime Contractor. The Mobilization Prompt Payment Program will only apply to projects with a construction cost greater than $2,000,000.

**ARTICLE 2 - PRELIMINARY MATTERS**

*If Project is part of Rolling Owner Controlled Insurance Program (ROCIP), include the following modification of 2.1; otherwise delete.*

* 1. **Delivery of Agreement, Bonds, Insurance, etc.:** *Add the following 2.1.1*:

**2.1.1** CONTRACTOR shall complete enrollment in the Rolling Owner Controlled Insurance Program (ROCIP) within five (5) Working Days after written notification of award of Contract.

*Add the following modification to the end of 2.4.2.1 for Mobilization Prompt Payment Program projects; otherwise delete (projects estimated at over $2M).*

*Add the following modification to the end of 2.4.2.1***:**

 .**1** The Baseline Schedule and schedule submittals for Projects in the Mobilization Prompt Payment Program must identify periods of ‘critical mobilization.’ The periods of critical mobilization will include the first two months of the Contract Time and additional periods identified by the Contractor and approved by Owner when peak Subcontractor mobilization will occur.

*If desired for Lump Sum Contracts, include one of the following revisions of 2.4.2.6; delete the one(s) not used.*

* 1. **Before Starting Construction:**

*Delete 2.4.2.6 and replace with the following (changes to the original text are identified by underlining)*:

 **.6** A preliminary schedule of values for all of the Work, subdivided into component parts in sufficient detail to serve as the basis for progress payments during construction. At a minimum, the schedule of values shall be broken out by trade and split between materials and labor. Prices will include an appropriate amount of overhead and profit applicable to each item of Work;

***OR***

**2.4 Before Starting Construction:**

*Delete 2.4.2.6 and replace with the following (changes to the original text are identified by underlining)*:

 **.6** A preliminary schedule of values for all of the Work. This schedule of values shall be organized by Subcontractor, with each item of Work to be performed by that Subcontractor broken out under the Subcontractor’s name, and shall be subdivided in sufficient detail to serve as the basis for progress payments during construction. At a minimum, each trade shall be split between materials and labor. Prices will include an appropriate amount of overhead and profit applicable to each item of Work.

**ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

*If Project receives Federal funding, include the following paragraph 3.1.3; otherwise delete.*

**3.1 Intent:** *Add the following*:

**3.1.3** Federal Aid - Assurances: To the extent that federal funding has been provided for this Contract, the federal contracting provisions set forth in Section 00810A are made a part of the Contract Documents for all purposes. The provisions of Section 00810A are intended to supplement and will supersede and be controlling over the City’s standard 00700 General Conditions and other Contract Document provisions to the extent of any conflict with Section 00810A. The Contractor/Bidder acknowledges and agrees that Contractor/Bidder has the obligation to comply with the attached federal-aid assurances and contract provisions. This Section 3.1.3 will constitute the Contractor’s/Bidder’s accepted proposal and agreement with respect to the attached federal-aid assurances and contract provisions.

In the event of any ambiguity or inconsistency between the Section 00810A federal aid assurances and the Contract Documents, the federal provision will control to the extent consistent with the overall intent of the Project. If the Contractor/Bidder has any question as to the applicability of a Section 00700 or Section 00810A provision, the Contractor/Bidder shall submit a request for information to the Owner. The Owner will have three (3) business days in which to respond.

**ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS**

*Include the following revision of 4.1 in Contracts for building projects:*

**4.1 Availability of Lands:** *Add the following to the end of the paragraph*:

CONTRACTOR shall contact OWNER’s Transportation Department to obtain a Temporary Use of Right-of-Way Permit prior to beginning construction on any sidewalk/driveway or occupying any parking area/meters within the public right-of-ways.

*If necessary, include the following modification to paragraph 4.1; otherwise delete.*

*Pay particular interest if special provisions require “additional insured”. See companion edit in 5.3.1.1.4.*

**4.1 Availability of Lands:** *Add the following as a second paragraph to 4.1*:

Field Notes and Special Provisions to Easements, where applicable, are attached to Section 00810. All Work associated with Special Provisions to Easements shall be subsidiary to the entire Bid, unless otherwise specified. Should the actions of the CONTRACTOR, or its Subcontractors, Vendors, or Suppliers, cause the Work to be delayed to the point that the ending date of an easement has been exceeded, the CONTRACTOR shall be responsible to reimburse the OWNER for any additional costs required to extend the period of rights to the easement in order to complete the Work. This delay shall be considered to be any period of time required by the CONTRACTOR to fully and satisfactorily execute the Work that is in addition to the original Contract duration, as modified by any executed Contract change orders.

**ARTICLE 5 - BONDS AND INSURANCE**

**5.3 Other Bond and Insurance Requirements:**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| ***Project Manager to use the following table to determine which of the insurance paragraphs are applicable to the Project. Edit out the table and associated legend from the final document.******If work is within 50 feet of a railroad, check with the railroad for any special insurance requirements.******DEFINITIONS:****Governmental (Govmtl.) Functions - Projects for all departments except Austin Energy and Aviation inside Airport Operations Area (AOA).**Proprietary (Propriet'y) Functions - Projects for Austin Energy.**Aviation Inside AOA - Projects for Aviation Department inside AOA.**ROCIP - Rolling Owner Controlled Insurance Program.**LEGEND:*

|  |  |  |
| --- | --- | --- |
|  | ** | *Applicable Insurance Requirements.* |
|  |  |  |
|  |  | *Insurance Requirements Not Applicable, Which Should Be Edited Out.* |
|  |  |  |
|  | *As Req'd* | *Determine Whether Insurance Provisions Are Applicable.* |

|  |  |  |
| --- | --- | --- |
|  | *Traditional Projects* | *ROCIP Projects* |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *Paragraph* | *Govmtl. Functions* | *Govmtl.**Functions**w/Haz. Material* | *Propriet'y Functions* | *Aviation**Inside AOA* | *Govmtl.**Functions* | *Govmtl.**Functions**w/Haz. Material* | *Propriet'y Functions* | *Aviation**Inside**AOA* |
| *5.3.1 - Contractor**Provided Insurance* | ** | ** | ** | ** | ** | ** | ** | ** |
| *5.3.1.1 & all subpar. - General Reqmnts.* | ** | ** | ** | ** | ** | ** | ** | ** |
| *5.3.1.2 - Auto. Liab.* | ** | ** | ** | ** | ** | ** | ** | ** |
|  *.1* | ** |  |  |  | ** |  |  |  |
|  *.2* |  | ** | ** |  |  | ** | ** |  |
|  *.3* |  |  |  | ** |  |  |  | ** |
| *5.3.1.3 - Workers'**Comp. & Emp. Liab.* | ** | ** | ** | ** | ** | ** | ** | ** |
|  *.1* | ** | ** |  |  | ** | ** |  |  |
|  *.2* |  |  | ** | ** |  |  | ** | ** |
| *5.3.1.4 - Gen. Liab.* | ** | ** | ** | ** | ** | ** | ** | ** |
|  *.1* | ** |  |  |  | ** |  |  |  |
|  *.2* |  | ** | ** |  |  | ** | ** |  |
|  *.3* |  |  |  | ** |  |  |  | ** |
| *5.3.1.5 - Bldrs. Risk* | *As Req'd* | *As Req'd* | *As Req'd* | *As Req'd* | *As Req'd* | As Req'd | *As Req'd* | *As Req'd* |
|  | *Traditional Projects* |  |  | *ROCIP Projects* |  |  |
| *Paragraph* | *Govmtl. Functions* | *Govmtl.**Functions**w/Haz. Material* | *Propriet'y Functions* | *Aviation**Inside AOA* | *Govmtl.**Functions* | *Govmtl.**Functions**w/Haz. Material* | *Propriet'y Functions* | *Aviation**Inside**AOA* |
| *5.3.1.6 - Haz. Mat.* |  | ** | *As Req'd* | *As Req'd* |  | ** | As Req'd | *As Req'd* |
|  *.1* |  | ** | *As Req'd* | *As Req'd* |  | ** | *As Req'd* | *As Req'd* |
|  *.2* |  | ** | *As Req'd* | *As Req'd* |  | ** | *As Req'd* | *As Req'd* |
|  *.3* |  | ** | *As Req'd* | *As Req'd* |  | ** | *As Req'd* | *As Req'd* |
| *5.3.1.7 – Prof. Liab.* | ** | ** | ** | ** | ** | ** | ** | ** |
| *5.3.2 - Owner* *Controlled Insur.* |  |  |  |  | ** | ** | ** | ** |
| *5.3.2.1 - Intro.* |  |  |  |  | ** | ** | ** | ** |
| *5.3.2.2 & all subpar. - W.C. & Emp. Liab.* |  |  |  |  | ** | ** | ** | ** |
| *5.3.2.3 & all subpar. - Gen. Liability* |  |  |  |  | ** | ** | ** | ** |
| *5.3.2.4 & all subpar. - Excess Liability* |  |  |  |  | ** | ** | ** | ** |
| *5.3.2.5 & all subpar. - Gen. Provisions* |  |  |  |  | ** | ** | ** | ** |
| *Section 00425-A -**Constr. Insurance* *Information Form**Section 00425-B ROCIP Program Information* |  |  |  |  | ** | ** | ** | ** |

