

## **Exhibit F**

### **Insurance and Owner Controlled Insurance Program (OCIP)**

This Exhibit is current at the time of the Request For Proposals and includes all insurance requirements. At the time of award, CDOT will determine which Lines of Insurance Coverage will be covered in the OCIP, and which will be covered by the Contractor. Information contained within this Exhibit that is no longer valid, as determined by CDOT and agreed to by the Contractor, will be removed prior to final contract signatures.

#### **1.0 Insurance**

##### **1.1 General Insurance Requirements**

###### **1.1.1 Evidence of Insurance**

The Contractor shall provide evidence of insurance in a form acceptable to CDOT as proof of compliance for all insurance requirements contained in this Exhibit. For all Work that occurs on the Regional Transportation District (RTD)-owned property, RTD shall be named as an additional insured on the insurance policies, except for the workers' compensation and professional liability policies. These insurance requirements are applicable to the Contractor only. The City and County of Denver shall be named as an additional insured on the insurance policies, except for the workers' compensation and professional liability policies. These insurance requirements are applicable to the Contractor only. When the Contractor requires a Subcontractor to obtain insurance coverage, the types and minimum limits of coverage may be different than those required in this Section 9. The evidence of insurance shall provide for ten Days' written notice of cancellation for nonpayment of premiums, or 45 days' written notice of cancellation for any other reason, including nonrenewal. Evidence of the insurance that contains the phrase "will endeavor to" preceding all references to provisions of notice by the insurance company shall be unacceptable. A Certificate of Insurance indicating certain specified amendments and attachments shall be acceptable, but CDOT reserves the right to request a complete certified copy of the policy, at CDOT's sole discretion. Contractor shall not commence any Work until it has complied with these insurance requirements and CDOT has Approved the evidence of insurance.

###### **1.1.2 A.M. Best Rating**

All insurance companies providing policies obtained to satisfy the insurance requirements must have an A.M. Best rating of A-, VII or better.

###### **1.1.3 Full Force and Effect**

The commercial general liability, excess (umbrella) liability, contractor's pollution liability and professional liability insurance coverage requirements will remain in full force and effect throughout the term of all warranties or as otherwise required by the Contract Documents, whichever is greater.

###### **1.1.4 No Recourse**

There shall be no recourse against the State for payment of premiums or other amounts with respect to the insurance provided by the Contractor, or for deductibles under these policies. This provision does not affect any rights the Contractor is entitled to pursuant to Section 13.

###### **1.1.5 Indemnification**

The insurance coverage provided hereunder shall support, but is not intended to limit, the Contractor's indemnification obligations under Section 18.

## 1.2 Contractor Provided Insurance

The Contractor shall procure, at its own expense, insurance acceptable to CDOT, as described herein, and shall maintain such insurance, as specified herein, in accordance with the requirements stated in Section 1.1, or as otherwise Approved by CDOT at its sole discretion.

### 1.2.1 Workers' Compensation and Employer's Liability Coverage

The Contractor shall provide Workers' Compensation coverage that is in compliance with all Legal Requirements (including C.R.S. § 8-44-101, et seq.) and Employer's Liability with minimum limits of \$1,000,000 by disease each person, \$1,000,000 by disease aggregate, and \$1,000,000 each person by accident.

### 1.2.2 Commercial General Liability Insurance

The Contractor shall provide Commercial General Liability broad form coverage for Bodily Injury, Property Damage, Personal Injury and Advertising Liability written on an occurrence form that shall be no less comprehensive or more restrictive than the coverage provided by Insurance Services Office (ISO) for CG 00 01 10 01.

1. Limits of liability. General liability:
  - A. \$1 million - each occurrence.
  - B. \$2 million - general aggregate (annually). The general aggregate limit shall not be diminished by claims on other projects.
  - C. \$1 million - personal injury/advertising liability.
  - D. \$2 million - products/completed operations liability.
2. Such insurance shall include, by its terms or appropriate endorsements, Bodily Injury, Property Damage, Legal liability, Personal Injury, Blanket Contractual, Independent Contractors, Premises, Operations and Products and Completed Operations. Such insurance shall also include blanket coverage for Explosion, Collapse, and Underground (XCU) hazards.
3. Products and Completed Operations coverage shall be continued for a minimum of eight years from Project Completion.
4. CDOT shall be an additional insured with respect to liability arising out of acts or omissions of the Contractor or its Subcontractors, whether on or off the Site.

### 1.2.3 Automobile Liability Insurance

The Contractor shall provide commercial automobile liability insurance covering all owned/leased, non-owned and hired vehicles used in the performance of Work, both on and off the Site, including loading and unloading.

The following limits of liability and other requirements shall apply:

1. \$2 million combined single limit for bodily injury and property damage liability.
2. Coverage shall be provided on ISO form number CA 00 01 10 01 or equivalent.
3. The policy will include uninsured and underinsured, in compliance with Colorado law.
4. The policy shall be endorsed to include Motor Carrier Act endorsement – Hazardous Materials Cleanup (MCS-90), if applicable.

### **1.2.4 Excess (Umbrella) Liability Insurance**

The Contractor shall provide Umbrella or Excess Liability insurance with limits of not less than \$10 million per occurrence and \$10 million annual aggregate which will provide bodily injury, personal injury and property damage liability at least as broad as the primary coverages set forth above, including Employer's Liability, Commercial General Liability and Commercial Automobile Liability, as set forth in Sections 1.2.1, 1.2.2, and 1.2.3.

### **1.2.5 Contractor's Pollution Legal Liability Coverage**

The Contractor shall provide pollution legal liability coverage for the Project. The following limits and conditions shall apply:

1. The limit of liability per occurrence shall be at least \$5 million and the total Project aggregate shall be at least \$10 million.
2. CDOT shall be named as an additional insured (to the extent commercially available as determined by CDOT).
3. The policy form shall be written on an occurrence-based form. The extended reporting period must be at least 24 months following completion of the Work.
4. CDOT reserves the right to purchase a Project-specific policy in lieu of the Contractor's pollution legal liability policy.

### **1.2.6 Professional Liability Insurance**

The Contractor or Subconsultant shall provide Project Professional Liability Coverage for the protection of all design professionals associated with the Project as follows:

1. Limits of Liability will be at least \$10 million per claim and an aggregate of at least \$10 million. Insurance will be purchased on a project specific basis, therefore ESB and DBE firms will be covered as long as the ESB and DBE firms' contracts are with the Contractor.
2. The policy will have a five-year extended reporting period from the Final Acceptance Date with respect to all events that occurred, but were not reported, during the term of the policy.
3. The policy shall protect against any negligent act, error or omission arising out of design or engineering including environmental design or consulting with respect to the Project.
4. The policy shall have a retroactive date of no later than the date the first design and/or engineering Activities have been conducted by the design professionals and contractors associated with the Project.
5. Contractor shall provide insurance for construction management activities in the amounts required in this Section 1.2.6, per the Contractor's usual business practices including, but not limited to, purchasing a construction management professional policy or an errors and omissions policy.

If the Subconsultant provides Project Professional Liability Coverage, Contractors shall confirm that all requirements of this section have been met prior to the start of design Work.

### **1.2.7 Railroad Protective Insurance**

In addition to the above, the Contractor shall furnish evidence to CDOT that, with respect to the operation the Contractor or any of its subcontractors perform, the Contractor has provided for and on behalf of the Railroad Company, and each Railroad Company when more than one is involved, Railroad Protective

Public Liability and Property Damage Insurance provided for a combined single limit of Five Million Dollars (\$5,000,000) per occurrence with an aggregate limit of Ten Million Dollars (\$10,000,000) applying separately for each annual period for:

1. All damages arising out of bodily injuries to or death of one or more persons.
2. All damages arising out of injury to or destruction of property.

