

Schedule Q

(Revised 1/5/15)

CONSTRUCTION CONTRACTOR INSURANCE REQUIREMENTS

Section 0.0 Introduction of the Owner-Controlled Insurance Program

The City of Oakland (City) has implemented an Owner-Controlled Insurance Program (OCIP) for its construction projects. With few exceptions, the OCIP will be provided on all construction projects. The OCIP will provide the following insurance for all contractors enrolled the program, regardless of tier:

- Commercial General Liability
- Workers' Compensation/Employers Liability
- Excess Liability

Enrollment into the OCIP is required for all eligible contractors but is not automatic. Contractors must complete the enrollment forms and participate in the enrollment process for OCIP coverage to apply. For complete details about the enrollment process, refer to the OCIP Procedures Manual available from the City or OCIP Administrator upon request. Some trades are ineligible for the OCIP. Contractors that are ineligible for enrollment are required to maintain their own insurance. They include:

- Contractors involved in hazardous material abatement or handling such as asbestos remediation or environmental cleanup operations.
- Suppliers/vendors that merely make deliveries to or from the job site, sales persons, tower-crane erection contractors, and truckers.
- The City reserves the right to exclude any party even if otherwise eligible.

Section 1.0 Insurance Requirement for Potential OCIP Projects

Section 1.1 Insurance Coverage Provided by OCIP

The following summaries are provided for general informational purposes in the event that the City elects to provide an OCIP. The actual terms and conditions of the coverage provided are contained in the OCIP insurance policies, and the General Contractor and others shall not rely upon this summary in lieu of the actual policies. It is the responsibility of all contractors to review the policies. Copies of the policies are available upon request to all contractors that will potentially participate in the OCIP.

Section 1.1.1 Commercial General/ Excess Liability Insurance (General Aggregate Limit Reinstates Annually)

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| a. Primary Coverage: | Limits for Bodily Injury, including death resulting therefrom and Property Damage. Limits are shared across all City projects and amongst participants. |
| b. Policy Limits: | \$2,000,000 Each Occurrence
\$4,000,000 Completed Operations Aggregate*
\$4,000,000 General Annual Aggregate
\$10,000 Medical Payments- any one person
\$300,000 Fire Legal Liability – any one fire |

- c. Policy Form: Commercial General Liability "Occurrence" Form
- d. Excess Limits: Minimum \$25 million per Occurrence/Aggregate
- e. Premium Payments: By City
- f. Deductible: Any OCIP deductible will be paid by City.
The deductible will apply only to loss covered by insurance policies in the OCIP. The deductible does not impose upon the City any duties of an insurer toward OCIP Participating Contractor.

* * A single aggregate applies for the products/completed operations coverage part and does not reinstate.

Section 1.1.2 Workers' Compensation and Employer's Liability Insurance

- Coverage A- Statutory Benefits Liability imposed by the Workers' Compensation and/or Occupational Disease statute of the State in which the work is performed and any other state or governmental authority having jurisdiction or if related to the work performed on the project.
- Limits of \$1,000,000 bodily injury per accident/employee; \$1,000,000 bodily injury per disease/employee; \$1,000,000 policy limit by disease.
- USL&H (where applicable) – Statutory Benefits

Section 1.2 Insurance Coverage Required of Contractors

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, Contractor shall provide the City with copies of insurance policies evidencing coverage shown below. The insurance listed hereunder shall be considered minimum requirements and any and all insurance proceeds in excess of the requirements shall be made available to the City. Unless otherwise noted, the insurances listed below are required of all contractors working on the project, regardless of OCIP eligibility. The requirement to provide General Liability and Workers Compensation/Employers Liability shall only apply to off-site operations for those contractors that are enrolled in the OCIP.

Contractor shall also comply with requirements set forth in Section E, Exhibit C of these Project Bid Documents pertaining to Bay Area Rapid Transit (BART) insurance requirements. Contractors that are enrolled in the OCIP may utilize the coverages provided through the OCIP to satisfy Section 4A and 4C requirements within Exhibit C.

- A. Commercial General Liability** insurance shall cover Bodily Injury, Property Damage and Personal Injury for Premises Operations, Products and Completed Operations, Independent Contractors and Contractual Liability. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01).
 - I. Coverage afforded on behalf of the City, Councilmembers, directors, officers, agents,

employees, and volunteers shall be primary insurance. Any other insurance available to the City, Councilmembers, directors, officers, agents, employees, and volunteers under any other policies shall be excess insurance (over the insurance required by this Contract).