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**5.3.1** CONTRACTOR Provided Insurance

*If Project is part of Rolling Owner Controlled Insurance Program (ROCIP), include the following three paragraphs of text; otherwise delete the following three paragraphs but, retain 5.3.1 heading.*

CONTRACTOR shall provide insurance coverages described in paragraph(s) 5.3.1.1 and 5.3.1.2 (and 5.3.1.5 and 5.3.1.6, as required) for all Work required by the Contract through the end of the warranty period (with the exception of Builders’ Risk, which is required only until the Work is accepted by OWNER). In addition, CONTRACTOR shall provide insurance coverages described in Paragraph(s) 5.3.1.3 and 5.3.1.4 from Substantial Completion of the Work (in accordance with Section 00700 General Conditions Paragraph 14.11) to the end of the warranty period.

Subcontractors performing Work which involves asbestos, hazardous material or pollution defined as asbestos or any other excluded contractor as described in 5.3.2.1 will not be enrolled in the Rolling Owner Controlled Insurance Program (ROCIP) and must provide insurance as specified in paragraphs 5.3.1.1 through 5.3.1.6.

In the event that the Rolling Owner Controlled Insurance Program (ROCIP) or the coverage it provides to the Project is terminated for any reason, whether prior to the start of Work or any time during the Work, upon thirty (30) days Written Notice from OWNER, CONTRACTOR shall purchase and maintain as minimum the insurance coverages described in Paragraphs 5.3.1.3 and 5.3.1.4, for all Work remaining under the Contract through the end of the warranty period. All insurance secured by CONTRACTOR, Subcontractors and Sub-subcontractors pursuant to OWNER’s requirements under this provision shall be in accordance with Article 5 of the General Conditions and paragraph 5.3.1.1 of this section. If CONTRACTOR is required to provide insurance as described in paragraphs 5.3.1.3 and 5.3.1.4, OWNER shall reimburse CONTRACTOR for the reasonable cost of providing the insurance described therein based upon the “Total Cost of Insurance for Base Bid” (plus total of all “Total Cost of Insurance for Alternates” selected by OWNER) as stated by CONTRACTOR in Contract Section 00425A (Insurance Cost Form) pro-rated to take into account the Contract Time and Work remaining for performance of CONTRACTOR’s obligations under the Contract.

*Include the following text in 5.3 for all projects.*

**5.3.1.1** General Requirements.

 **.1** CONTRACTOR shall carry insurance in the types and amounts indicated below for the duration of the Contract, which shall include items owned by OWNER in the care, custody and control of CONTRACTOR prior to and during construction and warranty period.

 **.2** CONTRACTOR must complete and forward the Certificate of Insurance, Section 00650, to OWNER before the Contract is executed as verification of coverage required below. CONTRACTOR shall not commence Work until the required insurance is obtained and until such insurance has been reviewed by OWNER. Approval of insurance by OWNER shall not relieve or decrease the liability of CONTRACTOR hereunder and shall not be construed to be a limitation of liability on the part of CONTRACTOR. CONTRACTOR must also complete and forward the Certificate of Insurance, Section 00650, to OWNER whenever a previously identified policy period has expired as verification of continuing coverage.

 **.3** CONTRACTOR's insurance coverage is to be written by companies authorized to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better, except for hazardous material insurance which shall be written by companies with A.M. Best ratings of A- or better.

 **.4** All endorsements naming the OWNER as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall indicate: City of Austin, Capital Contracting Office, P.O. Box 1088, Austin, Texas 78767.

*If special provisions for easements require an additional insured (in addition to OWNER), insert the following 5.3.1.1.4.1; otherwise delete.*

 **.1** In addition to the OWNER, **<insert name of other party(ies)>** shall be added as an additional insured.

 **.5** The "other" insurance clause shall not apply to the OWNER where the OWNER is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both OWNER and CONTRACTOR, shall be considered primary coverage as applicable.

 **.6** If insurance policies are not written for amounts specified below, CONTRACTOR shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

 **.7** OWNER shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

 **.8** OWNER reserves the right to review the insurance requirements set forth during the effective period of this Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by OWNER based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as CONTRACTOR.

 **.9** CONTRACTOR shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

 **.10** CONTRACTOR shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

 **.11** CONTRACTOR shall provide OWNER thirty (30) days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

 **.12** If OWNER owned property is being transported or stored off-site by CONTRACTOR, then the appropriate property policy will be endorsed for transit and storage in an amount sufficient to protect OWNER's property.

 **.13** The insurance coverages required under this contract are required minimums and are not intended to limit the responsibility or liability of CONTRACTOR.

*Include the following 5.3.1.2 in all contracts,* ***except for*** *projects within 50 ft of a railroad (see below). Delete this option if the second option applies.*

**5.3.1.2** Business Automobile Liability Insurance. Provide coverage for all owned, non-owned and hired vehicles. The policy shall contain the following endorsements in favor of OWNER:

a) Waiver of Subrogation endorsement CA 0444;

b) 30 day Notice of Cancellation endorsement CA 0244; and

c) Additional Insured endorsement CA 2048.

Provide coverage in the following types and amounts:

*For projects involving "governmental functions"* ***without*** *hazardous materials, use the following option. If not applicable, delete this option and refer to the next option.*

 **.1** A minimum combined single limit of $500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are $250,000 bodily injury per person, $500,000 bodily injury per occurrence and at least $100,000 property damage liability each accident.

*For projects involving "governmental functions"* ***with*** *hazardous materials, and projects involving "proprietary functions” (coordinate amount with Risk Management), use the following option. If not applicable, delete in its entirety.*

*Delete all “<>”.*

 **.1** A minimum combined single limit of $<1,000,000 minimum> per occurrence for bodily injury and property damage.

*For Aviation projects inside AOA, use the following. If not applicable, delete in its entirety.*

 **.1** A minimum combined single limit of $5,000,000 per occurrence for bodily injury and property damage.

***OR***

*For projects within 50 feet of a railroad, or as required by the railroad, include the following revised paragraph 5.3.1.2 and 5.3.1.2.1*

**5.3.1.2** Business Automobile Liability Insurance. Provide coverage for all owned, non-owned and hired vehicles. The policy shall contain the following endorsements in favor of OWNER:

a) Waiver of Subrogation endorsement CA 0444;

b) 30 day Notice of Cancellation endorsement CA 0244; and

c) Additional Insured endorsement CA 2048.

Provide coverage in the following types and amounts:

 **.1** A minimum combined single limit of $2,000,000 per occurrence for bodily injury and property damage.

*Include the following this 5.3.1.3 in all contracts* ***except for*** *projects within 50 ft of a railroad (see below). Delete this option if the second option applies.*

**5.3.1.3** Workers' Compensation And Employers' Liability Insurance. Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Section 401). CONTRACTOR shall assure compliance with this Statute by submitting two (2) copies of a standard certificate of coverage (e.g. ACCORD form) to Owner's Representative for every person providing services on the Project as acceptable proof of coverage. The Certificate of Insurance, Section 00650, must be presented as evidence of coverage for CONTRACTOR. CONTRACTOR's policy shall apply to the State of Texas and include these endorsements in favor of OWNER:

a) Waiver of Subrogation, form WC 420304; and

b) 30 day Notice of Cancellation, form WC 420601.

