

INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY AND PUBLIC BUILDING COMMISSION CONTRACTS

Insurance coverage on this Contract will be required for the entities selected below

City of Lincoln Lancaster County Public Building Commission

Vendors must provide coverage & documents related to the items with a check mark in Sections 1 – 1.9.

This includes proof of coverage and waivers as required below.

All Vendors must comply with Sections 2-8.

**THE REQUIREMENTS HEREIN APPLY TO CONTRACTS TO BE ISSUED BY THE CITY OF LINCOLN,
LANCASTER COUNTY, AND THE LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION.
FOR PUPOSES OF CERTIFICATES, ENDORSEMENTS AND OTHER PROOF REQUIRED HEREIN, ONLY
INCLUDE THE ENTITY ISSUING THE CONTRACT.**

**FAILURE OF THE APPROPRIATE ENTITY (CITY, COUNTY, OR PUBLIC BUILDING COMMISSION) TO
OBJECT TO THE FORM OF THE CERTIFICATE OR ENDORSEMENT OR TO DEMAND SUCH PROOF AS
IS REQUIRED HEREIN SHALL NOT CONSTITUTE A WAIVER OF ANY OF THE INSURANCE
REQUIREMENTS SET FORTH BELOW.**

Insurance; Coverage Information

The Contractor shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the City/County/PBC, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Contract are set forth below and shall be in effect for all times that work is being done pursuant to this Contract. No work on the Project or pursuant to this Contract shall begin until all insurance obligations herein are met to the satisfaction of the City/County/PBC, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the City/County/PBC prior to execution of the Contract and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Contractor's insurer and will be no more than \$25,000 per occurrence or as may be approved by the City or County as appropriate. Said insurance shall be written on an **OCCURRENCE** basis, and shall be **PRIMARY, with any insurance coverage maintained by the City/County/PBC being secondary or excess.**

Certificates

The Contractor shall provide certificates of insurance and such other proof, such as endorsements, as may be acceptable to the City or County (as appropriate) evidencing compliance with these requirements. The Contractor shall provide a Certificate of Insurance demonstrating the coverage required herein and the necessary endorsements or other proof and waivers described herein and below before being permitted to begin the work or project pursuant to this Contract.

1. Commercial General Liability

The Contractor shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/ Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Contractor shall provide an additional insured endorsement acceptable to the City/County/PBC. The required insurance must include coverage for all projects and operations of Contractor or similar language that meets the approval of the City/County/PBC, which approval shall not be unreasonably withheld.

1.1 Additional Insured (Requires an Endorsement Form)

All Contractors shall provide an Additional Insured Endorsement form or other proof showing the City/County/PBC as additional insured for commercial general liability, auto liability and such other coverages as may be required by the City/County/PBC. The form or other proof shall be as is acceptable to the City/County Attorney.

1.2 Automobile Liability

The Contractor shall provide proof of Automobile Liability coverage, which shall include: Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

1.3 Garage Keepers / Garage Liability

The Contractor shall provide garage insurance, if required. Coverage shall include Garage Liability and Garage Keepers on a Direct Primary Basis, including Auto Physical Damage, with limits of not less than \$1,000,000 each accident Bodily Injury and Property Damage combined liability and Actual Cash Value auto physical damage. Coverage symbol(s) 30 and 21 shall be provided, where applicable.

1.4 Workers' Compensation; Employers' Liability

The Contractor shall provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$500,000 each accident or injury shall be included. The Contractor shall provide the City/County/PBC with an endorsement for waiver of subrogation or other proof of such waiver as may be acceptable to the City or County. The Contractor shall also be responsible for ensuring that all subcontractors have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Contract.

1.5 Builder's Risk Insurance

The Contractor shall purchase and maintain builder's risk property insurance for all sites upon which construction is occurring as provided by Contract and all storage sites where equipment, materials, and supplies of any kind purchased pursuant to the Contract are being held or stored unless the Contractor receives notice that the City/County/PBC has obtained a builder's risk policy for itself. Except to the extent recoverable by Contractor from another subcontractor, deductibles shall be the responsibility of the Contractor. This coverage is required whenever the work under contract involves construction or repair of a building structure or bridge.