Said policy or policies of insurance shall be deemed to comply with the Railroad Protective Insurance requirements if each of said policies contains a properly completed and executed "Railroad Protective Liability Form," copies of which are available from CDOT's Agreements Engineer, Colorado Department of Transportation, 4201 E. Arkansas Ave., Denver, CO, 80222. All required policy or policies of insurance shall be submitted to the Project Director for transmittal to the Railroad Company's Insurance Department.

The Railroad Protective Insurance shall be carried until all Work required to be performed under the terms of the Contract is satisfactorily completed as evidenced by the formal acceptance of CDOT. The Railroad Company shall be furnished with the original of each policy carried on its behalf.

### **1.2.8 Builder's Risk**

Unless otherwise expressly stated in the Supplementary General Conditions (e.g. where the State elects to provide for projects with a completed value of less than \$1,000,000), the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the Probable Maximum Loss value at all times including any subsequent contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed to in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the State has an insurable interest in the property or the Date of Notice specified on the Notice of Acceptance, State Form SBP-6.27 or whichever is later.

This insurance shall include interests of the State, the Contractor, Subcontractors in the Project as named insureds.

All associated deductibles shall be the responsibility of the Contractor. Such policy may have a deductible clause but not to exceed twenty five thousand dollars (\$25,000) except the deductible for typical perils such as earthquakes, flood, and wind may not exceed fifty thousand dollars (\$50,000) and the deductible for Work in a one hundred (100) year flood plain may not exceed two hundred and fifty thousand dollars (\$250,000). Subcontractors' policies may have a deductible clause but not to exceed ten thousand dollars (\$10,000).

Property insurance shall be on an "all risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris, removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architectural and Engineering Services and expenses required as a result of such insured loss.

Contractor shall maintain Builders Risk coverage including partial use by CDOT. The Contractor shall waive all rights of subrogation as regards to the State and CDOT, its officials, its officers, its agents and

its employees, all while acting within the scope and course of their employment. For damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section or other property insurance applicable to the Work. The Contractor shall require all Subcontractors at any tier to similarly waive all such rights of subrogation and shall expressly include such a waiver in all subcontracts.

Upon request by CDOT, the amount of such insurance shall be increased to include the cost of any additional Work to be done on the Project, or materials or equipment to be incorporated in the Project, under other independent contracts let or to be let. In such event, the Contractor shall be reimbursed for this cost at its share of the insurance in the same ratio as the ratio of the insurance represented by such independent contracts let or to be let to the total insurance carried.

CDOT, with approval of the Colorado State Controller, shall have the power to adjust or settle any loss. Unless it is agreed otherwise, all monies received shall be applied first on rebuilding or repairing the destroyed or injured Work.

## 2.0 CDOT OWNER CONTROLLED INSURANCE PROGRAM (OCIP) REQUIREMENTS

### INTRODUCTIONS / DEFINITIONS

**Capitalized terms not otherwise defined in this Exhibit shall have the meanings assigned to them in the Contract.**

**Contractor:** meaning the set fourth in the first page of Book 1. Contractor refers to any person or entity awarded a Contract with CDOT to provide construction services for the Project.

**Enrolled Contractor or Subcontractor:** means the Contractor and any other Subcontractors enrolled in the OCIP as outline in the Project Insurance Manual published by the CDOT Project OCIP Administrator.

**Insurance Representative and Project OCIP Administrator:** means the entity or individual designated by CDOT to represent its interest in the OCIP through the coordination of enrollment, claims and other OCIP activities, as well as monitoring for compliance to OCIP policies, procedures and guidelines.

**Owner:** means the Colorado Department of Transportation (CDOT), a body corporate and political subdivision of the State of Colorado.

**Owner Controlled Insurance Program (OCIP):** means an insurance delivery method that includes enrolled Contractors and Subcontractors on the Project in an Owner sponsored insurance program including Workers Compensation, Commercial General and Excess Liability, Contractors Pollution Liability, and Builders Risk Insurance, and such other coverage as the Owner may in writing specifically include in the OCIP.

**Project Site:** means the physical location of Work to be performed on the Project as described in the Contract, as well as areas adjacent to the Work necessary for performance of the Work as included in the OCIP.

**Subcontractor:** means any Person with whom the Contractor has entered into any Subcontract and any other Person with whom any Subcontractor has further subcontracted any part of the Work, at any tier performing Work at the Project Site.

**Work:** means all activities required to be performed by Contractor, Project Contractors and their Subcontractors to fulfill their obligations under the Contract.

## 2.1 OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

The Project will be subject to an Owner Controlled Insurance Program ("OCIP"). The Colorado Department of Transportation (CDOT) otherwise referred to as the "Owner", acting directly or through its authorized designee, will provide coverage for insurance under an OCIP.

Prior to commencement of the Work, Owner, at its sole cost, will secure and thereafter, except as otherwise provided herein, maintain at all times during the performance of this Contract, the insurance specified herein, with Owner, Contractor, Enrolled Project Contractors, and such other persons or interests as Owner may designate as insured parties, with limits not less than those specified below for each coverage.

Owner provided Insurance will apply only to Project Contractors who have completed the enrollment process, complied with the insurance requirements herein, and received notification of enrollment from the Project OCIP Administrator. Owner may require exclusion of any Subcontractor from the OCIP at the Owner's sole discretion. If a Subcontractor should be excluded from the OCIP at the Owner's discretion, then the cost of insurance may be equitably adjusted for the purchase separate insurance.

Contractor shall work with the Project OCIP Administrator to ensure compliance with all OCIP requirements described herein for Project Contractors. Contractor shall provide its Project Contractors and Subcontractors of every tier with all documentation related to the OCIP.

Contractor will receive a Project Insurance Manual as developed and published by Owner's Insurance Representative, which will include a summary of the insurance coverage and the program's loss control, administrative and claim procedures and requirements. The Project Insurance Manual will also include enrollment forms and reporting requirements for the OCIP. Contractor shall use and comply with the Project Insurance Manual, and shall ensure that all Project Contractors of every tier receive this Exhibit F and the Project Insurance Manual with their Contract.

Owner provided Insurance shall not apply to vendors, manufacturers, suppliers, material dealers, haulers and/or independent haulers, and others who merely transport, pick up, deliver or carry materials, personnel, parts or equipment, or any other items or persons to or from the Project Site. Subcontractors providing on site hauling services with dedicated payroll will be considered eligible for enrollment at Owner's discretion.

The Project Site will include adjacent or nearby tracts of land where incidental operations, such as the location of Contractor's trailers, offices, Owner's team's offices, etc. are performed, related to the Work. The Project site will not include permanent locations of any insured party other than Owner. The OCIP shall not apply to the operations of Project Contractors at their offices, factories, or warehouses.

The cost of the OCIP Insurance specified herein to be obtained by Owner will be paid for by Owner, and Owner shall receive and pay, as the case may be, all adjustments in such costs, whether by way of dividends or audits or otherwise. Owner shall execute such instruments of assignment as may be necessary to permit Owner to receive such adjustments and shall cause all Contractors covered by such insurance to do the same.

The furnishing of insurance by Owner shall in no way relieve, limit, or be construed to relieve

Contractor, Project Contractors or other Subcontractors of any responsibility or obligation whatsoever otherwise imposed by the Contract. Owner assumes no obligation to provide insurance other than that specified herein. However, Owner reserves the right to furnish additional insurance coverage of various types and limits.

**2.1.1 Commercial General Liability – policy limits:**

**\$2,000,000** per Occurrence for Bodily Injury and Property Damage  
**\$4,000,000** General Aggregate  
**\$4,000,000** Completed Operations Aggregate

The Policy limits are shared by all Project Contractors enrolled in the OCIP.

