

**Lincoln-Lancaster County Railroad Transportation Safety District
CONTRACT FOR ENGINEERING SERVICES**

THIS CONTRACT, executed in triplicate, is between the **Lincoln-Lancaster County Railroad Transportation Safety District (the “RTSD”)** and

a corporation of the state of _____,

with a place of business at:

Phone: _____ Fax: _____

Fed EIN # _____.

WITNESSETH: That in consideration of the mutual covenants herein contained, the RTSD hereby agrees to employ the Engineer to perform engineering and related professional services hereinafter outlined in connection with

SECTION I — SCOPE OF SERVICES

The Engineer agrees to timely and professionally complete, furnish and pay all costs, including any related taxes, and to furnish all labor, supplies and material and everything else reasonably necessary to complete the same unless specifically provided otherwise in this agreement for the following services:

- A. Basic Services [May delete/uncheck services that do not apply]. The basic services of the Engineer include the services rendered by the named authorized representative of the Engineer in IV(C) below. The Engineer agrees to promptly notify the RTSD in the event the named authorized representative is unable to provide the reasonably required services in person.

a. Client Services

- i. Site visit (_____ times) and study review

- ii. Public/neighborhood meetings and presentation of draft (_____ times)
- iii. Analysis and recommendations for input and comments
- iv. Document by memoranda or minutes including summaries of telephone calls where appropriate to maintain a comprehensive record of the Project.

b. Deliverables

- i. Prepare and deliver draft report (_____ copies);
 - ii. Prepare and deliver final report (_____ copies);
 - iii. Prepare and deliver related public meeting presentation materials or handouts.
- B. Supplemental services [list with correlated not to exceed amount] and additional services as preauthorized by written approval of the RTSD.
- C. Services Description. A description of the services to be performed is listed in Appendix A [Proposal] and the Project Schedule is listed in Appendix B. In the event of a conflict between the terms of any Appendix and this agreement, this agreement shall control.

SECTION II — COMPENSATION

For the services covered by this Contract, the RTSD agrees to pay the Engineer as follows:

- A. For Basic Services: Cost plus reimbursement of actual expenses with an agreed maximum amount. Engineer agrees to request payment according to the substantial completion of the following milestones in compliance with the Project schedule listed in Appendix B:
 - o Site Visits study 20%;
 - o Draft Report 40% (60% cumulative);
 - o Final Report 30% (90% cumulative); and
 - o Wrap-up 10% (100% cumulative)
- B. For supplemental services: Cost plus reimbursement of actual expenses plus _____ percent of cost for fixed fee, with an agreed maximum amount to be billed. A maximum amount for each item of supplemental services will be established and approved by the RTSD before the work is started. Supplemental services are not included in any of the prices or billing limits named above.
- C. The Engineer is responsible for determining if its actual costs will exceed the maximum amount stated above. If at any time during this Project, the Engineer determines that its costs will exceed, or have exceeded, the maximum amount stated above, the Engineer must immediately notify the RTSD in writing and describe which costs are causing the overrun and the reason. The Engineer must also estimate the additional costs needed to complete the work. The RTSD will then determine if the maximum amount is to be increased, and an amendment will be prepared if needed.
- D. The RTSD is not responsible for costs incurred prior to the Notice-to-Proceed date or after the completion deadline date stated in Appendix B of this agreement.
- E. The fixed-fee is computed upon actual costs including direct labor costs, direct non-labor costs, and overhead costs as follows:
 - a. **Direct Labor Costs** are the earnings that individuals receive for the time they are working directly on the Project.