The minimum policy limits for Employers' Liability Insurance coverage shall be as follows:

*For projects involving "governmental functions" with or without hazardous material, include the following to the optional section selected above.*

 **.1** $100,000 bodily injury per accident, $500,000 bodily injury by disease policy limit and $100,000 bodily injury by disease each employee.

*For projects involving "proprietary functions" and Aviation projects inside AOA (coordinate amounts with Risk Management), include the following to the optional section selected above. If not applicable, delete in its entirety.*

*Delete brackets < >.*

 **.1** $<1,000,000 minimum> bodily injury per accident, $<1,000,000 minimum> bodily injury by disease policy limit and $<1,000,000 minimum> bodily injury by disease each employee.

***OR***

*For projects* ***within*** *50 feet of a railroad, or as required by the railroad, use this entire 5.3.1.3 section. Delete the entire section if not applicable.*

**5.3.1.3** Workers' Compensation And Employers' Liability Insurance. Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Section 401). CONTRACTOR shall assure compliance with this Statute by submitting two (2) copies of a standard certificate of coverage (e.g. ACCORD form) to Owner's Representative for every person providing services on the Project as acceptable proof of coverage. The Certificate of Insurance, Section 00650, must be presented as evidence of coverage for CONTRACTOR. CONTRACTOR's policy shall apply to the State of Texas and include these endorsements in favor of OWNER:

a) Waiver of Subrogation, form WC 420304; and

b) 30 day Notice of Cancellation, form WC 420601.

The minimum policy limits for Employers' Liability Insurance coverage shall be as follows:

 **.1** $1,000,000 bodily injury per accident, $1,000,000 bodily injury by disease policy limit and $1,000,000 bodily injury by disease each employee.

*Include the following 5.3.1.4 in all contracts, except for projects within 50 feet of railroad (see below).*

**5.3.1.4** Commercial General Liability Insurance. The Policy shall contain the following provisions:

a) Contractual liability coverage for liability assumed under the Contract and all contracts relative to this Project.

b) Completed Operations/Products Liability for the duration of the warranty period.

c) Explosion, Collapse and Underground (X, C & U) coverage.

d) Independent Contractors coverage (Contractors/ Subcontractors work).

e) Aggregate limits of insurance per project, endorsement CG 2503.

f) OWNER listed as an additional insured, endorsements CG 2010 and CG 2037 or equivalent.

g) 30 day notice of cancellation in favor of OWNER, endorsement CG 0205.

h) Waiver of Transfer of Recovery Against Others in favor of OWNER, endorsement CG 2404.

Provide coverages A&B with minimum limits as follows:

*For projects involving "governmental functions" without hazardous materials use the following.*

 **.1** A combined bodily injury and property damage limit of $500,000 per occurrence.

*For projects involving "governmental functions" with hazardous materials, and projects involving "proprietary functions", coordinate amount with Risk Management. If not applicable, delete in its entirety.*

*Delete “<>"*

 **.1** A combined bodily injury and property damage limit of $<1,000,000 minimum> per occurrence.

*For Aviation projects inside AOA.*

 **.1** A combined bodily injury and property damage limit of $5,000,000 per occurrence.

***OR***

*For projects* ***within*** *50 feet of a railroad, or as required by the railroad, use this entire 5.3.1.4 section. Delete the entire section if not applicable.*

**5.3.1.4** Commercial General Liability Insurance. The Policy shall contain the following provisions:

a) Blanket contractual liability coverage for liability assumed under the Contract and all contracts relative to this Project.

b) Broad form property damage.

c) Completed Operations/Products Liability for the duration of the warranty period.

d) Explosion, Collapse and Underground (X, C & U) coverage.

e) Independent Contractors coverage.

f) Aggregate limits of insurance per project, endorsement CG 2503.

g) OWNER listed as an additional insured, endorsements CG 2010 and CG 2037 or equivalent.

h) 30 day notice of cancellation in favor of OWNER, endorsement CG 0205.

i) Waiver of Transfer of Recovery Against Others in favor of OWNER, endorsement CG 2404.

Provide coverages A&B with minimum limits as follows:

 **.1** A combined bodily injury and property damage limit of $2,000,000 minimum per occurrence and $4,000,000 minimum aggregate.

*For building, utility plant, tunneling, bridge and lift station projects, include the following Builders’ Risk Insurance provisions.*

**5.3.1.5** Builders' Risk Insurance. CONTRACTOR shall maintain Builders' Risk Insurance or Installation Insurance on an all risk physical loss form in the Contract Amount. Coverage shall continue until the Work is accepted by OWNER. OWNER shall be a loss payee on the policy. If off-site storage is permitted, coverage shall include transit and storage in an amount sufficient to protect property being transported or stored.

*For projects which include lead abatement instead of asbestos abatement, substitute "lead" for "asbestos" in the following paragraphs. For projects which include lead and asbestos abatement, change the following paragraphs to read "lead and asbestos." If no lead or asbestos delete in its entirety.*

**5.3.1.6** Hazardous Materials Insurance.

For Work which involves asbestos or any hazardous materials or pollution defined as asbestos, CONTRACTOR or Subcontractor responsible for the Work shall comply with the following insurance requirements in addition to those specified above:

 **.1** Provide an asbestos abatement endorsement to the Commercial General Liability policy with minimum bodily injury and property damage limits of $1,000,000 per occurrence for coverages A&B and products/completed operations coverage with a separate aggregate of $1,000,000. This policy shall not exclude asbestos or any hazardous materials or pollution defined as asbestos, and shall provide "occurrence" coverage without a sunset clause. The policy shall provide 30 day Notice of Cancellation and Waiver of Subrogation endorsements in favor of OWNER.

 **.2** CONTRACTOR or Subcontractor responsible for transporting asbestos or any hazardous materials defined as asbestos shall provide pollution coverage. Federal law requires interstate or intrastate transporters of asbestos to provide an MCS 90 endorsement with a $5,000,000 limit when transporting asbestos in bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more. Interstate transporters of asbestos in non-bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more must provide an MCS 90 endorsement with a $1,000,000 limit. The terms "conveyance" and "bulk" are defined by Title 49 CFR 171.8. All other transporters of asbestos shall provide either an MCS 90 endorsement with minimum limits of $1,000,000 or an endorsement to their Commercial General Liability Insurance policy which provides coverage for bodily injury and property damage arising out of the transportation of asbestos. The endorsement shall, at a minimum, provide a $1,000,000 limit of liability and cover events caused by the hazardous properties of airborne asbestos arising from fire, wind, hail, lightning, overturn of conveyance, collision with other vehicles or objects, and loading and unloading of conveyances.

 **.3** CONTRACTOR shall submit complete copies of the policy providing pollution liability coverage to OWNER.

*Include the following 5.3.1.7 in all contracts. Renumber as necessary.*

**5.3.1.7** Professional Liability Insurance. For Work which requires professional engineering or professional survey services to meet the requirements of the Contract, including but not limited to excavation safety systems, traffic control plans, and construction surveying, the CONTRACTOR or Subcontractors, responsible for performing the professional services shall provide Professional Liability Insurance with a minimum limit of $500,000 per claim and in the aggregate to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission committed with respect to all professional services provided in due course of the Work of this Contract. CONTRACTOR's policy shall include the following endorsement in favor of the OWNER:

a) 30 day Notice of Cancellation endorsement CA 0244

*For projects within 50 feet of a railroad, or as required by the railroad, include the following Railroad Property Liability insurance provisions. Also be sure to make companion edits in 5.3.1.2., 5.3.1.3 and 5.3.1.4 above.*

*Insert the following paragraph*:

**5.3.1.8** Railroad Protective Liability insurance with broad form coverage, with Railroad Owner listed as an additional named insured, with coverage as follows:

 **.1** Minimum combined single limit of $2,000,000 per occurrence for bodily injury and property damages and a minimum of $6,000,000 aggregate.