II. Limits of Liability:

Contractors Ineligible for OCIP

Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate. The general aggregate limit shall apply separately to this location/project or the general aggregate limit shall be twice the required occurrence limit.

Contractors Enrolled in OCIP

Commercial general liability insurance shall be required of contractors enrolled in the OCIP for off-site operations only with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate.

B. Automobile Liability Insurance. Contractor shall maintain automobile liability insurance for bodily injury and property damage liability with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be at least as broad as Insurance Services Office Form Number CA 00 01.

C. Workers' Compensation insurance as required by the laws of the State of California. Coverage shall include Employers Liability coverage with limits not less than \$1,000,000 each accident, \$1,000,000 policy limit bodily injury by disease, \$1,000,000 each employee bodily injury by disease. The Contractor certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that code. The Contractor shall comply with the provisions of Section 3700 of the California Labor Code before commencing performance of the work under this Contract and thereafter as required by that code.

Contractors Enrolled In OCIP

Workers Compensation insurance shall be required of contractors enrolled in the OCIP for off-site operations only.

D. Professional Liability/Errors and Omissions insurance as appropriate for design/build operations with limits not less than \$2,000,000 each claim and \$2,000,000 aggregate. If the professional liability/errors and omissions insurance is written on a claims made form:

- I. The retroactive date must be shown and must be before the date of the contract or the beginning of work.
- II. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
- III. If coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the contract effective date, the contractor must purchase extended period coverage for a minimum of three (3) years after completion of work.

- E. Builders' Risk/Course of Construction Insurance (CP 10 30)** covering all risks of loss in an amount equal to the completed value form with no coinsurance penalty provisions and in an amount equal to the initial contract sum, subject to subsequent modification of the contract sum. The insurance shall apply on a replacement cost basis. The insurance shall name as insured the City of Oakland, the Contractor and all subcontractors in the work. The insurance shall cover the entire work at the site identified in the Scope of Work, including reasonable compensation for architects' services and expenses made necessary by an insured loss. Insured property shall include portions of the work located away from the site but intended for use at the site and shall also cover portions of the work in transit. The policy shall cover the cost of removing debris, including demolition as may be made legally necessary by the operation of any law, ordinance or regulation. The insurance shall be maintained in effect until the project has been accepted as substantially complete. The insurer shall waive all rights of subrogation against the City.

Section 1.3 Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions:

- A. Insured Status (Additional Insured):** Contractor shall provide insured status using ISO endorsement CG 20 10 or its equivalent naming the City of Oakland, its Councilmembers, directors, officers, agents employees and volunteers as insureds in the Commercial General Liability policy for both ongoing and completed operations. If Contractor submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on a CG 20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT; and
- B. Cancellation Notice:** Contractor shall immediately provide written notice to the City of any notice of cancellation, notice of non-renewal, or any other material modification of the insurance coverages required to be provided under this Contract.
- C. The Workers' Compensation policy** shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the contractor, its employees, agents, and subcontractors.
- D. Certificate holder** is to be the same person and address as indicated in the "Notices" section of this Contract; and
- E. Insurer** shall carry insurance from an admitted company with a Best Rating of **A VII** or better.

Section 1.4 Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Section 1.5 Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Contract, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Contract, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to Contractor under this Contract.

Section 1.6 Insurance Interpretations

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Contract.

Section 1.7 Proof of Insurance

Contractor will be required to provide proof of all insurance required for the work to the City prior to execution of the contract, including copies of Contractor's insurance policies. In addition, when the Contractor is enrolled into the OCIP program, they will receive a Certificate of Insurance from the OCIP Administrator evidencing their coverage under the OCIP. Contractor shall provide the OCIP certificate of insurance to the City upon receipt from the OCIP Administrator.

Contractors enrolled in the OCIP shall also provide proof of insurance for Commercial General Liability (off-site operations only), Workers Compensation (off-site operations only), Automobile Liability, Professional Liability (Design-Build projects), Builders Risks, and other coverages as determined by the City. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award.

Section 1.8 Subcontractors

Should the Contractor subcontract out the work required under this agreement, they shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Contractor may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Contractor shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the course of the project to verify compliance with requirements.

Section 1.9 Waiver of Subrogation

Contractor waives all rights against the City of Oakland and its Councilmembers, officers, directors, and employees for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above.

Section 1.10 Evaluation of Adequacy of Coverage

The City maintains the rights to modify, delete, alter, or change these requirements, with not less than ninety (90) days prior written notice.