**Policy Exclusions – Examples could include, but are not limited to:**

**COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**

Exclusions:

- Expected or Intended Injury
- Contractual Liability
- Liquor Liability
- Workers' Compensation And Similar Laws
- Employer's Liability
- Pollution
- Aircraft, Auto Or Watercraft
- Mobile Equipment
- War
- Damage To Property – modified or deleted by endorsement
- Damage To Your Product - modified or deleted by endorsement
- Damage To Your Work - modified or deleted by endorsement
- Damage To Impaired Property Or Property Not Physically Injured
- Recall Of Products, Work Or Impaired Property
- Personal and Advertising Injury
- Electronic Data

**COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**

Exclusions:

- Knowing Violation Of Rights Of Another
- Material Published With Knowledge Of Falsity
- Material Published Prior To Policy Period
- Criminal Acts
- Contractual Liability
- Breach Of Contract
- Quality Or Performance Of Goods – Failure to Conform to Statements
- Wrong Description Of Prices
- Infringement Of Copyright, Patent, Trademark Or Trade Secret
- Insureds In Media And Internet Type Businesses
- Electronic Chatrooms Or Bulletin Boards
- Distribution of Material in Violation of Statues
- Unauthorized Use Of Another's Name Or Product
- Pollution-Related
- War

**COVERAGE C MEDICAL PAYMENTS**

Exclusions:

- Any Insured
- Hired Person
- Injury On Normally Occupied Premises
- Workers Compensation And Similar Laws
- Athletics Activities
- Products-Completed Operations Hazard
- Coverage A Exclusions

**Additional Policy Endorsements**

Endorsements:

- Limits of Insurance
- Named Insured Amended
- Limitation of Coverage to Designated Project
- Amendment Property Damage
- Extended Completed Operations
- Service of Suit
- Signature Endorsement
- Minimum Earned Premium and Premium Audit Premium Endorsement
- Additional Insured – State or Political Subdivision Permits - Blanket
- Additional Insured – Mortgagee, Assignee, or Receiver - Blanket
- Additional Insured – Lessor of Leased Equipment – Automatic Status When Required in Defense Costs and Supplementary Payments Included within the Limits of Insurance
- Deductible Liability/SIR Endorsement
- Limited Coverage Repair Work
- Trade or Economic Sanctions Endorsement
- Disclosure Pursuant to Terrorism Risk Insurance Act
- Cancellation Provision Endorsement – Manuscript
- Claims Directory – Duties in Event of an Occurrence, Offense, Claim or Suit

**Additional Policy Exclusions**

Exclusions:

- Nuclear Energy Liability Exclusion
- Asbestos Exclusion
- War
- Wrap-Up Cross Suits Excl. – Amendment - exception First Named Insured / Contractor
- Designated Ongoing Operations (Scheduled Location excluded)
- Damage to Premises Rented to You
- Lead Exclusion
- Discrimination
- Exclusion – Coverage C – Medical Payments: Any Location or Job Site
- Employment-Related Practices Exclusion
- Fungi or Bacteria Exclusion
- Exclusion – Exterior Insulation and Finish Systems
- Silica or Silica-Related Dust Exclusion
- Total Pollution Exclusion with Hostile Fire Exception
- Exclusion – Contractors Professional Liability (CG 2279)
- Violation of Statutes that Govern Emails, Faxes, Phone Calls or Other Methods of Sending Material Information

Standard Insurance Service Office Commercial General Liability Insurance policy or

equivalent, including Bodily Injury, Property Damage, Personal Injury and Completed Operations covering operations at the Project Site for Project Contractors shall be provided. An eight-year extension of the Completed Operations Liability coverage for the Colorado Statute of Repose and the Statute of Limitations will begin upon the earlier of expiration of the OCIP policy, Substantial Completion of the Project, or the completion of Work under Contract. This insurance will not extend to products liability coverage for any product manufactured away from the Project Site. The OCIP will be primary and non-contributory as it relates to coverage provided under the OCIP.

Contractor will be responsible for repayment of any deductible for Bodily Injury or Property Damage up to \$25,000 per occurrence to the extent loss costs (including allocated loss adjustment expense) payable are attributable to its acts, or the acts of its Subcontractors, or any other entity or person for whom it may be responsible, with no increase in the Contract amount.

To the extent losses covered and payable under the OCIP arise out of, or are the responsibility of the Contractor's Subcontractor(s) of any tier, Contractor may seek contribution from those Subcontractor(s) in an amount equal to the self-insured retention or deductible amount under the Subcontractor's own conventional General Liability Insurance Policy in effect at the time of enrollment into the OCIP, but in no case may the Contractor collectively collect more than the per occurrence deductible of \$25,000 for the occurrence which is the contractual responsibility of the Contractor.

**2.1.2 Excess (Umbrella) Liability – proposed OCIP Program policy limits**

<u>\$100,000,000</u>	Each Occurrence
<u>\$100,000,000</u>	Aggregate

Coverage is in excess of the primary Commercial General Liability and Employer's Liability. Such Excess Liability Insurance will be primary and non-contributory as to any other excess insurance the parties hereto may have in force. An eight-year extension (for the Statute of Repose) of the Completed Operations Liability coverage is anticipated and will begin upon the earlier of expiration of the Commercial General Liability Policy or Substantial Completion of the Project, or the completion of Work under Contract. This insurance will not extend products liability coverage for any product manufactured away from the Project Site.

**Limits outlined above may be satisfied in various combinations with an Umbrella/Excess policy.**

**2.1.3 Contractor's Pollution Liability - proposed minimum OCIP Program policy limits**

\$ 25,000,000	Per Claim
\$ 25,000,000	Aggregate

Claims Expenses (including Defense Costs) within limits.

Coverage will include Bodily Injury or Property Damage from a pollution event as defined within the policy form resulting from covered operations or completed operations of the Work performed at the Project Site.

Contractor will be responsible for repayment of any deductible associated with the activities of the Contractor or their Subcontractors up to \$50,000 per occurrence to the

extent loss costs (including allocated loss adjustment expense) payable are attributable to its acts, or the acts of its Project Contractors and Subcontractors, or any other entity or person for whom it may be responsible, with no increase in the Contract amount.

#### **2.1.4 Workers' Compensation – minimum limits**

The Owner will procure, pay for, and maintain Workers Compensation insurance in compliance with statutory limits for the Workers' Compensation Laws of the State of Colorado and Employer's Liability limits of not less than:

- \$ 1,000,000** - each accident for Bodily Injury
- \$ 1,000,000** - Policy limit for Bodily Injury by disease
- \$ 1,000,000** - each employee for Bodily Injury by disease.

Covered operations at the Project Site for enrolled Project Contractors. Coverage ceases for any employee of the enrolled Project Contractors when they leave the the Project Site for unrelated business. Workers Compensation coverage will extend to employees' direct travel between two scheduled Project Sites when the travel is conducted for the sole purpose of executing Work.

The payrolls and losses of participants in this OCIP will be filed with the appropriate Workers Compensation rating bureau and will affect their individual experience modifier factor. Claim data will be submitted by the insurance carrier(s) to the National Council on the Compensation Insurance (NCCI) in accordance with Colorado Workers Compensation Deductible rules.

The Owner shall pay any policy related insurance costs for Workers' Compensation not covered because of deductibles, if any. The Contractor shall be responsible for any related Drug and Alcohol accident / incident testing or other contractual obligations as provided for in the Contract which may be related to the incident and/or injured worker.

#### **2.1.5 Builder's Risk**

The Owner will procure, pay for, and maintain a builder's risk insurance policy, including coverage for in-transit and off-site storage, to protect the interests of the Insureds, including Owner, Project Contractors and its Subcontractors, against the risk of loss or damage to the Work during construction at the Project Site. Such policy will include a waiver of subrogation in favor of Owner, Architect, Construction Manager, Contractors, and Project Contractors.