*If Project is part of Rolling Owner Controlled Insurance Program (ROCIP), include the following section 5.3.2; otherwise delete*.

**5.3.2** OWNER Controlled Insurance.

**5.3.2.1** OWNER has procured, and will maintain at its own expense a Rolling Owner Controlled Insurance Program (ROCIP) with the following coverage for OWNER, CONTRACTOR, each Subcontractor and their respective Sub-subcontractors while engaged in Work under the Contract. It is not the intent of this ROCIP to cover architects, engineers (not including design/build subcontractors), consultants, vendors, suppliers (who do not perform or subcontract installation), material dealers, guard services, janitorial services, truckers. Moreover, this ROCIP will not provide coverage for:

 **.1** Contractors and subcontractors whose main function is abating asbestos or removing hazardous materials and/or waste from the project site;

 **.2** Others whose sole function is to transport, pickup, deliver or carry materials, supplies, tools, equipment, parts or other items to or from the project site;

 **.3** Any employee(s) of the Contractor or an enrolled subcontractor of any tier that does not work and/or generate payroll at the Project Site

**5.3.2.2** Workers' Compensation and Employers' Liability Insurance. All states including monopolistic.

 **.1** Workers’ Compensation - Statutory Benefits for Texas or state of hire as required by statute.

 **.2** Employers' Liability. Limits of $1,000,000 bodily injury each accident. $1,000,000 bodily injury by disease, each employee. $1,000,000 bodily injury by disease, policy limit.

 **.3** Endorsements:

1. Employers’ Liability Coverage Endorsement
2. Designated Workplaces Exclusion Endorsement
3. Voluntary Compensation and Employers Liability Coverage Endorsement
4. Policy Period Endorsement
5. Texas Waiver of Our Right to Recover From Others Endorsement
6. Federal Employers’ Liability Act Coverage Endorsement
7. Longshoremen’s and Harbor Workers’ Compensation Act
8. Maritime Coverage Endorsement
9. Sole Proprietors, Partners, Officers and Others Coverage Endorsement
10. Sole Agent Consolidated Insurance Programs
11. Unintentional Error And Omissions Endorsement
12. Knowledge and Notice of Occurrence Endorsement
13. Texas Health Care Network Endorsement
14. Terrorism Risk Insurance Program Reauthorization Act Disclosure Endorsement
15. Notice of Cancellation
16. Texas Amendatory Endorsement - Notice of Cancellation
17. Alternate Employer Endorsement
18. Texas Deductible Endorsement
19. Texas Amendatory Endorsement – Who Is An Insured
20. State Specific Endorsements

**5.3.2.3** Commercial General Liability Insurance.

 **.1** Limits of Liability:

1. $4,000,000 - General Aggregate Limit
2. $4,000,000 - Products-Completed Operations Aggregate Limit
3. $2,000,000 - Personal and Advertising Injury
4. $2,000,000 - Each Occurrence
5. $1,000,000 - Damages to Premises Rented to You Limit (Any one premises. Subject to occurrence limit.)
6. $10,000 Medical Expense Limit (Any one person. Subject to occurrence limit.)
7. Aggregate limits reinstate annually during the 5-year project period. For 10 Year Completed Operations Extension, the Products Completed Operations Aggregate will be shared with the latest annual policy period during which a policy issued by us was in effect.

 **.2** Policy Form. Commercial General Liability Coverage Form CG 00 01 (04/13 Edition).

 **.3** Forms:

1. Wrap-up Insurance Program – Amendment of Coverage
2. Products and Completed Operations Extension – Ten (10) Years – This is part of the Wrap-Up Insurance Program Amendment of Coverage Endorsement
3. Repair Work – Twenty-Four (24) Months– This is part of the Wrap-Up Insurance Program Amendment of Coverage Endorsement
4. Sole Agent / First Named Insured is the Sole Agent – This is part of the Wrap-Up Insurance Program Amendment of Coverage Endorsement
5. Designated Projects - This is part of the Wrap-Up Insurance Program Amendment of Coverage Endorsement
6. Project Completion Date - This is part of the Wrap-Up Insurance Program Amendment of Coverage Endorsement
7. Common Policy Conditions
8. Texas Disclosure Form
9. Earlier Notice of Cancellation Provided By Us
10. Texas Changes - Cancellation And Nonrenewal Provisions For Casualty Lines And Commercial Package Policies
11. Designated Construction Project or Designated Location Combined Aggregate Limits – with Total Aggregate Limit for All Projects and Locations
12. Blanket Additional Insured
13. Notice of Occurrence, Offense or Injury
14. Knowledge of Occurrence or Offense
15. Non-owned Watercraft Amended
16. Contractual Liability - Railroads
17. Texas Changes – Employment Related Practices Exclusion
18. Per Project and Per Location combined Aggregate Limits – With Optional Capped Limits Endorsement
19. Unintentional Failure to Disclose
20. Reasonable Force
21. Bodily Injury Redefined
22. Waiver of Transfer Rights of Recovery Against Others to Us
23. Bodily Injury to Co-Employees Coverage – Supervisors, Managers and Good Samaritans
24. Exclusion – Contractors – Professional Liability
25. Professional Health Care Services by Employees or Volunteer Workers Coverage
26. Total Pollution Exclusion with Hostile Fire Exception
27. Silica Exclusion Endorsement
28. Recording and Distribution of Material or Information in Violation of Law Exclusion
29. Lead Exclusion
30. Mold And Mold Related Construction Defect Exclusion
31. Asbestos Exclusion Endorsement
32. Advertisement Redefined
33. Joint Defense Endorsement
34. Joint and Several Amendment
35. Nuclear Energy Liability Exclusion Endorsement (Broad Form)
36. Non-Cumulation of Liability (Same Occurrence)
37. Discrimination Exclusion
38. Composite Rate Endorsement
39. Deductible – Damages and Supplementary Payments (Damages Within The Deductible Erode The Policy Limit)
40. Personal and Advertising Injury – Occurrence Redefined
41. Personal and Advertising Injury – Definition of Publication
42. Cap On Losses From Certified Acts of Terrorism
43. Exclusion of Punitive Damages From Certified Acts of Terrorism
44. Other Terrorism Endorsements
45. All State Mandatory Endorsements

**5.3.2.4** Umbrella/Excess Liability Insurance.

 **.1** $50,000,000 - Each Occurrence

 **.2** $50,000,000 - Products-Completed Operations Aggregate

 **.3** $50,000,000 - Other Aggregate (Where Applicable)

 **.4** Umbrella/Excess includes a Completed Operations Extension period of Ten (10) years.

**5.3.2.5** General Provisions.

 **.1** Coverage Availability. All insurance specified herein shall be maintained continuously until Substantial Completion of the Project except as provided in Section 5.3.1. All insurance shall provide for OWNER to take occupancy of the Work or any part thereof during the term of said insurance.

 **.2** Insurance Policies and Certificates. The Broker and/or Insurers will issue Policies for Worker's Compensation and Binders for General Liability to CONTRACTOR, each Subcontractor and each Sub-subcontractor participating in the ROCIP.

 **.3** CONTRACTOR, Subcontractor and Sub-subcontractors agree to comply with the requirements of the ROCIP including enrollment, record keeping, reporting, auditing, and claim requirements.

 **.4** The first five thousand dollars ($5,000) of any insurable general liability property damage loss will be the responsibility of and paid by the CONTRACTOR and deducted from the contract amount.