- i. Hourly rates: For hourly employees, the hourly earnings rate is based on the compensation received during the pay period that the work is performed, and dividing that compensation by the hours paid. For salaried employees, the hourly earnings rate is determined by dividing the employee's fixed annual compensation by the number of hours normally expected to be worked that year. In those pay periods which the employee works more hours than normally expected and does not receive additional compensation at least equal to the normally expected hourly rate, the rate for that pay period will be determined by dividing the actual compensation by the actual hours reported.
 - ii. Time records: The hours charged to the Project must be supported by adequate time distribution records. The records must clearly indicate the distribution of hours to all activities on a daily basis for the entire pay period, and there must be a system in place to ensure that time charged to each activity is accurate.
 - b. **Direct Non-Labor Costs** charges in this category include per diem expenses for personnel away from their base of permanent assignment, communication costs, reproduction and printing costs, computer charges, special equipment and materials required for the Project, special insurance premiums if required solely for this agreement, and such other similar items. Payment for these items must be made on receipted invoices whenever possible, or on certified billings of the Engineer. For purposes of standardization on this agreement, automobile mileage will be reimbursed at the IRS approved rate for mileage expenses for federal income purposes and computer charges will only be allowed with prior written approval not to exceed actual reasonable cost. All lodging, airfare and other applicable discounts for expenses shall be passed on to the RTSD in calculating reasonable costs. Meals are not eligible for reimbursement if the employee eats within 20 miles of their base.
 - c. **Overhead Costs** include indirect salary costs, indirect non-salary costs, and direct salary additives that are allowable in accordance with 48 CFR 31. Overhead costs are to be allocated to the Project as a percentage of direct labor costs. The Engineer will be allowed to charge the Project using its actual allowable overhead rate. Overhead rate increases which occur during the Project period will not be cause for an increase in the maximum amount established in paragraph A of this section.
- F. Invoices. The Engineer should submit invoices to the RTSD at monthly intervals. The invoices must present actual direct labor, actual overhead, and actual direct non-labor costs, as well as a prorated amount of the fixed-fee based upon the actual direct labor and overhead costs billed for that period relative to the Engineer's estimated total direct labor and indirect overhead costs and the milestones provided in section A above, until 100 percent of the fixed-fee has been billed. The invoices must identify the hours worked and each individual's actual labor cost. Direct non-labor expenses must be itemized and provide a complete description of each item billed.
- G. Progress Reports. Monthly invoices must be substantiated by progress reports which indicate the percent of work completed. If the Engineer does not submit a monthly invoice, it shall submit its progress report by the fifth day of each month.

- H. Payment. The RTSD will make every effort to pay the Engineer within 30 days of receipt of the Engineer's invoices. Payment is dependent upon whether the monthly progress reports provide adequate substantiation for the work and whether the RTSD determines that the work is satisfactory. Upon determination that the work was adequately substantiated and satisfactory, payment will be made in the amount of 100 percent of the billed actual costs and fixed-fee. After the Engineer has completed all work required under this agreement, a final bill must be sent to the RTSD. Upon acceptance by the RTSD, a final audit of all invoiced amounts may be completed by the RTSD or its authorized representative.
- I. Final Payment. The acceptance by the Engineer of the final payment will constitute and operate as a release to the RTSD for all claims and liability to the Engineer, its representatives, and assigns, for any and all things done, furnished, or relating to the services rendered by or in connection with this agreement or any part thereof. The Engineer agrees to reimburse the RTSD for any overpayments discovered by the RTSD or its authorized representative.
- J. Audit Standards. The Engineer shall maintain, and also require that its Sub-Consultants/Subcontractors maintain, all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and shall make such material available for examination at its office at all reasonable times during the agreement period and for three years from the date of final payment under this agreement. Such materials must be available for inspection by the RTSD, City of Lincoln, County of Lancaster, State of Nebraska, Federal Highway Administration, or any authorized representative of the federal government, and when requested the Engineer shall furnish copies.

SECTION III — RTSD'S RESPONSIBILITIES

The RTSD will furnish, as required for the work and not at the expense of the Engineer, the following items:

- A. Property, boundary, easement, right-of-way, and utility surveys, and property descriptions when such information is required.
- B. All exploratory work, such as core borings, penetration tests, soundings, and subsurface explorations; and laboratory tests and analyses.
- C. All maps, drawings, records, audits, annual reports, and other data that are available in the files of the RTSD (and the City of Lincoln and Lancaster County, as available) and which may be useful in the work involved under this contract, including existing surveys, maps, and boring information for the site. Such information is supplied "where is – as is" for the Engineer's review. Engineer must identify and specifically request available information by itemized request with sufficient detail to identify existing documents. The RTSD does not warrant or represent that such information is accurate or complete with regard to the Project. Engineer understands and agrees that Engineer is not entitled to rely upon the available information provided by the RTSD as such information may contain errors, omissions, misrepresentations, uncharacteristic representations or other inconsistencies including inconsistencies or changed conditions that may not be readily discernable but should be reasonably discovered by the Engineer's exercise of due care.
- D. Access to public and private property, as necessary and as may be available, when required in conduct of field investigations.
- E. Office desk space, as may be available, for the Engineer's personnel during

- preliminary investigations.
- F. Shop, mill, or laboratory inspection of materials, or laboratory testing service. The Engineer will review the reports furnished by such laboratories.
 - G. Charges for review of drawings and specifications by governmental agencies, if any.
 - H. Royalties and fees for patented processes used in the work, except those required to be paid by construction contractors as part of the construction contract.

SECTION IV — OTHER MATTERS

It is mutually understood and agreed:

- A. Termination. The RTSD has the right to terminate this contract for any cause, including convenience, in which event the Engineer shall be paid on the basis of percentage of completion of the work to be performed hereunder. The ownership of the work completed at the time of such termination shall be retained by the RTSD. In addition, the RTSD may terminate this agreement in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, released, or otherwise not forthcoming.
- B. Change in Scope. A change in scope of work shall be accompanied by a corresponding adjustment in the compensation to be paid hereunder, which adjustment shall be as may be mutually agreed upon between the parties hereto prior to the implementation of such change in scope.
- C. Project Representatives. _____ will act as the RTSD's authorized representative for this Project and _____ will act as the Engineer's authorized representative. The Engineer's authorized representative shall have direct and responsible charge for timely completing the Engineer's responsibilities. All changes and other matters requiring decisions on the part of the RTSD will be administered and directed by the RTSD Project Representative.
- D. Cost Estimates. Engineer's Construction Estimates are done to industry standards and comply with minimum specifications for city construction using unit prices where possible.
- E. RTSD Concerns. Design documents shall itemize and list the Engineer's responses to RTSD concerns or comments on schematic review.
- F. Signatures and Approvals. Engineer's design documents shall be complete for bidding purposes and include all required seals, signatures and approvals.
- G. Changes. Engineer may only authorize changes in the work not involving changes to the contract Sum or Contract Time.
- H. Advisory Capacity for Disputes. In disputes between the RTSD and Project contractor, the Engineer shall promptly advise the RTSD regarding issues concerning performance under the contract documents. Engineer may decide issues solely on matters of aesthetic effect consistent with contract documents.
- I. Ownership of Drawings and Specifications. Drawings, specifications, and other deliverables shall become the property of the RTSD as soon as payment for the same has been completed. The Engineer may retain copies of all information for their records and use if they so desire. It is mutually agreed that these documents are to be used by the RTSD solely in connection with this Project. In the event the RTSD elects to use portions of or all of the information contained in the documents prepared for this Project, for any purpose other than the specific purpose for which they were prepared, the RTSD agrees to hold harmless and indemnify the Engineer for and against any and all liability, including cost of defense, in any manner whatsoever