Coverage will include all materials, supplies and equipment that are intended for specific installation in the Project while such materials, supplies and equipment are located at the Project Site, in transit or while temporarily located away from the Project Site for the purpose of storage at the risk of one of the insured parties, as agreed upon by the Owner in writing in advance of such transit or storage.

#### **POLICY COVERAGE FORM AND EXCLUSIONS [EXAMPLES]:**

##### **Commercial Inland Marine – Builders Risk Coverage Form**

Endorsements:

Extra Expense Endorsement

Elite Property Enhancement: Builders Risk – sub limits apply

Builders Risk Warranties

Exclusions:

Government Action  
Nuclear Hazard  
War and Military Action  
Ordinance or Law  
Water – modified or deleted by endorsement  
Earth Movement  
Mold Exclusion  
Flood and Earthquake  
Workmanship – Omission in, or faulty, inadequate or defective

Policy Coverage Extensions (sub limits may apply):

Fire Department Service Charges  
Valuable Papers and Records  
Trees, Shrubs and Plants  
Debris Removal  
Pollutant Clean Up and Removal

This insurance will not include any coverage for tools or clothing of workers or any tools, equipment, protective fencing, scaffolding, and equipment owned, rented or used by Contractor and used in the performance of the Work, or work performed at off-site fabrication facilities. Contractor shall waive any such rights of recovery from Owner and/or the OCIP Policies.

Contractor will be responsible for repayment of any deductible for Property Damage up to \$25,000 per occurrence to the extent loss costs (including allocated loss adjustment expense) payable are attributable to its acts, or the acts of its Subcontractors, or any other entity or person for whom it may be responsible, with no increase in the Contract amount. Contractor may not seek contribution of this deductible from its Subcontractors.

NOTE: The Builders Risk policy terms vary from policy to policy, and such insurance provided by the Owner will be subject to such limits of liability, exclusions and deductibles as Owner may negotiate in its discretion. Contractor is advised to consult the terms of the policy to ascertain its terms.

### **2.1.6 Project Professional Liability for design and consulting services**

The Owner will procure, pay for, and maintain Contractor's Professional Liability Policy for the negligent acts, errors or omissions of the Insureds while providing design professional and consulting services to CDOT for the Project for the duration of the applicable Colorado Statute of Repose. There should be no exclusion on the policy for the type or scope of work associated with the Project.

\$ 25,000,000 each claim  
\$ 25,000,000 general aggregate

Contractor is responsible for repayment of any deductible up to \$50,000 per claim, or occurrence.

If the Owner must transfer Contractor's Professional Liability policy to Contractor outside of the OCIP after the Contract is executed, a Change Order to the Contract will be issued.

### **2.1.7 Coverage**

Unless herein otherwise specifically indicated, the policies set forth in Sections 2.1.1 through 2.1.6 above will cover, only at the Project Site, those operations performed or employees of the insured parties directly engaged in connection with the Work.

The coverage referred to in Sections 2.1.1 through 2.1.6 will be set forth in full in the respective Policy forms. The foregoing descriptions of such policies are not intended to be complete, or to alter or amend any provision of the actual policies. In matters, if any, in which the said description may conflict with the Policy, and to the extent there are conflicts or inconsistencies, the provisions of the insurance Policy shall govern.

Except for completed operations coverage and any policy endorsement which extends coverage beyond the policy expiration, the OCIP insurance shall discontinue upon the date of Final Payment to the Contractor on the Project for the Work completed under Contract.

Coverage may also be discontinued if the Project is substantially delayed for an extended period of time, or if the Project, or the OCIP is permanently terminated.

### **2.1.8 Excluded Property**

Enrolled Project Contractors shall retain the risk of loss for all premises and operations exposures of Contractor away from the Project Site, and for any damage whatsoever to their equipment, stationary or mobile, tools, supplies, materials, automobiles and vehicles, highway or otherwise, cranes, and hoists or any other property owned or leased which will not be incorporated into the physical construction.

The separate insurance maintained for any property described in this Section shall contain a Waiver of Subrogation on the part of the insurance company in favor of Owner, Contractor, and all other Project Contractors, and Subcontractors at any tier, with respect to Project Site activities. If Project Contractors of any tier chooses to self-insure any of the property described under this Section, then that Contractor shall indemnify the Owner, Contractor, and all other Project Contractors and Subcontractors working at the Project, and all other persons or entities shall be held harmless for any loss or damage to the property while on the Project Site.

Contractor and each of the Project Contractors and Subcontractor shall pay any costs not covered because of deductibles, if any, under these policies.

## **2.2 CONTRACTOR'S OBLIGATIONS - OCIP**

Contractor shall furnish each Subcontractor a copy of this Exhibit – Owner Controlled Insurance Program Requirements and Project Insurance Manual, as it may be amended from time to time, and shall make the same requirement of all Project Contractors and Subcontractors with respect to their subcontract or procurement procedures. The duties, obligations, and requirements of these insurance provisions shall apply to all Contractors and Project Contractors, and Subcontractors with whom Contractor or Project Contractors may contract.

### **2.2.1 Contractor and Subcontractor Pricing**

The Contractor and each Subcontractor of every tier shall submit Proposal Price including a Gross Amount for insurance that includes the cost of any Required Insurance based upon Section 1.0 above and Book 2 requirements. The Contractor and Subcontractors shall submit

with their Proposal Price with Bid line items for the insurance coverage as required in Section 1.0 Insurance and as provided below:

Contractor

- Workers Compensation and Employer's Liability
- Commercial General Liability
- Excess (Umbrella) Liability
- Project Professional Liability

Project Subcontractors (Subcontractors as Identified in the Proposal)

- Workers Compensation and Employer's Liability
- Commercial General Liability
- Excess (Umbrella) Liability coverage
- Project Professional Liability

An estimate of the lower tier Subcontractor's insurance not identified in the Proposal.

Additionally the Proposal Price insurance bid line items shall identify the cost of insurance which shall not be charged to CDOT should CDOT elect to purchase the coverage provided in Section 2.1 herein. These insurance bid line items will represent the insurance amounts for which CDOT would be excluded from the Proposal Price should CDOT provide such coverage.

- Contractor
  - Commercial General Liability– other than liability associated with off-site exposures
  - Excess (Umbrella) Liability coverage
  - Contractor's Pollution Liability
  - Project Professional Liability
  - Builder's Risk
- Project Subcontractors
  - General Liability – other than liability associated with off-site exposures
  - Excess Liability coverage
  - Project Professional Liability
- An estimate of the lower tier Subcontractor's insurance not identified in the Proposal (to be verified upon enrollment in the OCIP)

A sample line item worksheet has been provided.

The line items above and as provided by the Contractor shall be reviewed by the Owner's Insurance Representative and the Contractor and its Project Contractors shall provide evidence of the removal of such insurance as outlined below:

**2.2.1.1 Calculation of Insurance Line Items included in the OCIP**

The Contractor and their eligible Subcontractors shall complete the Insurance Calculation Worksheet provided by CDOT with the CDOT OCIP Insurance Instructions. The completed Insurance Calculation Worksheet for the Contractor and all identified Project Contractors shall be submitted with their Proposal to CDOT. The line items and worksheets will be reviewed by the CDOT Insurance Representative.

The CDOT Insurance Representative will verify the amount(s) as reasonable for the type

of Work included on the line items. Upon verification CDOT will determine at its sole discretion to include the OCIP related insurance costs in the Proposal Price of the RFP or implement the OCIP for the Project and remove such costs from the cost of the Project.

Should the OCIP be implemented for the Project the Contractors shall be responsible to remove such costs from all future change orders based upon the percentage of the initial deduction to the adjusted Gross Amount of the Contract for any approved Change Orders moving forward on the Project.

