# SECTION 00800

# Supplementary Conditions - Insurance and Indemnification

### **Summary**

A. This document includes requirements that supplement Section 00700 (General Conditions).

### **Supplements**

#### Insert the following as Article 16: Risk Management Template #2

Article 16 – Insurance

## [Do not delete this paragraph]

### **General:**

1. Contractor shall maintain and shall require all of its subcontractors and other agents to maintain the insurance listed below. Contractor shall not commence Work, nor allow its employees, subcontractors or anyone to commence Work until the required insurance has been submitted and approved by Owner and a Notice to Proceed has been issued. Any requirement for insurance to be maintained after completion of the Work shall survive this Contract.
2. Owner reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Contract or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Contract.

### **Contractor - Required Insurance:**

1. At or before the date specified in Section 00510 (Notice of Award), Contractor shall furnish to Owner satisfactory proof that Contractor has obtained the following insurance as specified below:
2. **Workers Compensation Insurance & Employers Liability Insurance.**
3. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
4. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.
5. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against Owner.
6. Required Evidence of Insurance:
7. Subrogation waiver endorsement, and
8. Certificate of Insurance.
9. If injury occurs to any employee of Contractor, Subcontractor, or sub-subcontractor for which the employee, or the employee’s dependents in the event of employee’s death, is entitled to compensation from Owner under provisions of the Workers Compensation Insurance and Safety Act (Act), as amended, or for which compensation is claimed from Owner, Owner may retain out of sums due Contractor under Contract Documents, amount sufficient to cover such compensation, as fixed by the Act, as amended, until such compensation is paid, or until it is determined that no compensation is due. If Owner is compelled to pay compensation, Owner may, in its discretion, either deduct and retain from the Contract Sum the amount so paid, or require Contractor to reimburse Owner.
10. **General Liability Insurance.**
11. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
12. Minimum Limits. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Contractor maintains higher limits than the specified minimum limits, Owner requires and shall be entitled to coverage for the higher limits maintained by Contractor.
13. Projects under $1,000,000: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
14. Projects from $1,000,000 - $4,999,999: $2,000,000 per Occurrence; $4,000,000 General Aggregate; $4,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
15. Projects from $5,000,000 - $9,999,999: $5,000,000 per Occurrence; $5,000,000 General Aggregate; $5,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
16. Projects $10,000,000 and Over: Minimum Limits: $10,000,000 per Occurrence; $10,000,000 General Aggregate; $10,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
17. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Owner. Contractor is responsible for any deductible or self-insured retention and shall fund it upon Owner’s written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving Owner.
18. Insurance shall be maintained for the entire period of the Work and for the duration of Contractor’s Guarantee Period specified in Section 00630 (Guarantee). Completed operations insurance shall be maintained beyond the Guarantee Period as specified below:
19. Projects under $1,000,000: One (1) year after end of Guarantee Period.
20. Projects from $1,000,000 - $4,999,999: Two (2) years after end of Guarantee Period.
21. Projects from $5,000,000 - $9,999,999: Three (3) years after end of Guarantee Period.
22. Projects $10,000,000 and Over: Five (5) years after end of Guarantee Period.
23. Owner, its Board of Directors, and its employees, representatives, consultants, and agents [For CSDs add:] ; and Sonoma County Water Agency, its employees, representatives, consultants, and agents; [Option if work is on County property (per RM: County should be an additional insured for work at Spring Lake Park, Riverfront, Wohler Bridge, Santa Rosa Creek Trail, Colgan Creek Trail or Hunter Creek Trail and work on other County property):] ; County of Sonoma, its officers, employees, consultants, representatives, and agents; shall be endorsed as additional insureds for liability arising out of ongoing and completed operations by or on behalf of the Contractor in the performance of the Contract Documents. Additional insureds status shall continue for the period(s) specified in paragraph 16.2A.2.d [double check cross-reference] above.
24. The additional insured endorsement for completed operations shall not be restricted to work performed during the current policy period.
25. [If additional insured status is required by agreement, include the following:] [Insert name of Funding Source and/or Lender] shall be endorsed as additional insureds for liability arising out of Contractor’s ongoing operations (ISO endorsement CG 20 26, Additional Insured – Designated Person or Organization, or equivalent).