Section 1.11 Higher Limits of Insurance

If the Contractor maintains higher limits than the minimums shown above, the City shall be entitled to coverage for the higher limits maintained by the Contractor.

Section 1.12 Bid Instructions for OCIP-covered Projects

Each bidder is required to exclude from the bid price its normal cost for the insurance coverages provided by the OCIP.

The "Cost of OCIP Coverages" is defined as the amount of Contractors' reduction in insurance costs due to eligibility for OCIP Coverages. The Cost of OCIP Coverages includes reduction in insurance premiums, related taxes and assessments, markup on the insurance premiums and losses retained through the use of the self-funded program, self-insured retention, or deductible program.

The Cost of OCIP Coverages must include expected losses within any retained risk. Contractor must deduct the Cost of OCIP Coverages for all lower tier subcontractors, in addition to its own Cost of OCIP Coverages.

Upon award of a contract, Contractor will receive access to the OCIP Administrator's website, for online data submission. Contractor shall submit their Insurance Cost Worksheet to the OCIP Administrator, including copies of their Workers' Compensation, General Liability and Excess Umbrella rate and declaration pages. They must include any deductible or Self-Insured Retention (SIR) amounts for Costs of OCIP Coverage verification purposes. Up to five years of loss runs may also be required when a large deductible program is in place with the Contractor.

The City reserves the right to a deductive change order if it discovers at any time that a Contractor of any tier has included the cost of any insurance provided by the City in its bid price, time and material rates, change order or unit prices.

In the event the City elects not to include a Contractor of any tier's work under the OCIP, the standard terms and conditions regarding insurance listed in this Schedule Q will then apply. The OCIP Administrator will advise a Contractor of any tier which has submitted an enrollment form if they are excluded from the OCIP.

Contractor shall cooperate fully with the OCIP Administrator in providing the necessary insurance data and information as required in the bid specifications and associated documents furnished by the City and/or OCIP Administrator during the duration of the project or until City furnished insurance coverage's are terminated.

Section 1.13 Bidder's Insurance Requirements

For an explanation on bidders insurance requirements, please refer to the Insurance Coverage Required of Contractors Section of this Schedule Q

Section 1.14 Loss Control and Claims Responsibilities

- All contractors of every tier must exercise every reasonable action to prevent work related injuries, property and equipment damage at the project site, as well as minimize the exposure of risk to the public and third party property.
- All contractors must conduct loss control prevention practices according to those requirements

set by federal, state and city laws, statutes and specific project procedures developed for the site.

- All contractors must conform to insurer mandated safety requirements which include: Drug Free Work Environment and full fall protection beginning at six feet for all trades.
- In the event of an accident, it is the responsibility of contractors of any tier to see that injured workers or members of the public are provided immediate medical treatment.
- Contractor shall immediately provide claim notices with the insurance administrator who will report all claims under the OCIP to the insurance carrier.

Section 1.15 Summary of Contractor OCIP Responsibilities

Contractors of any tier are required to cooperate fully with the City and its OCIP Administrator in all aspects of OCIP operation and administration. All eligible Contractors of any tier will be required to provide information necessary to bind coverage under the OCIP on a “per contract” basis. Responsibilities of the Contractor include:

- Identifying the cost of insurance excluded from bids.
- Submitting the Contractor Enrollment Form (Form A) prior to commencing work.
- Submitting the Contractors Insurance Cost Worksheet (Form B) prior to commencing work.
- Submitting policy rating pages for Workers Compensation, General Liability, and Excess Liability with Form A and B.
- Submitting a Certificate of Insurance required by this Schedule Q prior to commencing work.
- Including all OCIP provisions in all subcontract contracts with lower tier subcontractors.
- Notifying the OCIP Administrator of all awarded subcontracts.
- Obtaining all required OCIP forms from lower tier subcontractors prior to their start of work and providing to the OCIP Administrator.
- Maintaining and reporting monthly payroll records by the 10th of every month
- Cooperating with the OCIP Administrator’s requests for information
- Complying with insurance, claim, and safety procedures
- Excluding the cost of coverages provided by the OCIP from all bids, contracts, subcontracts, purchase orders, change orders, time and material rates and unit prices.
- Notifying the OCIP Administrator immediately of any insurance cancellation or nonrenewal of contractor-required insurance
- Notifying the OCIP Administrator immediately of any actual or potential insurance claims

<< END OF SECTION 1.0 >>

Section 2.0 Insurance Requirements for Non-OCIP Projects

Section 2.1 Insurance Coverage Required of Contractors

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to The City. If requested, Contractor shall provide the City with copies of insurance policies evidencing coverage shown below. The insurance listed hereunder shall be

considered minimum requirements and any and all insurance proceeds in excess of the requirements shall be made available to the City.