OCIP Related Insurance / Proposal Price (Gross Amount) of the RFP = % of deduction for all future change orders to the Project.

Calculation Procedures:

1. Commercial General Liability - Primary and Workers Compensation

The insurance verification process will be calculated by multiplying the appropriate rating basis (estimated payroll or revenue) applicable to the Work performed at the Project jobsite, times the rate identified on the Project Contractors' policy rate page. If the policy does not properly identify state information and/or class code, the insurance carrier shall endorse the state and class codes for the policy on an "if any" basis.

The basis for rate shall be established based on the coverage limits ordinarily maintained by the Project Contractors. Policy rate pages issued by the carrier must be submitted with the Insurance Calculation Worksheet with the RFP for the Contractor and all identified Project Contractors within the RFP. **There will be no exceptions.**

2. "Self-insured" or Self-Retention Programs (SIR)

The Project Contractors with SIR's shall submit the loss pick associated with their "self-insured" or retention program. The loss pick must be provided on the insurance carrier's letterhead.

The primary General Liability/Workers Compensation rate (Rate) shall be calculated as follows:

$$\text{Rate} = [\text{deductible rate} + (\text{Loss pick rate} \times \text{LCF})]$$

The deduct will be calculated by multiplying the "Rate" times the appropriate rating basis (estimated payroll or revenue) applicable to the Work performed at the Project jobsite.

3. Excess/Umbrella

Excess/Umbrella liability insurance deduct will be calculated on the annual policy rate, if the annual rate is not provided a minimum deduct of **15%** of the primary General Liability rate will be applied.

If requested an Officer of the Project Contractor will sign and deliver to the CDOT and/or its Insurance Representative an affidavit attesting to the fact that all insurance as covered by the OCIP has been removed from their Gross Amount under Contract.

The Project Contractor will identify its total cost of insurance on the Insurance Calculation Worksheet as provided to the Contractor and then to CDOT. This worksheet would be the basis for negotiation with the Contractor or Project Contractor to add back to the Contract the cost of insurance required should the CDOT elect not to enroll the Project Contractor in the OCIP, or the OCIP coverage is cancelled.

	<u>Line of Coverage</u>	<u>Total Project Insurance</u>	<u>OCIP Line Item Credit</u>
<b>Contractor</b>			
	Workers Compensation	\$	\$
	Commercial General Liability	\$	\$
	Excess (Umbrella) Liability	\$	\$
	Contractor's Pollution Liability	\$	\$
	Builder's Risk	\$	\$
	Project Professional Liability	\$	\$
<b>Project Contractors (Identified in Proposal)</b>			
	Workers Compensation	\$	\$
	Commercial General Liability	\$	\$
	Excess (Umbrella Liability)	\$	\$
	Contractor's Pollution Liability	\$	\$
	Project Professional Liability	\$	\$
<b>Other Contractors – Estimated (% &amp; Estimate)</b>			
	% of Total Proposal Price	%	%
	Estimate in Proposal Price	\$	\$
<b>Total Insurance – Proposal Price</b>		<b>\$</b>	<b>\$</b>

**2.2.2 Contractor Enrollment**

Prior to commencement of operations at the Project Site, each Contractor shall complete a Contractor / Subcontractor Application for enrollment into the OCIP and shall furnish and cause each Project Contractors and its Subcontractor to furnish to the Owner or its Insurance Representative estimates for the total construction values, estimated WC Payrolls and their Insurance Calculation Worksheet in connection with the Work. The Insurance Representative may request, and the Project Contractor will comply with such request for copies of rate pages from their Workers Compensation, General and Excess Liability policies, or other insurance related information deemed necessary to effect and maintain coverage, and/or to assure that Owner has received the appropriate reduction of the total insurance cost excluded from their Contract, including any markup thereon.

For insurance purposes, the Project Contractors agree that both it and its Subcontractors shall keep and maintain current, accurate and complete records of their work and shall furnish same to Owner, in accordance with the requirements of the Owner or insurance company or companies, permit inspection of its relevant books and records periodically by the insurance company, or Owner and their Insurance Representatives for the purpose of determining the value of their construction work, including labor, on the Project.

Contractor shall not violate or knowingly permit to be violated any condition of the policies of insurance provided by Owner under the terms of this Contract and shall at all times satisfy the requirements of the insurance companies issuing them.

### **2.2.3 Duties and Obligations of Contractor and Subcontractors.**

Duties and Obligations of enrolled Contractor and Subcontractors associated with their participation in the OCIP as related to the OCIP administration and claim handling are set forth below:

**2.2.3.1** Accept the insurance described above and promptly furnish any information required by Owner and its Insurance Representative for enrollment.

**2.2.3.2** Comply with the OCIP requirements which are set forth herein and in the Project Insurance Manual.

**2.2.3.3** Sign a dividend release form authorizing the insurance companies providing the OCIP to pay any dividends, refunds, or returns directly to Owner. Owner shall be entitled to retain all dividends, refunds or returns.

**2.2.3.4** Immediately report and assist in the investigation of any accident or occurrence involving injury to any person or loss or damage to property, and cooperate with the companies involved in adjusting any claim by securing and giving evidence, and obtaining the participation and attendance of witnesses required for the investigation or defense of any claim or lawsuit. If failure to report a claim, or late reporting of a claim, or failure to use an approved care provider, or failure to comply with any contractual obligations results in an increase in cost to the Owner of a workers compensation claim, or in a rejection of a workers compensation claim, then Contractor shall be responsible for the resulting increase in the cost of any medical or indemnity benefits. If a Project Contractor or Subcontractor should fail to report a claim, or fail to timely report a claim, or fail to use an approved care provider, or fail to comply with any contractual obligations which results in an increase in the cost of a workers compensation claim, the OCIP Administrator or Insurance Representative shall provide written notice to the Contractor of such failure to comply within seven (7) days of discovery of such non-compliance. Contractor may pass increase in cost through, as appropriate, to its Project Contractors or Subcontractors.

Failure to comply with any of the above items will be considered noncompliance with the Contract and may result in remedial action, including withholding of payment, and/or removal of Project Contractors and/or Subcontractor from the Project Site.

### **2.3 CONTRACTOR/SUBCONTRACTOR PROVIDED INSURANCE - REQUIRED**

Contractors shall at all times during the period in which this Contract is in force and effect provide and maintain insurance, and shall require all their Subcontractors to provide and maintain insurance, of the type and in limits as set forth below. Such insurance shall be in a form and from issuing companies acceptable to Owner. The issuing companies must have a Best's rating of A-, VII or better. The insurance may be provided in a policy or policies, primary and excess, including the so-called umbrella or excess form. The limits of liability shall be as stated below, unless, prior to commencement of any Work, written approval is granted by Owner for variance from those limits.

#### **2.3.1 Automobile Liability**

Insurance shall cover all owned, non-owned and hired automobiles. Such insurance shall provide coverage not less than that of a standard Insurance Services Office (ISO) Business Auto Coverage policy with limits not less than listed below. The policy shall be endorsed to

include Motor Carrier Act endorsement – Hazardous Materials Cleanup (MCS-90), if applicable. Contractual Liability, if not provided in the policy form, is to be provided by endorsement.

Contractor limit

\$2,000,000 Combined Single Limit each occurrence for Bodily Injury and Property

Damage

Subcontractor and Separate Contractor minimum limit

\$2,000,000 Combined Single Limit each occurrence for Bodily Injury and Property

Damage.

**2.3.2 Workers' Compensation**

For all operations away from the Project Site Contractors and Subcontractors shall carry Workers Compensation insurance in compliance with statutory limits for the Workers' Compensation Laws of the State of Colorado and Employer's Liability limits of not less than:

- \$ 1,000,000 – Each Accident for Bodily Injury
- \$ 1,000,000 – Policy limit for Bodily Injury by disease
- \$ 1,000,000 – Each Employee for Bodily Injury by disease.