26. [If additional insured status is required by agreement, include the following:] [Insert name of property owner, licensor and/or grantor of easement] shall be endorsed as additional insureds for liability arising out of Contractor’s ongoing operations (ISO endorsement CG 20 26, Additional Insured – Designated Person or Organization, or equivalent).
27. [If additional insured status is required by agreement, include the following:] [Insert name of architect, engineer and/or surveyor] shall be endorsed as additional insureds for liability arising out of Contractor’s ongoing operations (ISO endorsement CG 20 32, Additional Insured – Engineers, Architects or Surveyors Not Engaged by the Named Insured, or equivalent).
28. The policy definition of “insured contract” shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the “f” definition of insured contract in ISO form CG 00 01, or equivalent).
29. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
30. The policy shall not exclude injury or damage caused by, or resulting from, explosion, collapse and/or underground hazards.
31. The policy shall not contain a Contractors' Warranty or other similar language which eliminates or restricts insurance because of a Subcontractor's failure to carry specific insurance or to supply evidence of such insurance.
32. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against all persons or entities that are, or are required to be, additional insureds.
33. The policy shall cover inter-insured suits between Contractor and the additional insureds and shall include a “separation of insureds” or “severability” clause which treats each insured separately.
34. Required Evidence of Insurance:
35. Additional insured endorsements or policy language granting additional insured status;
36. Endorsement or policy language indicating that insurance is primary and non-contributory;
37. Subrogation waiver endorsement; and
38. Certificate of Insurance.
39. **Automobile Liability Insurance.**
40. Minimum Limit:
41. Projects under $1,000,000: $1,000,000 combined single limit per accident.
42. Projects $1,000,000 and Over: $2,000,000 combined single limit per accident.
43. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
44. Insurance shall cover all owned, hired, and non-owned vehicles.
45. Owner, its Board of Directors, and its employees, representatives, consultants, and agents [For CSDs add:] ; and Sonoma County Water Agency, its employees, representatives, consultants, and agents; [Option if work is on County property [per RM, County should be an additional insured for work at Spring Lake Park, Riverfront, Wohler Bridge, Santa Rosa Creek Trail, Colgan Creek Trail or Hunter Creek Trail and work on other County property:] ; and County of Sonoma, its officers, employees, consultants, representatives, and agents; shall be defined as insureds under the policy or shall be endorsed as additional insureds.
46. Insurance shall be maintained for the entire term of this Contract, including any Guarantee Period.
47. Required Evidence of Insurance:
48. Endorsement or policy language documenting Paragraph 16.2A.3.d [double check cross-reference]; and
49. Certificate of Insurance.
50. [This requirement may be removed before advertisement (rare) for projects that don't have the potential for broad environmental pollution either during or after construction. Most contractors have this coverage, so it is unlikely that requiring this coverage will increase bid prices. If project may include damage caused by, or resulting from, subsidence, mold, or silica, contact Risk Management for language to encompass these exposures.] **Contractors Pollution Liability Insurance.**
51. Minimum Limits: [increase limits for high risk/complex projects – consult with Risk Management]
52. Projects under $5,000,000: $1,000,000 per pollution Incident; $1,000,000 Aggregate; and
53. Projects $5,000,000 and Over: $2,000,000 per pollution Incident; $2,000,000 Aggregate.
54. The insurance shall cover:
55. bodily injury, sickness, disease, sustained by any person, including death;
56. property damage, including physical injury to or destruction of tangible property including the resulting loss of use thereof;
57. cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution of value and natural resources damages;
58. loss arising from pollutants including, but not limited to, fungus, bacteria, asbestos, lead, silica, and contaminated drywall; [remove any of these that do not apply; if none apply, completely delete this item]
59. contractual liability coverage for liability assumed by Contractor under a written contract or agreement;
60. claims arising from owned and non-owned disposal sites utilized in the performance of this Contract; and
61. defense costs, including costs, charges, and expenses incurred in the investigation, adjustment, or defense of claims.
62. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Owner. Contractor is responsible for any deductible or self-insured retention and shall fund it upon Owner’s written request, regardless of whether Contractor has a claim against the insurance or is named as a party in any action involving Owner.
63. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of Work.
64. Insurance shall be maintained for the entire period of the Work and for the duration of Contractor’s Guarantee Period specified in Section 00630 (Guarantee), plus the additional periods as specified below:
65. Projects under $1,000,000: One (1) year after end of Guarantee Period.
66. Projects from $1,000,000 - $4,999,999: Two (2) years after end of Guarantee Period.
67. Projects from $5,000,000 - $9,999,999: Three (3) years after end of Guarantee Period.
68. Projects $10,000,000 and Over: Five (5) years after end of Guarantee Period.
69. If the insurance is on a Claims-Made basis, the continuation coverage may be provided by: (a) renewal of the existing policy; (b) an extended reporting period endorsement; or (c) replacement insurance with a retroactive date no later than the commencement of the Work.
70. Owner, its Board of Directors, [If additional insured status is required by agreement, insert:] [name of property owner or licensor], [If additional insured status is required by agreement, insert:] [funding agency] [Option if work is on County property [per RM, County should be an additional insured for work at Spring Lake Park, Riverfront, Wohler Bridge, Santa Rosa Creek Trail, Colgan Creek Trail or Hunter Creek Trail and work on other County property:] ; and County of Sonoma, its officers, employees, consultants, representatives, and agents; and its employees, representatives, consultants, and agents; [For CSDs add:] and Sonoma County Water Agency, its employees, representatives, consultants, and agents; shall be endorsed as additional insureds for liability arising out of ongoing and completed operations by or on behalf of the Contractor in the performance of the Contract Documents.
71. The insurance provided to the additional insureds shall apply on a primary and non-contributory basis with respect to any insurance or self-insurance program maintained by them*.*
72. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against all persons or entities that are, or are required to be, additional insureds.
73. The policy shall cover inter-insured suits between the Contractor and the additional insureds and include a “separation of insureds” or “severability” clause which treats each insured separately.
74. Required Evidence of Insurance:
75. Additional insured endorsement or policy language granting additional insured status;
76. Endorsement or policy language indicating that coverage is primary and non-contributory;
77. Subrogation waiver endorsement; and
78. Certificate of Insurance, including an indication of the coverage basis: occurrence or claims-made. If claims-made, the Certificate shall show the policy retroactive date.
79. **Professional Liability/Errors & Omissions Insurance.**
80. Required if the Contractor or its employees engage in design or professional activities (architecture, engineering or surveying) that are not subcontracted out.
81. Minimum Limit: $1,000,000 per claim or per occurrence.
82. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Owner.
83. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the Work.
84. Insurance applicable to the Work performed under the Contract shall be continued for two (2) years after completion of the Work. Such continuation insurance may be provided by one of the following: (a) renewal of the existing policy; (b) an extended reporting period endorsement; or (c) replacement insurance with a retroactive date no later than the commencement of the Work.
85. Required Evidence of Insurance:
86. Certificate of Insurance.
87. Increase of Minimum Limits.
88. Required minimum amounts of insurance may be increased should conditions of Work, in opinion of Owner, warrant such increase. Contractor shall increase required insurance amounts upon direction by Owner.
89. Standards for Insurance Companies.
90. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.
91. Documentation.
92. The Certificate of Insurance shall include the following reference: [00-0-7 #\_].
93. Contractor agrees to maintain current Evidence of Insurance on file with Owner for the periods of insurance specified above in Paragraphs 16.2A.1 through 16.2A.5. [double check cross-references] Any requirement to maintain insurance after Final Completion of the Work, including providing Certificates evidencing required insurance, shall survive the Contract.
94. Required Evidence of Insurance shall be submitted to Sonoma County Water Agency [Alternate for CSDs:] [insert name of CSD] County Sanitation District, c/o Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.
95. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
96. Contractor shall provide immediate written notice if: (a) any of the required insurance policies are terminated; (b) the limits of any of the required policies are reduced; or (c) the deductible or self-insured retention is increased.
97. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.
98. Policy Obligations.
99. Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.
100. Material Breach.
101. If Contractor fails to maintain Insurance which is required pursuant to the Contract Documents, it shall be deemed a material breach. Owner, at its sole option, may terminate the Contract for default and obtain damages from Contractor resulting from said breach. Alternatively, Owner may purchase the required Insurance, and without further notice to Contractor, Owner may deduct from sums due to Contractor any premium costs advanced by Owner for such insurance. These remedies shall be in addition to any other remedies available to Owner under the Contract Documents or Law.