- A. Commercial General Liability** insurance shall cover Bodily Injury, Property Damage and Personal Injury for Premises Operations, Products and Completed Operations, Independent Contractors and Contractual Liability. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01).
- I. Coverage afforded on behalf of the City, Councilmembers, directors, officers, agents, employees and volunteer shall be primary insurance. Any other insurance available to the City, Councilmembers, directors, officers, agents, employees and volunteers under any other policies shall be excess insurance (over the insurance required by this Contract).
 - II. Limits of liability: Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate. The general aggregate limit shall apply separately to this location/project or the general aggregate limit shall be twice the required occurrence limit.
- B. Automobile Liability Insurance.** Contractor shall maintain automobile liability insurance for bodily injury and property damage liability with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be at least as broad as Insurance Services Office Form Number CA 00 01.
- C. Worker's Compensation insurance** as required by the laws of the State of California. Coverage shall include Employers Liability coverage with limits not less than \$1,000,000 each accident, \$1,000,000 policy limit bodily injury by disease, \$1,000,000 each employee bodily injury by disease. . The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Contract and thereafter as required by that code.
- D. Professional Liability/Errors and Omissions** insurance as appropriate for design/build operations with limits not less than \$2,000,000 each claim and \$2,000,000 aggregate. If the professional liability/errors and omissions insurance is written on a claims made form:
- I. The retroactive date must be shown and must be before the date of the contract or the beginning of work.
 - II. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
 - III. If coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the contract effective date, the contractor must purchase extended period coverage for a minimum of three (3) years after completion of work.
- E. Builders' Risk/Course of Construction Insurance** (CP 10 30) covering all risks of loss in an amount equal to the completed value form with no coinsurance penalty provisions and in an amount equal to the initial contract sum, subject to subsequent modification of the contract

sum. The insurance shall apply on a replacement cost basis. The insurance shall name as insured the City of Oakland, the Contractor and all subcontractors in the work. The insurance shall cover the entire work at the site identified in the Scope of Work, including reasonable compensation for architects' services and expenses made necessary by an insured loss. Insured property shall include portions of the work located away from the site but intended for use at the site and shall also cover portions of the work in transit. The policy shall cover the cost of removing debris, including demolition as may be made legally necessary by the operation of any law, ordinance or regulation. The insurance shall be maintained in effect until the project has been accepted as substantially complete. The insurer shall waive all rights of subrogation against the City.

Section 2.2 Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions: Insured Status (Additional Insured): Contractor shall provide insured status using ISO endorsement CG 20 10 or its equivalent naming the City of Oakland, its Councilmembers, directors, officers, agents employees and volunteers as insureds in the Commercial General Liability policy for both ongoing and completed operations. If Contractor submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on a CG 20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT; and

- A. Cancellation Notice: Contractor shall immediately provide written notice to the City of any notice of cancellation, notice of non-renewal, or any other material modification of the insurance coverages required to be provided under this Contract.
- B. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the contractor, its employees, agents and subcontractors.
- C. Certificate holder is to be the same person and address as indicated in the "Notices" section of this Contract; and
- D. Insurer shall carry insurance from an admitted company with a Best Rating of **A VII** or better.

Section 2.3 Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Section 2.4 Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Contract, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Contract, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to Contractor under this Contract.

Section 2.5 Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Contract.

Section 2.6 Proof of Insurance

Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Contractor's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award.

Section 2.7 Subcontractors

Should the Contractor subcontract out the work required under this agreement, they shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Contractor may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Contractor shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the course of the project to verify compliance with requirements.

Section 2.8 Waiver of Subrogation

Contractor waives all rights against the City of Oakland and its Councilmembers, officers, directors, and employees for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above.

Section 2.9 Evaluation of Adequacy of Coverage

The City of Oakland maintains the rights to modify, delete, alter or change these requirements with not less than ninety (90) days prior written notice.

Section 2.10 Higher Limits of Insurance

If the contractor maintains higher limits than the minimums shown above, the City shall be entitled to coverage for the higher limits maintained by the contractor.

<< END OF SECTION 2.0 >>