**2.3.3 Commercial General Liability**

Evidence of liability insurance for premises and operations exposures of Contractor and Subcontractors away from the Project Site shall be provided by the Contractor and enrolled Subcontractors. Coverage to be provided in a form equivalent to the Standard Insurance Service Office Commercial General Liability Insurance policy (occurrence form) including products liability for any product manufactured, assembled or otherwise worked upon away from the Project Site, as well as for any damage whatsoever to their equipment, stationary or mobile, tools, supplies, materials, automobiles and vehicles, highway or otherwise, cranes, and hoists or any other property owned or leased which will not be incorporated into the physical construction.

The required insurance limits may be provided through a combination of primary and excess policies, including the umbrella form of policy.

Contractor limit

\$25,000,000 per occurrence

\$25,000,000 annual general aggregate and products / completed operations aggregate limits

Subcontractor and Separate Contractor minimum limit

\$1,000,000 per occurrence

\$2,000,000 annual general aggregate and products / completed operations aggregate limits

### 2.3.4 Environmental and Asbestos Abatement Coverage

Should the Project involve the removal of asbestos, the removal/replacement of underground tanks or the removal of toxic chemicals and substances, such Contractor shall be required to provide adequate coverage, with limits not less than **\$10,000,000** per claim basis, for such exposures subject to requirements and approval of Owner and/or the Contractor.

### 2.3.5 Professional Liability (Errors & Omissions where required)

Should the Contractor's or Subcontractor's work involve design, or a design/build component where professional services are provided or contracted for, Professional Liability insurance as described below in this paragraph shall be required and will be maintained by each Contractor or Subcontractor, their Architect and all Sub-Consultants for the duration of the applicable Colorado Statute of Repose. There should be no exclusion on the policy for the type or scope of work associated with the Project. Such insurance shall be approved by the Owner and the Contractor. Whether design-build subcontractors can be accepted into the OCIP Program at all will be evaluated at the time of final selection of these subcontractors. If a design-build subcontractor cannot be included in the OCIP, then the Guaranteed Maximum Price will be equitably adjusted for the cost for insurance premiums for that subcontractor.

\$ 5,000,000 each claim  
\$ 5,000,000 general aggregate

### 2.3.6 Watercraft or Aviation

Should watercraft or aircraft of any kind be used by any Contractor or Subcontractor by any person on their behalf, Contractor/Subcontractor or such other party will maintain or cause the operator of the watercraft or aircraft to maintain watercraft or aircraft liability insurance, including bodily injury, property damage and passenger liability, as respects any watercraft or aircraft owned, used, operated or hired in connection with the Work by Contractor or anyone else with limits of **\$10,000,000** combined single limit for bodily injury and property damage any one occurrence, each watercraft or aircraft.

### 2.3.7 Railroad Protective Insurance

In addition to the above, the Contractor shall furnish evidence to CDOT that, with respect to the operation the Contractor or any of its subcontractors perform, the Contractor has provided for and on behalf of the Railroad Company, and each Railroad Company when more than one is involved, Railroad Protective Public Liability and Property Damage Insurance provided for a combined single limit of Five Million Dollars (\$5,000,000) per occurrence with an aggregate limit of Ten Million Dollars (\$10,000,000) applying separately for each annual period for:

1. All damages arising out of bodily injuries to or death of one or more persons.
2. All damages arising out of injury to or destruction of property.

Said policy or policies of insurance shall be deemed to comply with the Railroad Protective Insurance requirements if each of said policies contains a properly completed and executed "Railroad Protective Liability Form," copies of which are available from CDOT's Agreements Engineer, Colorado Department of Transportation, 4201 E. Arkansas Ave., Denver, CO, 80222.

All required policy or policies of insurance shall be submitted to the Project Director for transmittal to the Railroad Company's Insurance Department.

The Railroad Protective Insurance shall be carried until all Work required to be performed under the terms of the Contract is satisfactorily completed as evidenced by the formal acceptance of CDOT. The Railroad Company shall be furnished with the original of each policy carried on its behalf.

## **2.4 CONTRACTOR/SUBCONTRACTOR OBLIGATIONS**

All requirements imposed in this Exhibit, with the possible exception of any allowable differences in policy limits, and required of Contractor, shall likewise be imposed upon, assumed and performed by each Enrolled Project Contractor and Subcontractor of every tier.

Each party hereto shall require that all policies of insurance, as allowed by statute, that are in any way related to the Work, including those that are secured and maintained by any Contractor, Subcontractors or their consultants, include clauses providing that each underwriter shall waive all of its rights of recovery under subrogation or otherwise, against Owner, its officials, directors, officers, and employees and all other interests as may be reasonably required by Owner.

**Each insurance policy required of Contractors and Subcontractors in Sections 2.3.1 through 2.3.6 shall be endorsed as follows:**

**2.4.1** With respect to all liability policies required, Owner and Contractor, and their elected and appointed directors, officials, officers, employees, and all other interests as may be reasonably required by Owner and Contractor for the Project shall be named as Additional Insured. The coverage afforded the Additional Insured under these policies shall be primary insurance to the extent the claim arises, in whole or in part, from the negligence of Contractor or its Subcontractors. In such cases, if the Additional Insured has other insurance which is applicable to the loss, such other insurance shall be on an excess and non-contributory basis.

The Additional Insured Endorsement, shall be equivalent to ISO form CG2010 (07/04) and CG2037 (07/04) editions. It shall state that the coverage provided to the Additional Insured is primary and non-contributory with respect to any other insurance available to the Additional Insured.

**2.4.2** In the event of any claims being made by reasons of bodily injury, personal injury, or property damage sustained by agent, servant or employee of one insured for which another insured is or may be liable, the policy shall cover such insured against whom a claim is made in the same manner as if a separate policy had been issued to each insured (Severability of Interest).

Contractor shall furnish each of its Subcontractors a copy of this Exhibit Requirements. Contractor shall ensure that the duties, obligations, and requirements of these insurance provisions shall apply to all Subcontractors with whom Contractor may contract.

## **2.5 INSURANCE REQUIREMENTS FOR OTHER WORK RELATED PARTIES**

**2.5.1** Vendors, suppliers, material men, owner/operator truckers, firms whose sole function is to transport materials, supplies, tools, equipment, parts or items to or from the project site and Subcontractors who will perform no actual labor at the site shall not be covered by insurance purchased by Owner through the OCIP. However, these excluded parties shall obtain and maintain until all of their obligations have been discharged, including any warranty periods under

this contract are satisfied, the insurance coverage specified in subsections listed below.

Such insurance shall be in a form and from issuing companies acceptable to Owner. The issuing companies must have a Best's rating of A-, VII or better.

Automobile Liability -

\$2,000,000 Combined single Limit each occurrence for Bodily Injury and Property

Damage.

Workers' Compensation –

Statutory Workers' Compensation limits applicable to state of Colorado and Employer's Liability limits of not less than:

- \$ 500,000 - each accident for Bodily Injury
- \$ 500,000 - Policy limit for Bodily Injury by disease
- \$ 500,000 - each employee for Bodily Injury by disease.

Commercial General Liability —

- \$1,000,000 per occurrence
- \$2,000,000 annual general aggregate and products / completed operations aggregate limits

Such insurance shall be primary and non-contributing with any other insurance and be in a form and from insurance companies reasonably acceptable to Owner.

**2.5.2** The required insurance limits may be provided through a combination of primary and excess policies, including the umbrella form of policy.