### **Subcontractors - Required Insurance:**

1. With respect to their portion of the Work, Subcontractors of all tiers shall maintain the same insurance required to be maintained by Contractor with limits as follows:
2. Minimum General Liability Limits for Framing, Mechanical, and Electrical Subcontractors.
3. Projects under $1,000,000: $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
4. Projects $1,000,000 and Over: $2,000,000 per Occurrence; $4,000,000 General Aggregate; $4,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
5. Minimum General Liability Limits for all Subcontractors other than Framing, Mechanical, and Electrical Subcontractors.
6. $1,000,000 per Occurrence; $2,000,000 General Aggregate; $2,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project.
7. Minimum Automobile Liability Limits.
8. $1,000,000 combined single limit per accident.
9. Minimum Employers Liability Limits.
10. $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.
11. Professional Liability/Errors & Omissions Insurance.
12. Required for any architect, engineer, surveyor, or other licensed professional engaged by Contractor to perform portions of the Work.
13. Minimum Limit: $1,000,000 per claim or per occurrence.
14. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by Owner.
15. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the Work.
16. Coverage applicable to the Work performed under the Contract shall be continued for two (2) years after completion of the Work. Such continuation coverage may be provided by one of the following: (a) renewal of the existing policy; (b) an extended reporting period endorsement; or (c) replacement insurance with a retroactive date no later than the commencement of the Work.
17. Required Evidence of Insurance:
18. Certificate of Insurance.

### **Builders Risk:** [check with Risk Management on use of this provision -- see note in paragraph 16.5 below]

1. With respect to Work under this Contract, Owner shall maintain “All-Risk” Course of Construction insurance as follows:
2. Insured Property shall include: (1) real property in course of construction;(2) building materials and supplies intended to be in or on the completed Work located at the Site, in storage or in transit, and whether or not owned or paid for by Owner; (3) fixtures and machinery intended to be in or on the completed Work.
3. Limit of insurance shall be the full contract value.
4. Responsibility for paying deductibles is as follows:

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| --- | --- | --- | --- |
| ***Contract Value or Description*** | ***Contractor’s Responsibility for Deductible: Earthquake and Flood*** | ***Contractor’s Responsibility for Deductible: Other Insured Perils*** | ***Owner's Responsibility for Deductible*** |
| Full Contract Value under $1,000,000 | First $10,000 | First $5,000 | Balance of Deductible |
| Full Contract Value: $1,000,000 - $9,999,999 | First $20,000 | First $10,000 | Balance of Deductible |
| Full Contract Value: $10,000,000 - $19,999,999 | First $50,000 | First $25,000 | Balance of Deductible |
| Full Contract Value: $20,000,000 and above | First $60,000 | First $30,000 | Balance of Deductible |

1. Contractor and Subcontractors of all tiers shall be additional insureds.
2. **Excluded projects: dams; piers; roads; bridges; wastewater treatment facilities.** [RFC1]
3. **Excluded property: Equipment, tools, and personal effects belonging to Contractor or Subcontractors of all tiers.**
4. Insured perils: All Risks of Direct Physical Damage or Loss, including flood and, for scheduled locations, earthquake, except as excluded.
5. **Exclusions may include, but are not limited to:**
6. **Loss due to wear and tear, moths, vermin, termites, insects, latent defects, gradual deterioration, wet or dry rot, rust, corrosion, erosion or normal settling, shrinkage, and/or expansion of buildings or foundations.**
7. **The cost of making good, faulty or defective workmanship, material, construction or design. Damage resulting from such faulty or defective workmanship, material, construction, or design is not excluded.**
8. **Loss resulting from delay in completion of contract or non-compliance with contract conditions.**
9. **Loss or damage due to contaminants and/or pollutants. However, fire losses arising directly or indirectly from pollutants or contaminants are covered.**
10. **Loss of use or occupancy or consequential loss.**
11. **Liquidated damages and/or penalties for delay or detention in connection with guarantees of performance or efficiency.**
12. **Loss or damage caused by or resulting from infidelity or dishonesty on the part of any insured or the employees or agents of any insured.**
13. **Inventory shortage or unexplained disappearance.**
14. Course of Construction Insurance, including all policy coverages, conditions and exclusions, shall control in the event of any conflict with the language of this Section 00700. Upon request, Owner will provide a Certificate of Property Insurance.