 **.5** Contract Insurance Cost.

* + - 1. CONTRACTOR agrees not to duplicate or include any portion of their normal insurance cost, including Subcontractor insurance costs, in their Bid or in Change Orders (if any) for the coverages provided by OWNER under paragraphs 5.3.2.2 through 5.3.2.4.
			2. CONTRACTOR stipulates that the insurance costs as defined in the Insurance Cost Form (Section 00425A), submitted with the Bid and part of the Contract, as the amount that would have been included in the Bid if OWNER elected not to provide such coverage.
			3. CONTRACTOR agrees to the audit conditions specified in the Insurance Cost Form (Section 00425A).
			4. In the event OWNER elects not to include CONTRACTOR's Work under the ROCIP coverages, the insurance amounts reported in the Insurance Cost Form (Section 00425A) will be added to the Contract Amount on a pro-rated basis.
			5. CONTRACTOR shall agree to cooperate fully with OWNER's ROCIP Administrator and Project Manager in providing the necessary insurance data and information as required in the Bid Documents and associated documents and submittals furnished and required by OWNER during the duration of the Project or until OWNER furnished coverages are terminated. Failure to provide insurance information or documents/submittals to the OWNER’s ROCIP Administrator and OWNER’s Representative within specified time periods, by CONTRACTOR, any Subcontractor or Sub-subcontractor will result in withholding of progress payments to CONTRACTOR by OWNER. The Green Form can be withheld due to failure to provide insurance information or documents within specified time periods.

 **.6** Governing Conditions. In the event of conflict between Insurance Policy Terms and Conditions and the coverage conditions specified herein, the insurance policies will govern.

 **.7** CONTRACTOR Furnished Insurance.

1. Automobile Liability Insurance. CONTRACTOR and all Subcontractors, Sub-subcontractors and vendors shall maintain Automobile Liability Insurance as specified in paragraphs 5.3.1.1 and 5.3.1.2, at their own expense. CONTRACTOR must submit Certificates of Insurance for all Subcontractors to OWNER prior to their commencing Work on the Project.
2. Vendors, Suppliers and Haulers Required Insurance

c) Workers’ Compensation and Employers’ Liability Insurance. Vendors, suppliers, haulers, and other non-ROCIP participants as outlined in 5.3.2.1 shall provide workers’ compensation insurance as specified in paragraphs 5.3.1.1 and 5.3.1.3.

 This coverage requirement does not apply to motor carriers who are required pursuant to Texas Civil Statutes, Article 6675c to register with the Texas Department of Transportation and to provide accidental insurance coverage pursuant to Texas Civil Statutes, Article 6675c.

 This coverage requirement does not apply to sole proprietors, partners, and corporate officers who meet the requirements of the Texas Workers’ Compensation Act (Act), Article 406.09(c) and who are explicitly excluded from coverage in accordance with the Act.

d) Automobile Liability Insurance. Vendors, suppliers, haulers and other non-ROCIP participants as outlined in 5.3.2.1 shall provide workers’ compensation insurance as specified in paragraphs 5.3.1.1 and 5.3.1.2.

e) Commercial General Liability Insurance. Vendors, suppliers, haulers, and other non-ROCIP participants as outlined in 5.3.2.1 shall provide Commercial General Liability Insurance as specified in paragraphs 5.3.1.1 and 5.3.1.4.

 **.8** Other Insurance.

1. The ROCIP as outlined herein is intended to afford broad coverage and relatively high limits of liability, but it may not provide all the insurance needed or desired by CONTRACTOR, Subcontractors or Sub-subcontractors. Any insurance or limits of liability greater than those provided by the ROCIP or other coverages which CONTRACTOR, Subcontractors or Sub-subcontractors may be required by Law to carry or may need for its own protection, shall be at their own expense and the cost therefore may not be included in the Bid.
2. If CONTRACTOR chooses to have such policies endorsed to recognize the Project site during the construction period, coverage should be excess and/or Difference In Conditions (DIC) of the OWNER's ROCIP as determined by CONTRACTOR or Subcontractor. OWNER shall be endorsed as additional insured.
3. Any policy of insurance covering CONTRACTOR, any Subcontractor or any Sub-subcontractor for its owned and leased machinery, water craft, vehicles, tools, or equipment (used in connection with the Project) for physical loss or damage shall provide a Waiver of Subrogation Rights against OWNER, Project Manager, if applicable, CONTRACTOR, Subcontractor, or Sub-subcontractor that is insured under the ROCIP, including the employees, agents or assigns of any one of them.

 **.9** Mutual Waiver of Property Damage and Right of Recovery. To the extent of coverage provided by the Builder's Risk Insurance, OWNER has waived its rights to recover physical damage or loss to its property against CONTRACTOR, Subcontractors and Sub-subcontractors. CONTRACTOR, Subcontractors and Sub-subcontractors shall also waive any and all rights each may have to recover physical damage or loss to the property of each against OWNER, its designees, E/A, and other contractors engaged in the Project. This waiver of the right of recovery for property damage shall be binding upon any property, automobile or equipment insured in respect to any subrogation rights which such insurer may possess by virtue of any payments of damage or loss. CONTRACTOR, Subcontractors and Sub-subcontractors agree as a condition of performing Work on the Project to execute such documents and coverage described herein and the waiver(s) of subrogation as described herein.

 **.10** Certificates of Insurance. CONTRACTOR shall submit three (3) copies of the required Certificates of Insurance (Section 00650) for CONTRACTOR and all Subcontractors and Sub-subcontractors to OWNER prior to their commencing Work on the job site. CONTRACTOR and all Subcontractors and Sub-subcontractors shall provide the following information on the Certificate of Insurance:

 Workers’ Compensation (off-site)

 General Liability (off-site)

 Umbrella/Excess Liability (off-site)

 Automobile Liability - Primary (CONTRACTOR must provide hired/non-owned)

**5.3.2.6** ROCIP Subcontractor Process Information. During the subcontracting of the Work, the Contractor will comply with the applicable Contractor – Subcontractor notice and documentation requirements of the Section 00425B. This provision applies to any subcontract entered into on or after January 1, 2016:

Owner will provide the ROCIP Information outlined in Section 00425B to the Contractor and, at least 10 days prior to entering into a subcontract, the Contractor must provide the ROCIP Information to its Subcontractors. The Contractor and Subcontractors must acknowledge receipt of the ROCIP Information and provide the Affidavit and Acknowledgment indicating receipt of the ROCIP Information included in Section 00425B. If the Contractor does not provide the ROCIP Information to its Subcontractors and obtain the Affidavit of Receipt and Provision of the ROCIP Information from its Subcontractors prior to entering into a subcontract, the Contractor is responsible to the Subcontractors under Section 151.004 of the Texas Insurance Code for the actual cost of providing the insurance required under Article 5 of the 00700 General Conditions and Paragraph 5.3.1 of the Section 00810 Supplemental General Conditions. If for any reason a Subcontractor is not provided the ROCIP Information on a timely basis and the Contractor subsequently provides the ROCIP Information to the Subcontractor, the Subcontractor may acknowledge its receipt and provide the Affidavit included in Section 00425B to the Contractor prior to commencing Work on the Project.

*If necessary, edit the payment percentages in paragraph 5.4.2.2 and 5.4.2.3 to meet specific project needs; otherwise delete if standard language in the 00700 is acceptable.*

**5.4.2** Performance Bond.

 **.2** If the Contract Amount exceeds $25,000 but is less than or equal to $100,000, CONTRACTOR shall furnish OWNER with a Performance Bond in the form set out in Section 00610, unless the original Contract Time is 60 Calendar Days/40 Working Days or less, in which case CONTRACTOR can agree to the following terms and conditions for payment in lieu of providing a Performance Bond: no moneys will be paid to CONTRACTOR until completion and acceptance of the Work by OWNER; CONTRACTOR shall be entitled to receive <95%> of the Contract Amount following Final Completion, and the remaining <5%> of the Contract Amount following the one year warranty period.

 **.3** If the Contract Amount is less than or equal to $25,000, CONTRACTOR will not be required to furnish a Performance Bond; provided that no moneys will be paid to CONTRACTOR until completion and acceptance of the Work by OWNER under the following terms and conditions: CONTRACTOR shall be entitled to receive <95%> of the Contract Amount following Final Completion, and the remaining <5%> of the Contract Amount following the one year warranty period.

**ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES**

*For Federal DBE projects, include the following modification of 6.4.7; otherwise delete.*

**6.4 Concerning Subcontractors, Suppliers and Others:** *Delete 6.4.7 and replace with the following*:

**6.4.7** CONTRACTOR shall pay each Subcontractor under this Contract for satisfactory performance of its contract no later than ten (10) Calendar Days from the CONTRACTOR’s receipt of payment from OWNER. CONTRACTOR shall not withhold retainage payments from any Subcontractor. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval from OWNER. This clause applies to both DBE and non-DBE Subcontractors.

*If needed, include the following modification of 6.5; otherwise delete.*

**6.5 Patent Fees and Royalties:** *Add the following*:

*Insert any Project specific information on license fees and royalties.*

*Include the following modification of 6.6 in all Contracts.*

**6.6 Permits, Fees:** *Add the following*:

OWNER will obtain and pay for the following permits, licenses and/or fees:

*Add to or delete from the following list to meet Project requirements.*

 **6.6.1** Site Development Permit.

 **6.6.2** Building Permit(s). OWNER's responsibility for obtaining and paying for the Building Permit(s) shall be limited to the following where applicable: the required Electrical Service (Aid of Construction) Fee, Water and Wastewater Tap Fees, Water and Wastewater Capital Recovery Fees, and Septic Permit Fee. The OWNER’s responsibility for obtaining and paying for the Building Permit(s) excludes securing and paying for the following where applicable: Driveway Permit (Concrete) Fee, Electrical Permit, Mechanical Permit, Plumbing Permit, Water Engineering Inspection Fee, Temporary Use of Right-of Way Permit, the gas company’s Gas Yard Line Contribution Fee, and any other permits/fees not listed above.

 **6.6.3** Texas Department of Transportation permit for Work in State rights-of-way.

 **6.6.4** Railroad Utility License Agreement.

*6.7.4 Option 1: If Project will have an aggregate disturbed area of soil at least 1 acre but less than 5 acres, include the following paragraph 6.7.4, and appropriate subparagraphs as described below. If there is any other Project specific information, (e.g. Federal regulations connected to funding), insert it in 6.7.4. If neither of these conditions applies, delete the following 6.7.4 and all of its subparagraphs.*

*See Option 2 below if the Project site is 5 acres or more.*

*Option 3: Projects that disturb less than one (1) acre are not required to comply with TPDES requirements unless they are part of a common plan of development of one (1) acre or more. For these projects 6.7.4 may be deleted.*

**6.7 Laws and Regulations:** *Add the following*:

**6.7.4** This Work is subject to the Texas Pollution Discharge Elimination System (TPDES) permitting requirements for the installation and maintenance of temporary and permanent erosion and sediment controls and storm water pollution prevention measures throughout the construction period.

OWNER has prepared a Storm Water Pollution Prevention Plan (SWPPP). Reference Section 01096 for this SWPPP.

OWNER shall file the Owner's Notice of Intent to the Texas Commission on Environmental Quality (TCEQ). OWNER shall pay the TPDES storm water application fee.

CONTRACTOR’s responsibilities are as follows:

 **.1** Obtain a signed certification statement from all Subcontractors responsible for implementing the erosion / sedimentation controls and other best management practices that are part of the SWPPP. This statement shall indicate that the Subcontractor understands the permit requirements. The certified statement forms shall be attached to and become part of the SWPPP.

 **.2** Fill out the TCEQ’s “Construction Site Notice” form, which is Attachment 2 to the TPDES General Permit TXR150000 (form available from OWNER or on the Internet at <http://www.tceq.state.tx.us/assets/public/permitting/waterquality/attachments/stormwater/txr152d2.pdf> and post it near the main entrance of the Work, or at multiple postings if the Work is linear. Mail a copy of the completed Construction Site Notice form to the local Municipal Separate Storm Sewer Systems (MS4) representative:

TPDES Program Coordinator
City of Austin – WPD – ERM
P.O. Box 1088
Austin, TX 78767

 **.3** Maintain all erosion/sedimentation controls and other protective measures identified in the SWPPP in effective operating condition.

 **.4** Perform inspections every five (5) working days and after every ½ inch rainfall event, noting the following observations on an inspection form provided by OWNER:

1. Locations of discharges of sediment or other pollutants from the site.
2. Locations of storm water / erosion / sedimentation controls that are in need of maintenance.
3. Locations of storm water / erosion / sedimentation controls that are not performing, failing to operate, or are inadequate.
4. Locations where additional storm water / erosion / sedimentation controls are needed.

 **.5** Maintain at Work site at all times a copy of the SWPPP (with all updates, as described below) and inspection reports.

 **.6** Update the SWPPP as necessary to comply with TPDES permitting requirements, which includes noting changes in erosion / sedimentation controls and other best management practices that are part of the SWPPP and which may be necessary due to the results of inspection reports. Any SWPPP revisions or updates must be signed and certified by a Certified Professional in Erosion and Sedimentation Control (CPESC) or a Registered Professional Engineer.  If the SWPPP includes engineering calculations, then SWPPP must be sealed and signed by a Registered Professional Engineer.

 **.7** Upon completion of the Work, provide TPDES records to OWNER.

*6.7.4 Option 2: If Project will have an aggregate disturbed area of soil 5 acres or more, include the following paragraph 6.7.4, and appropriate subparagraphs as described below. If there is any other Project specific information, (e.g. Federal regulations connected to funding), insert it in 6.7.4. If neither of these conditions applies, delete the following 6.7.4 and all of its subparagraphs.*

**6.7 Laws and Regulations:** *Add the following 6.7.4*:

**6.7.4** This Work is subject to the Texas Pollution Discharge Elimination System (TPDES) permitting requirements for the installation and maintenance of temporary and permanent erosion and sediment controls and storm water pollution prevention measures throughout the construction period.

OWNER has prepared a Storm Water Pollution Prevention Plan (SWPPP). Reference Section 01096 for this SWPPP.

OWNER shall file the Owner's Notice of Intent and Notice of Termination to the Texas Commission on Environmental Quality (TCEQ). OWNER shall pay the TPDES storm water application fee.

CONTRACTOR's responsibilities are as follows.

 **.1** File a Notice of Intent (NOI) form with the TCEQ at least two (2) days prior to start of construction activity and pay for the permit. Form is available from OWNER or on the Internet at: <http://www.tceq.state.tx.us/assets/public/permitting/waterquality/forms/20022.pdf>

The form shall be mailed or submitted online to the TCEQ. If submitting online, the web address is <https://www6.tceq.state.tx.us/steers/>. If CONTRACTOR has not already registered to use the TCEQ online application submittal service, it will take up to ten (10) Working Days to receive a user name and password. CONTRACTOR shall take this timeframe into consideration if applying online. A Time Extension shall not be granted for this timeframe. The mailing address is:

Texas Commission on Environmental Quality
Storm Water & General Permits Team; MC-228
P.O. Box 13087
Austin, TX 78711-3087

A copy of the completed Notice of Intent (NOI) form must also be mailed to the local Municipal Separate Storm Sewer Systems (MS4) representative:

TPDES Program Coordinator
City of Austin – WPD – ERM
P.O. Box 1088
Austin, TX 78767

 **.2** Obtain a signed certification statement from all Subcontractors responsible for implementing the erosion and sediment control measures. This statement shall indicate that the Subcontractor understands the permit requirements. The certified statement forms shall be attached to and become part of the SWPPP.

 **.3** Post a notice near the main entrance of the Work with the following information.

1. The TPDES permit number for the Work or a copy of the NOI if a permit number has not yet been assigned,
2. The name and telephone number of a local contact person,
3. A brief description of the Work, and
4. The location of the SWPPP if the site is inactive or does not have an on-site location to store the plan.

If posting this information near a main entrance is infeasible due to safety concerns, the notice must be posted in a local public building. If the Work is linear (pipeline, highway, etc.), the notice must be placed in a publicly accessible location near where construction is actively underway and moved as necessary. For linear Work, multiple postings of the information may be required by OWNER (e.g. postings at both ends of the Work).

 **.4** Maintain all erosion and sediment control measures and other protective measures identified in the SWPPP in effective operating condition.