**2.5.3** Liability policies required under Section 2.5.1 shall, where prudently feasible, name Owner and Contractor and their, elected and appointed officials, directors, officers, employees, agents, representatives, and any additional entities as Owner or Contractor may request, as Additional Insured. The Additional Insured Endorsement, equivalent to ISO form CG2010 (07/04) edition, shall state that the coverage provided to the Additional Insured is primary and non-contributory with respect to any other insurance available to the Additional Insured. Contractor is responsible to ensure to the best of its ability that those entering the Project Site location have evidence of, or hold, the appropriate insurance or that those visitors are escorted while at the Project. Exceptions may be granted where mutually agreed to in advance between the Owner and the Contractor.

**2.5.4** All policies of insurance required in this section shall be endorsed to provide that the insurance company shall provide written notice to Owner at least 30 days prior to the effective date of any cancellation of such policies.

**2.5.5** All policies of insurance, as allowed by statute, that are in any way related to the Work, including those that are secured and maintained by consultants and subcontractors, shall include clauses providing that each underwriter shall waive all its rights of recovery under subrogation or otherwise, against Owner, Owner's Representative, Contractor, Project Contractors and Subcontractors.

**2.5.6** Parties covered in this Section shall cause to be furnished to Owner and Contractor, or their Insurance Representative, certificates of insurance evidencing all insurance as required by this Contract. As and when Owner or Contractor may direct, copies of the actual insurance policies or renewals or replacements thereof shall be submitted to Owner or Contractor. All copies of policies, if any, and certificates of insurance submitted to Owner shall be in form and content acceptable to Owner or Contractor.

## **2.6 ALTERNATE INSURANCE**

Owner makes no guarantees or warranties, and disclaim any responsibility whatsoever, that the OCIP policies will remain in effect and in no way assumes responsibility for the solvency of the insurers, or any of their parent, subsidiary, excess, re-insurers or other companies or group members.

If Owner, for any reason, is unable to furnish the insurance as specified in Section 2.1.1 through 2.1.6, upon 45 days written notice from Owner, Contractor shall obtain replacement insurance with minimum coverage and limits set forth in Section 2.1 above. The OCIP shall continue to provide coverage for losses until alternate insurance is in place. Contractor shall provide Owner with certificates of insurance or, at Owner's option, certified copies of policies upon issuance thereof. Contractor may further require its Subcontractors of every tier to obtain replacement insurance. Owner shall issue an appropriate Change Order to Contractor to adjust the Contract for the actual cost of the additional premiums to Contractor and its Subcontractors for such replacement insurance. Owner shall pay such amounts within thirty (30) days receipt of such Change Order. Such insurance will be based upon the OCIP Credits initially provided to CDOT.

## **2.7 SUBROGATION AND WAIVERS**

**2.7.1** Contractor shall require all policies of insurance that are related to the Project and that are secured and maintained by Contractor and each Subcontractor to include clauses providing that each underwriter and carrier shall waive all their respective rights of recovery, under subrogation or otherwise, against Owner and Contractors rendering services at the Project, Contractor, its Subcontractors, Owner's Separate Contractors, and their Subcontractors, regardless of tier.

**2.7.2** Contractor waives rights of recovery against its Subcontractors, Owner and Separate Contractors rendering services at the Project, regardless of tier that Contractor may have or acquire because of deductible clauses in or inadequacy of limits of policies of insurance that are in any way related to the Project and that are secured and maintained by Contractor, other than a right of contribution from Subcontractors for deductible amounts.

**2.7.3** Contractor shall require its Subcontractors to waive the rights of recovery in the same manner, as waived in the preceding paragraph by Contractor, against Owner and Contractor, other Project Contractors and Subcontractors, other Separate Contractors, and their Subcontractors, regardless of the tier.

**2.7.4** The OCIP insurance coverage is primary and non-contributory as it relates to coverage provided within the OCIP Program. The underwriters and carriers for the OCIP shall waive all their respective rights of subrogation against the Owner and Contractors rendering services at the Project, Contractor, its Subcontractors, Owner's Separate Contractors, and their Subcontractors, regardless of tier, as it relates to coverage provided under the OCIP insurance policies.

**2.7.5** The waivers of subrogation contained in this Section 2.7 and in CDOT's Book 1 and 2, shall apply to the Owner's separate permanent property insurance policies, including any

claims which may be made under the Owner's separate property policy in effect after Final Payment has been made.

## **2.8 EVIDENCE OF INSURANCE**

All insurance policies required to be obtained under the terms of this Contract shall be endorsed to provide that the insurance company shall provide written notice to Owner and Contractor at least 30 days prior to the effective date of any cancellation of such policies.

Prior to the date on which Contractor commences any Work at the Project site, Contractor shall furnish to Owner certificates of insurance evidencing all insurance required by this Contract. If Owner directs, copies of the actual insurance policies or renewals or replacements thereof shall be submitted to Owner. All copies of policies, if any, and certificates of insurance submitted to Owner shall be in form and content acceptable to Owner.

The Contractor considers its insurance policies to be confidential under the Colorado Open Records Act, because disclosure of these documents would be likely to cause substantial harm to its competitive position. In the event of a Colorado Open Records Act request, the Owner agrees to honor such request for confidentiality of the Contractor 's insurance policies, subject to compliance with any subsequent court order to the contrary.

## **2.9 MISCELLANEOUS**

**2.9.1** Nothing contained herein shall relieve Contractor, or its Subcontractors of their obligations to exercise due care when performing any Work on the Project or to complete such Work in strict compliance with the Contract.

**2.9.2** By enrolling in the OCIP, the Contractor acknowledges that (A) the limits of OCIP provided insurance are shared by all insured parties under the OCIP for the Project, (B) Owner and their affiliates of every tier disclaim any responsibility whatsoever for the availability, adequacy or exhaustion of the limits of the OCIP, the present or future solvency of any OCIP insurers, or any claims or disputes by, between, or among Owner and any Contractor and any Subcontractor, or any tier, and any of the OCIP insurance carriers.

**2.9.3** Any type of insurance or increase in limits not described herein which Contractor requires for its own protection or as a result of any applicable law shall be its own responsibility and expense.

**2.9.4** CDOT is considering a Shared Savings Program for the OCIP in which a portion of the savings may shared with the Contractor and its Project Contractors and Subcontractors. CDOT reserves the right to provide such a program prior to the Award of the Contract. The Shared Savings program will be based upon a percentage of the OCIP Credits provided by the Contractor and their enrolled Project Contractors who participate in the OCIP, including provision for their overall loss experience. The actual program savings will be calculated at completion of the project utilizing insurance industry loss development factors and will be shared only with those Project Contractors who have a material presence over a period of time as outline in the final Share Savings program.

## 2.10 SAFETY REQUIREMENTS

### 2.10.1 General

Owner requires the Contractor, all Enrolled Contractor and Subcontractors of every tier working at their Project to at a **minimum** adhere to CDOT's Safety Requirements as provided for in Book 1 and 2, and as additionally outlined herein. The Contractor and Subcontractors shall within their own site specific Safety Requirements or Manuals ensure compliance has been met with the following Safety Requirements, which are incorporated in the Contract Documents.

Contractor shall take all necessary precautions to protect the safety and health of the Project Site and is ultimately responsible to establish and maintain a written Contractor Safety Program (CSP) for the Work. Contractor shall establish administrative and technical means for the mitigation of risk, response to incidents, and recovery/restoration to normal operations at the Project Site. The Program shall include development of a site safety culture which supports, "best practices" for accident prevention, job specific hazard recognition and planning, training, reporting, management oversight, and implementation.

All costs, penalties, and expenses of complying with the requirements of these Safety Requirements shall be included as part of the cost of the Contract. Contractor shall notify Owner promptly, in writing, if a charge of non-compliance has been filed against Contractor, or any Contractor or Subcontractor, in connection with its performance of the Work.

The developed CSP shall apply in all phases of the Work. The objective of the program is to eliminate or control accident risks to personnel, associated management, subcontractors, equipment, facilities, general public, and environment. Required activities include hazard identification & analysis, planning, management, dedicated resources, auditing conformance, training, communicating results and documentation.