### **Builders Risk:** [check with Risk Management for use of this alternate: Use the following in place of standard provision above for projects involving (1) dams; piers, roads, or bridges; (2) wastewater treatment facilities; (3) standing timber or growing crops; (4) extensive installation of landscaping (lawns, trees, shrubs or plants); (5) work near a body of water, river, stream or canal; (6) work adjacent to the ocean; or (7) work located on property that is not owned by either the County, the Sonoma County Water Agency or the Sonoma County Agricultural and Open Space district.]

1. With respect to Work under this Contract, Contractor shall maintain “All-Risk” Course of Construction insurance as follows:
2. Minimum Limit: 100% of the completed value of the Project.
3. Insured property shall include (1) Real property in Course of Construction; (2) building materials and supplies intended to be in or on the completed Project located at any portion of the jobsite, in storage, or in transit, (3) fixtures and machinery intended to be in or on the completed Project; (4) scaffolding, cribbing, fencing, forms and temporary trailers, while located at any portion of the jobsite, in storage or in transit.
4. Contractor, subcontractors of all tiers, and the Sonoma County Water Agency shall be endorsed as insured parties.
5. Insured perils: All Risks of Direct Physical Damage or Loss except as excluded. The insured perils shall be no less broad than those covered by ISO Causes of Loss – Special Form CP 10 30.
6. Required Evidence of Insurance:
7. Endorsement evidencing insured status as required by Paragraph 16.4A.3 above; and
8. Certificate of Property Insurance (Acord Form 24).

#### Insert the following as Article 17:

Article 17 – Responsibility of Contractor and Indemnification

## [Do not delete this paragraph]

### Owner and each of its officers, employees, consultants, and agents including, but not limited to, [for CSDs add:] Water Agency, the Board, Owner’s Project Manager, and each Owner’s Representative, shall not be liable or accountable in any manner for loss or damage that may happen to any part of the Work; loss or damage to materials or other things used or employed in performing the Work; injury, sickness, disease, or death of any person; or damage to property resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence, attributable to performance or character of the Work, and Contractor releases all of the foregoing persons and entities from any and all such claims.

### To the furthest extent permitted by law (including without limitation California Civil Code §2782), Contractor shall assume defense of, and indemnify and hold harmless, Owner and each of its officers, employees, consultants, and agents including, but not limited to, [for CSDs add:] Water Agency, the Board, Owner’s Project Manager and each Owner’s Representative, from claims, suits, actions, losses, and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney’s fees and consultant’s fees, directly or indirectly arising out of, connected with or resulting from performance of the Work, failure to perform the Work, or condition of the Work which is caused in whole or part by any act or omission of Contractor, Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, resulting from any cause whatsoever except their sole negligence, willful misconduct, or active negligence.

### With respect to third-party claims against Contractor, Contractor waives any and all rights to any type of express or implied indemnity against Owner and each of its officers, employees, consultants, and agents including, but not limited to, Owner, [for CSDs add:] Water Agency, the Board, Owner’s Project Manager and each Owner’s Representative. Owner shall provide timely notice to Contractor of any third-party claim relating to the Contract Documents, in accordance with Section 9201 of the California Public Contract Code.

### Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its Subcontractors of any tier, or the officers or agents of any of them.

### To the furthest extent permitted by law (including, without limitation, Civil Code §2782), the indemnities, releases of liability and limitations of liability, claims procedures, and limitations of remedy expressed throughout Contract Documents shall apply even in the event of breach of Contract, negligence (active or passive), fault or strict liability of the party(ies) indemnified, released, or limited in liability, and shall survive the termination, rescission, breach, abandonment, or completion of the Work or the terms of the Contract Documents. If Contractor fails to perform any of these defense or indemnity obligations, Owner may in its discretion back charge Contractor for Owner’s costs and damages resulting therefrom and withhold such sums from progress payments or other Contract monies which may become due.

### The indemnities in the Contract Documents shall not apply to any indemnified party to the extent of its sole negligence or willful misconduct; nor shall they apply to Owner or other indemnified party to the extent of its active negligence.

END OF Section