1.5.1 Waiver of Builder's Risk Insurance Carrier's Subrogation Rights

The Contractor and its subcontractor(s) waive all rights of action and subrogation that the insurance company providing the builder's risk policy may have against each of them and/or the City/County/PBC, Architect, and the officers, agents and employees of any of them, for all claims, damages, injuries and losses, to the extent covered by such property insurance. Such waiver of subrogation shall be effective for such persons even though such persons would otherwise have a duty of indemnification or contribution, contractual or otherwise, and even though such persons did not pay the insurance premium directly or indirectly, and whether or not such persons had an insurable interest in any property damaged. The Contractor or subcontractor shall provide proof of such waiver.

1.6 Pollution Liability

Contractors shall provide proof of pollution liability insurance arising out of all operations of the Contractors and subcontractors, due to discharge, dispersal, release, or escape of contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water with bodily injury and property damage limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
- 2) Property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 3) Defense including loss adjustment costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages;
- 4) Definition of pollution conditions shall include asbestos, lead, and mold so that these risks are covered if caused by Contractor/successful candidate's work or operations.
- 5) Coverage is required on an occurrence form.

1.7 Errors and Omissions; Professional Liability

Errors and Omissions or Professional Liability insurance, as may be required, covering damages arising out of negligent acts, errors, or omissions committed by Contractor in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. Contractor shall maintain this policy for a minimum of two (2) years after completion of the work or shall arrange for a two year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of professional Services under this contract and caused by any error, omission, breach or negligent act, including infringement of intellectual property (except patent and trade secret) of the Contractor. This coverage is required whenever the Contractor or service provider is required to be certified, licensed or registered by a regulatory entity and/or where the provider's judgment in planning and design could result in economic loss to City/County/PBC.

1.8 Railroad Contractual Liability Insurance

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or railroad crossing, the Contractor must provide proof acceptable to the City or County that any exception for such work in the Contractor's commercial general liability policy has been removed or deleted.

1.8.1 Railroad Protective Liability

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$2,000,000 per occurrence, \$6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City/County/PBC Purchasing Department prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

1.9 Cyber Insurance

The Contractor shall maintain network risk and cyber liability coverage (including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense) in an amount of not less than \$1,000,000. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of two years thereafter for services completed during the term of the Contract.

2. Cancellation Notice

All Contractors shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation during the term of the Contract and during the period of any required continuing coverages. The Contractor shall provide, prior to expiration of the policies, certificates and endorsement forms evidencing renewal insurance coverages. The parties agree that the failure of City/County/PBC to object to the form of a certificate and/or additional insured endorsement or endorsement forms provided shall not constitute a waiver of this requirement.

3. Risk of Loss

Except to the extent covered by the builder's risk insurance, the Contractor shall have the sole responsibility for the proper storage and protection of, and assumes all risk of loss of, any subcontractor's Work and tools, materials, equipment, supplies, facilities, offices and other property at or off the Project site. The Contractor shall be solely responsible for ensuring each subcontractor shall take every reasonable precaution in the protection of all structures, streets, sidewalks, materials and work of other subcontractors. Contractor shall protect its Work from damage by the elements or by other trades working in the area.

4. Umbrella or Excess Liability

The Contractor may use an Umbrella, Excess Liability, or similar coverage to supplement the primary insurance stated above in order to meet or exceed the minimum coverage levels required by this Contract.

5. Minimum Scope of Insurance

All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

6. Indemnification

To the fullest extent permitted by law the Contractor shall indemnify, defend, and hold harmless the Owner, its elected officials, officers, employees, agents, consultants, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible or intangible property, including the Work itself, but only to the extent caused by the negligent, wrongful, or intentional acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss

or expense is caused in part by the negligence of a party indemnified hereunder. In the event the claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder, the indemnification by the Contractor shall be prorated based on the extent of the liability of the party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce obligations of indemnity which would otherwise exist as to a party or person described in this Section. Nothing herein shall be construed to be a waiver of sovereign immunity by the Owner.

7. Reservation of Rights

The City/County/PBC reserves the right to require a higher limit of insurance or additional coverages when the City/County/PBC determines that a higher limit or additional coverage is required to protect the City/County/PBC or the interests of the public. Such changes in limits or coverages shall be eligible for a change order or amendment to the Contract.

8. Sovereign Immunity

Nothing contained in this clause or other clauses of this Contract shall be construed to waive the Sovereign Immunity of the City/County/PBC.

9. Further Contact

For further information or questions concerning coverage or acceptable forms, Contractors may contact the Purchasing Division or the department that issued the bid or the request for proposal.

For general questions regarding Insurance Requirements, please contact Risk Management for the City or County.