 **.5** Perform inspections every five (5) working days and after every ½ inch rainfall event, noting the following observations on an inspection form provided by OWNER:

1. Locations of discharges of sediment or other pollutants from the site.
2. Locations of storm water / erosion / sedimentation controls that are in need of maintenance.
3. Locations of storm water / erosion / sedimentation controls that are not performing, failing to operate, or are inadequate.
4. Locations where additional storm water / erosion / sedimentation controls are needed.

 **.6** Maintain at Work site at all times a copy of the SWPPP (with all updates, as described below) and inspection reports.

 **.7** Update the SWPPP as necessary to comply with TPDES permitting requirements, which includes noting changes in erosion / sedimentation controls and other best management practices that are part of the SWPPP and which may be necessary due to the results of inspection reports. Any SWPPP revisions or updates must be signed and certified by a Certified Professional in Erosion and Sedimentation Control (CPESC) or a Registered Professional Engineer.  If the SWPPP includes engineering calculations, then SWPPP must be sealed and signed by a Registered Professional Engineer.

 **.8** File a Notice of Termination with the TCEQ within thirty (30) days of final stabilization on all portions of the Work site. Form is available from OWNER or on the Internet at:

<http://www.tceq.state.tx.us/assets/public/permitting/waterquality/forms/20023.pdf>.

The NOT shall be mailed to:

Storm Water & General Permits Team; MC-228
P.O. Box 13087
Austin, TX 78711-3087
(512) 239-4671

 **.9** Upon completion of the Work, provide TPDES records to OWNER.

*If Project is part of Rolling Owner Controlled Insurance Program (ROCIP), include the following modification to 6.11.2; otherwise delete.*

**6.11 Safety and Protection:** *Add the following to paragraph 6.11.2*:

CONTRACTOR shall comply with all provisions of the "Project Safety Manual" provided by OWNER as part of its insurance coverage program under the Rolling Owner Controlled Insurance Program (ROCIP). This program is in addition to CONTRACTOR's existing safety program, not in lieu of that program.

**ARTICLE 9 - ENGINEER/ARCHITECT'S STATUS DURING CONSTRUCTION**

*If Resident Project Representative is utilized, include the following paragraph 9.4; otherwise delete:*

* 1. **Project Representative:** *Add the following*:

*Add responsibilities, authority and limitations of Resident Project Representative here.*

**ARTICLE 11 - CHANGE OF CONTRACT AMOUNT**

*If desired, include the following modifications to 11.4.1.2 to clarify how a proposed lump sum adjustment to the Contract Amount will be evaluated; otherwise delete.*

**11.4 Determination of Value of Work:** *Add the following to paragraph 11.4.1.2*:

In the case of a Change Order determined by a mutually agreed lump sum or unit price properly itemized and supported by sufficient substantiating data, including documentation by subcontractors performing the work, to permit evaluation, the following method may be used:

**COMPONENT ONE** - The R.S. Means Co., Inc. 'Building Construction Cost Data' - latest edition - will be used as a basis for evaluating:

1a - the cost of labor (base rate, including fringe benefits),

1b - the cost of material and equipment to be incorporated in the Work, and

1c - the cost of tools, equipment and facilities necessary to accomplish the Work described in the change.

**COMPONENT TWO** - The costs of payroll taxes and insurance, Liability and Builder's Risk Insurance, shall be calculated as follows:

2a - Payroll taxes and Workers' Compensation Insurance <25% of payroll (Item 1a) (14.65% of 1a for ROCIP Projects)>

2b - Liability and Builder's Risk Insurance <2% of "total costs" (Items 1a, 1b, 1c, and 2a) (.034% of “total costs” for ROCIP Projects)>

**COMPONENT THREE** - Overhead and profit shall be calculated as follows:

3a - For Subcontractors and for those portions of the Work performed by CONTRACTOR's own forces:

15% of the first $10,000.00 of costs and 10% of the balance over $10,000.00.

("costs" = Items 1a, 1b, and 1c, above, broken down into Contractor and Subcontractor costs).

3b - For the CONTRACTOR for that portion of the Work performed by Subcontractors:

10% of the first $10,000.00 of the Subcontractor costs and 7.5% of the balance over $10,000.00.

("costs" = Items 1a, 1b, and 1c, above, broken down into Subcontractor costs)

 **COMPONENT FOUR** - Bonds

Performance and Payment Bond according to the following table ("TOTAL COST" = Items 1a, 1b, 1c, 2a, 2b, 3a, and 3b):

|  |  |  |
| --- | --- | --- |
| **DOLLAR VALUE OF CONTRACT** |  | **% OF TOTAL COST OF CHANGE ORDER ADDED FOR BOND EXPENSE** |
| $100,000 | OR | LESS |  | 2.5 |
| $100,001  | THRU | $500,000 |  | 1.5 |
| $500,001 | THRU | $2,500,000 |  | 1.0 |
| $2,500,001 | THRU | $5,000,000 |  | 0.75 |
| $5,000,001 | THRU | $7,500,000 |  | 0.70 |
| OVER $7,500,000 |  |  |  | 0.65 |

1. The total costs for the change, whether additive or deductive, shall be the sum total of COMPONENTS ONE - FOUR.

**ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

*If a "Warranty Item Form" is to be utilized on the Project, add the following paragraph 13.7.5 and attach a copy at the end of this section; otherwise delete.*

**13.7 Warranty Period:** *Add the following*:

**13.7.5** OWNER will utilize a "Warranty Item Form" (attached at the end of this Section) for the purpose of providing Written Notice of warranty defects to CONTRACTOR. CONTRACTOR shall date, sign, complete and return the form to OWNER when the defect is corrected, including such information on or attached to the form to describe the nature of the repairs or corrections that were made. If the defect cannot be corrected in seven (7) Calendar Days, CONTRACTOR shall provide a written explanation to the Owner's Representative describing the repairs needed and the time required to complete the repairs.

**ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION**

*For projects estimated at over $2M, include the following modifications of 14.1.1 for the Mobilization Prompt Payment Program; otherwise delete.*

**14.1 Application for Progress Payment:** *Delete 14.1.1 and replace with the following (changes to the original text are identified by underlining)*:

**14.1.1** No more often than once a month, unless authorized as part of the Mobilization Prompt Payment Program, CONTRACTOR shall submit to Owner's Representative for review a completed and executed Application for Payment, in a form acceptable to OWNER, covering the Work completed as of the date of the Application and not previously paid and accompanied by such supporting documentation as required by the Contract Documents.

*Add the following paragraph to 14.1.1*:

 **.1 Mobilization Prompt Payment Program.** During critical mobilization periods, as identified by the CONTRACTOR and as approved by OWNER in accordance with 00700 2.4.2.1 of this Contract, CONTRACTOR shall submit bi-monthly Applications for Payment. The additional Pay Applications will include any costs accrued during the periods of critical mobilization. The Program will allow the CONTRACTOR and Subcontractors to invoice for costs as they are accrued during periods of critical mobilization. The CONTRACTOR shall submit bimonthly invoices to the OWNER for such costs. The CONTRACTOR shall pay Subcontractors for costs within 10 days of receipt of payment from OWNER.

*Include the following edit of 14.1.5 for projects with federal funding.*

**14.1 Application for Progress Payment:** *Delete 14.1.5 and replace with the following*:

 **14.1.5** Retainage will not be withheld on federally funded projects.

*Include the following modification to 14.1.6, if applicable; otherwise delete.*

**14.1 Application for Progress Payment:** *Delete 14.1.6.3 and replace with the following*:

*For projects utilizing Time Extension Request form, include the following:*

 **.3** Time Extension Request.

*OR*

*For Working Day or Calendar Day contracts utilizing a contract time statement form (a.k.a. monthly time statement), include the following:*

 **.3** Contract time statement form signed by CONTRACTOR and Owner’s Representative. If CONTRACTOR does not agree with the number of accumulated days charged, CONTRACTOR shall file a Claim in accordance with Article 16.1, Filing of Claims.