Additionally, clear and open partnering and communications relative to the safety program between Contractor, Project Contractors and Subcontractors, and Owner's Representative(s) is a key component in effectively implementing and assuring conformance.

Contractor is solely responsible for health and safety and shall perform the Work in a safe and environmentally acceptable manner; this includes all of its Subcontractors, or other Contractors.

### 2.10.2 Safety Criteria

Meet all CDOT requirements listed in Book 1 and Book 2; in addition meet all requirements as described in this addendum.

Notice of Correction of other unsafe conditions will be conveyed in writing within 24 hours after receiving written notice from Owner, Contractor, or Owner's Safety Representative (OSR) of unsafe work. Lost time and lost productivity associated with this or any safety violation will be at the sole cost of Project Contractor or the Subcontractor without additional compensation.

### **2.10.3 Contractor Site Safety Management**

Each Subcontractor is required to name an individual on its payroll as a Safety Representative (SR). These SRs are not required to be full-time safety representatives. The Subcontractors are required to name an individual(s) who has the experience, ability and authorization to act on the Subcontractor's behalf in matters of safety on the Project.

If at any time any Subcontractor is performing one or more contracts and has fifty (50) or more employees on site for a period of (20) consecutive workdays, including cumulative workdays under multiple contracts ("high employment"), such Subcontractor will have a full-time qualified safety representative on the job site to ensure the safety of its operations during the period of such high employment.

As a condition of the Contract, the Project Insurance Manual and Contractor's Safety Program, all Contractors and their Subcontractors are required to participate in the project's "Return To Work" program. Contractors and Subcontractors shall return injured workers back to work at pre-injury wages as soon as possible through light or modified work tasks, which meet medical department's work restrictions.

Contractor will administer any job-site safety recognition incentive program developed for the site in an effort to maintain a safety-conscious workforce at the site.

### **2.10.4 OCIP Required Contractor Site Safety Requirements:**

1. The Contractors Safety Program will conform to all aspects of this Section 2.10 and be consistent with the requirements herein and the CDOT Required Contractor's Safety Management Plan.
2. Contractor shall conduct a project/site safety orientation for all Contractor & Subcontractor employees prior to their working on the Project Site; including orientation for all full time project oversight and management personnel. A uniquely project identifiable hard-hat decal shall be provide upon completion to each worker.

The safety orientation (at a minimum) shall include the following:

- a. A description of the extent and nature of the Project.
  - b. A description of any hazards that can typically be expected during the course of work, and means and methods for avoiding or protecting oneself.
  - c. Required work practices, job conduct, and injury reporting procedures.
  - d. Any other general information to acquaint the employee with special work and safety requirements at the Site.
3. Project Contractors and Subcontractors shall be prohibited from use and possession of alcoholic beverages, drugs (other than prescription), carrying weapons or ammunition onto the site, or using or carrying weapons while performing work on the Project's behalf, or attending Project sponsored activities. Contractor, at its own expense, shall adopt a policy of a drug free work site on the Project, which at a minimum shall include pre-job site and post-accident drug testing. Contractor, at its discretion, may include "for cause" and "random" testing if consistent best practices are applied.

Contractor shall require all workers to demonstrate a negative drug test before attending a Project Safety Orientation, and performing any work on an CDOT OCIP Sponsored Project. Previous drug test results from an accredited facility done within forty-five (45) days will be acceptable. Any employee who has not worked on a CDOT OCIP Sponsored Project during the last 12 months must retest and go through a new Project Safety Orientation as provided by the Contractor.

4. Current crane certification for each crane is required and must be on file at the jobsite.
5. Contractor safety enforcement activities shall be documented and/or logged and provided to the Owner's Safety Representative upon request (without any personnel privacy sensitive information) and this information shall be on file at the jobsite.
6. Include Personal Protective Equipment (PPE) requirements and policy.
  - a. 100% Fall protection at working surfaces above 6ft without review and authorization from OCIP Safety Manager
  - b. 100% eye protection with side shields required.
  - c. 100% wearing of heavy-duty work boots/shoes required.
  - d. 100% wearing of hardhats required.
  - e. 100% wearing of shirt & long pants (no shorts).
  - f. 100% wearing of high visibility vest or clothing.
  - g. Hearing protection as required.

## **2.10.5 OCIP Required Reporting**

### **1. Accident Reporting**

Contractor shall provide timely verbal notification and a written report to Owner's Representative, and Owner's Safety Representative of any and all accidents/incidents whatsoever arising out of or in connection with the performance of the work, whether on or adjacent to the site, which cause death, personal injury or property damage; and or had a serious potential for same. Verbal notification to the Owner shall be immediate and under no circumstance shall notification exceed one (1) hour from time of occurrence. Verbal notification shall include date and time, location, brief description, extent of property damage, and extent of injuries. A preliminary written accident report shall be furnished to the Owner's Representative and Owner's Safety Representative within twenty-four (24) hours of the occurrence; final is due within 10 working days.

### **2. Monthly Accident/Incident Summary Reports**

Contractor shall provide a written Monthly Accident/Incident Safety Performance Summary Report for losses under their Contract to the Owner within seven (7) Days of the last day of the month. The report shall include the following minimum information:

- a. A summary, current year for all accidents/incidents – all Project Contractors / Subcontractors.
- b. Summary of lost time for the Project to date, including total number of lost days and number of lost days accidents.

- c. Summary of accident data by Contractor and Subcontractor.
- d. Summary of Property Damage, including Utility Damage incidents.
- e. Status update of any project required corrective actions.

#### **2.10.6 OCIP REQUIRED CONTRACTOR SAFETY MANAGEMENT PLANS / DOCUMENTS**

##### **1. Job Task Hazard Analysis Program.**

- a. All work activities shall have a written job/task/activity Hazard Analysis (HA) associated with it appropriate for the hazards, scope, and/or complexity of the work. At a minimum this HA will cover the steps, hazards, and mitigation, required to perform the work safely.

##### **2. Project Hazard Communication Plan**

##### **3. Project Utility Safety Management Plan**

- a. Locates, accidental damage prevention, and incident reporting/correcting, policies, procedures, and practices. Contractor will have an adequate utility locate, protect, and emergency response program. Any utility strike will be reported to Owner immediately, investigation and lessons learned follow-up reporting performed, and related program performance measures provided. In addition, no corrections and/or repairs will be re-covered or otherwise made inaccessible until Owner's Representative or designee has had the opportunity to review.

##### **4. Project Water Intrusion Prevention and Mitigation Program**

##### **5. Project Emergency Response Plan**

##### **6. Project Security Plan**

Special consideration and concern shall be given to the storage/protection of highly valuable (i.e., copper), finished product and/or critical materials/equipment to be protected from theft and/or vandalism.

### **3.0 Program Insurance Manual (Attached at the time of award)**

### 3.1 Sample enrollment form

#### CONTRACTOR ENROLLMENT APPLICATION

CONTRACTOR NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_

CONTACT \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

WORK DESCRIPTION \_\_\_\_\_

\_\_\_\_\_

CONTRACTED WITH \_\_\_\_\_

CONTRACT VALUE \_\_\_\_\_

START DATE \_\_\_\_\_

EXPECTED  
COMPLETION DATE \_\_\_\_\_

FEDERAL TAX ID # \_\_\_\_\_

ARE YOU SUBCONTRACTING OUT ANY WORK? (Y) (N)  
IF YES, ESTIMATED CONTRACT AMOUNT (S) TO BE SUBCONTRACTED OUT:

\$ \_\_\_\_\_

ARE YOU A LOWER-TIER SUB? \_\_\_\_\_

IF YES, FOR WHAT CONTRACTOR? \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_