*For ROCIP projects, include the following:*

 **14.1.6.4** Payroll Authorization and Certificates of Insurance. CONTRACTOR shall provide monthly payroll reports (including CONTRACTOR and all Subcontractors and Sub-subcontractors) to the ROCIP Insurance Administrator on forms provided by the ROCIP Administrator or on other mutually agreed upon forms. In addition, Contractor shall assure that current certificates of insurance are provided as necessary for CONTRACTOR and all Subcontractors and Sub-subcontractors. A Payment Form signed by the ROCIP Administrator shall be submitted with each Application for Payment. Failure to submit this form will result in withholding of payment. The ROCIP Insurance Administrator will generate the Payment Form upon receipt of the monthly payroll report and required certificates of insurance.

*And/or insert any additional documentation to be included with Applications for Payment, e.g. photographs.*

*For ROCIP projects, include the following modification of 14.4.1; otherwise delete:*

**14.4 Decisions to Withhold Payment:** *Reference 14.4.1; add the following*:

 **.16** failure of CONTRACTOR to meet the ROCIP and/or Safety Program requirements.

 **.17** property damage losses that are the responsibility of the CONTRACTOR (reference section 00810, 5.3.2.5.4)

*For water and wastewater line construction and/or roadway construction/reconstruction projects, include the following modifications of 14.7.1, otherwise delete:*

**14.7 Substantial Completion:** *Reference 14.7.1, and one of the following three provisions*:

 **14.7.1.1** For water and wastewater lines construction, Substantial Completion means that the Work, including all testing and disinfection, has been completed and accepted and the line(s) placed into service. A certificate of Substantial Completion will not be issued. Work that remains after Substantial Completion could include the final pavement of roadways, adjustment of structures to final grade and revegetation. Owner’s Representative will issue a notice specifying what portion of the Work is partially completed for the purpose of payment and what Work remains to be done on the portion being accepted as Substantially Complete. This subsection 14.7.1.1 changes the 00700 General Conditions definition of Substantial Completion.

 **14.7.1.1** For roadway construction and/or reconstruction, Substantial Completion means that the Work, including the final surface course, all permanent traffic control devices (pavement markings, signs, etc.), and substantial clean-up have been completed, accepted, and placed into service, and, any traffic signal or street lighting conduit that has been installed, lowered or relocated must be inspected for usability by, and must have received written approval from, the City’s traffic signal section and/or street lighting section, as well as having been completed, accepted, and placed into service. A certificate of Substantial Completion will not be issued. Work that remains after Substantial Completion could include final clean up. Owner’s Representative will issue a notice specifying what portion of the Work is partially completed for the purpose of payment and what Work remains to be done on the portion being accepted as Substantially Complete. This subsection 14.7.1.2 changes the 00700 General Conditions definition of Substantial Completion.

*Include the following paragraph 14.7.1.1if needed to identify unique substantial completion requirements*

*Add the following*:

**14.7.1.1**

*Identify any specific Work that must be completed in order for Work, or portion thereof, to be deemed substantially complete.*

*For water and wastewater line construction and/or roadway construction/reconstruction projects, include the following modifications of 14.8.1; otherwise delete:*

**14.8 Partial Utilization:** *Delete 14.8.1 and replace with the following (changes to the original text are identified by underlining)*:

 **14.8.1** OWNER at any time may request CONTRACTOR to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to Owner’s Representative that such part of the Work is substantially complete and request Owner’s Representative to issue a notice specifying what portion of the Work is substantially complete for the purpose of payment and what Work remains to be done on the portion being accepted. CONTRACTOR at any time may notify Owner’s Representative that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request Owner’s Representative to issue a notice specifying what portion of the Work is partially completed for the purpose of payment and what Work remains to be done on the portion being accepted. The provisions of paragraphs 14.7.1 and 14.7.2 will apply with respect to the notice specifying what portion of the Work is partially completed for the purpose of payment and what Work remains to be done on the portion being accepted.”

*For ROCIP projects and/or those complying with the SWPPP requirements in 6.7.4, include the following modification of 14.10 and number accordingly; otherwise delete.*

**14.10 Final Application for Payment:** *Add the following paragraph(s) to 14.10*:

 **14.10.10** Documentation required by the ROCIP.

 **14.10.11** TPDES records in accordance with 6.7.4.

*For projects subject to "Tree Use in Capital Improvements" under City Code Section 6-3-64 add the first edit to 14.11.1; otherwise delete. For projects with remaining revegetation work, add the second edit to 14.11.1; otherwise delete.*

**14.11 Final Payment and Acceptance:** *Add the following to paragraph 14.11.1*:

If the Contract Documents require the maintenance of any trees and tree support infrastructure for two (2) years following Final Completion, the CONTRACTOR may execute a zero-cost “Tree Maintenance Change Order” for such Work and post fiscal security acceptable to OWNER to ensure completion of the tree maintenance. The fiscal security will be a bond, letter of credit, or cash escrow in a form promulgated by OWNER and posted with OWNER’s Parks and Recreation Department. If the CONTRACTOR does not complete the tree maintenance work as required, the OWNER, at its option, may complete the Work using the posted fiscal security.

*Add the following to paragraph 14.11.1*:

If the sole remaining, unfinished item of the Work is revegetation or other permanent erosion control, including, if applicable, tree mitigation, (collectively, the “revegetation”), the CONTRACTOR may execute a zero-cost “Revegetation Change Order” for such Work and post fiscal security acceptable to Owner to ensure completion of the revegetation.

The fiscal security will be a bond, letter of credit, or cash escrow in a form promulgated by OWNER and posted with OWNER’s Watershed Protection Department.

Upon receipt of the executed Revegetation Change Order and fiscal security, the Owner’s Representative will issue a conditional letter of final acceptance to the CONTRACTOR for the Work, excluding the revegetation, which establishes the Final Completion Date for that Work and initiates the one year warranty period.

This revegetation must be accomplished within 120 Calendar Days of the date of Final Completion of the balance of the Work or such other stipulated time for completion directed in the Change Order. When the revegetation has been established, OWNER will inspect for final acceptance of that portion of the Work and, as applicable, initiate the one year warranty period for that Work.

If the revegetation is not completed within 120 Calendar Days or such other time set forth in the Change Order, the OWNER, at its option, may complete the Work using the posted fiscal security.

**ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION**

*For ROCIP projects, include the following modification of 15.3.1; otherwise delete:*

**15.3 Owner May Terminate with Cause:** *Add the following paragraph to 15.3.1*:

 **.8** If CONTRACTOR fails to meet the ROCIP and/or Safety Program requirements;

*If you included optional paragraph 13.7.5, use Warranty form attached at the end of this file; otherwise delete and add the* ***END*** *designator after 15.3 to indicate this is the end of this section:*

**WARRANTY ITEM NO. \_\_\_\_\_ (PROJECT NAME)**

**The General Conditions of the Contract require that Warranty Defects be corrected within 7 days after written notice is received.**

**TO**: *contractor name address / telephone / fax / email*

**ATTENTION** **OF**:

**FROM**:
 *project manager name / address / telephone / fax / email*

**PROJECT**:
 *name / location / CIP ID number*

**END OF ONE YEAR WARRANTY**:

**SUBJECT**:
[ ] If checked, the damage requires immediate attention. The Contractor has been called.
[ ] If checked, the Consultant has been asked to consult with the Contractor on the problem.

**PLEASE CORRECT OR REPAIR THE FOLLOWING ITEM(S):**

**DATE OF REQUEST** **SIGNATURE** Project Manager

xc:
[ ] Phone No.

[ ] Phone No.

[ ] Phone No.

[ ] Phone No.

**RESPONSE FROM CONTRACTOR:** DATE CORRECTION WAS MADE:\_\_\_\_\_\_\_\_\_\_\_\_\_

The Contractor must endeavor to correct the defect within 7 calendar days after written notice is given. If the defect cannot be corrected in that time, Contractor shall provide a written explanation to the Owner's Representative describing the repairs needed and the time required to complete the repairs.

**Description of corrections made:**

**DATE OF REPLY** SIGNATURE

When the repair is complete, the contractor should return a copy to each of the following:

[ ] Phone No.

[ ] Phone No.

[ ] Phone No.

[ ] Phone No.

**END**