- arising out of the utilization of such information.
- J. Engineer's Supervision, Seal. The Engineer shall perform all required services under the direct supervision of a registered professional engineer licensed to practice in the State of Nebraska. The Engineer, also, hereby agrees to affix the seal of a registered professional engineer licensed to practice in the State of Nebraska on all plans and specifications prepared hereunder.
 - K. Independent Contractor. The status of Engineer including Engineer's agents and employees, under or by virtue of the terms of this Contract is that of independent contractor to the RTSD.
 - L. Compliance with Law. Engineer shall comply with all Federal and State laws and City and County ordinances applicable to the work.
 - M. Fair Employment Practices. Neither the Engineer nor the Engineer's agents or employees shall discriminate against any employee or applicant for employment, or be employed in the performance of this contract, with respect to his hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, sex, disability, national origin, ancestry, age, or marital status pursuant to requirements of Section 48-1122, Nebraska Reissue Revised Statutes, Reissue 1998 (as amended) and Section 11.08.160 of the Lincoln Municipal Code (as amended).
 - N. Indemnification. Engineer shall indemnify, defend and save harmless the RTSD and its representatives from all claims, demands, suits, actions, payments, liability, and judgments, including reasonable attorney's fees arising out of the activities of Engineer or of Engineer's agents, servants, or employees. In this connection, Engineer shall carry insurance necessary to satisfy the insurance requirements identified on Appendix C.
 - O. Copyrights, Royalties & Patents. Without exception, Engineer represents the consideration for this agreement includes Engineer's payment for any and all royalties or costs arising from patents, trademarks, copyrights, and other similar intangible rights in any way involved with or related to this agreement except those required to be paid by construction contractors as part of the construction contract. Further Engineer shall pay all related royalties, license fees, or other similar fees for any such intangible rights. Engineer shall defend suits or claims for infringement of any patent, copyright, trademark, or other intangible rights in any way related to this agreement. This section survives any termination of this agreement.
 - P. Copyright -- Engineer's Warranty.
 - 1. Engineer warrants that all material, processes, or other protected rights to be used in the Services have been duly licensed or authorized by the appropriate parties for such use. This section survives any termination of this agreement.
 - 2. Engineer agrees to furnish the RTSD upon demand written documentation of such license or authorization. If unable to do so, Engineer agrees that the RTSD may withhold a reasonable amount from Engineer's compensation herein to defray any associated costs to secure such license or authorization. Engineer shall defend any infringement claim arising out of Engineer's performance of this agreement. This section survives any termination of this agreement.
 - Q. Industry Standards. Engineer warrants to the RTSD that the services to be performed under this agreement shall be in accordance with accepted and established practices and procedures recognized as such in Engineer's trade in general and that Engineer's services shall conform to the requirements of this agreement.
 - R. Nebraska Law. This agreement shall be governed and interpreted by the Laws of the

- State of Nebraska without reference to the principles of conflicts of law.
- S. Integration, Amendment & Assignment. This agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this agreement. This agreement may be amended only by written agreement of both parties. Any subletting, assignment or transfer of any services to be performed by the Engineer is hereby prohibited unless prior written consent of the RTSD is obtained. This contract shall be binding upon the successors and assigns of the parties hereto
- T. Capacity. The undersigned person representing Engineer does hereby agree and represent that he or she is legally capable to sign this agreement and to lawfully bind Engineer to this agreement.
- U. In accordance with *Neb. Rev. Stat.* 4-108 through 4-114, the Engineer agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Engineer shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A. 1324b. The Engineer shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the RTSD and Engineer do hereby execute this agreement.

Executed by the ENGINEER this ____ day of _____, 201__.

Signature: _____

Print: _____

Title: _____

Executed by the RTSD this ____ day of _____, 201 .

LINCOLN-LANCASTER
COUNTY RAILROAD
TRANSPORTATION SAFETY
DISTRICT

Chairperson

Executive Director

APPROVED AS TO FORM

RTSD Attorney

APPENDIX A

Proposal

APPENDIX “B”

Project Schedule

APPENDIX “C”
**INSURANCE REQUIREMENTS
FOR ALL RTSD CONTRACTS**

1. GENERAL PROVISIONS

- A. Indemnification.** Contractor shall indemnify, defend and save harmless the Lincoln-Lancaster County Railroad Transportation Safety District (“RTSD”) and its representatives from all claims, demands, suits, actions, payments, liability, and judgments, including reasonable attorney’s fees arising out of the activities of Contractor or of Contractor’s agents, servants, or employees.
- B. Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to Protect Contractor and RTSD against all liabilities and hazards as provided in this article throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under this Section and such insurance has been approved by the RTSD, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.
- C. Occurrence Basis Coverage.** All insurance shall be provided on an **occurrence basis** and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the RTSD and must be clearly indicated as such in any certificate showing coverage.
- D. Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best’s Rating of no less than A:VII unless specific approval has been granted by the RTSD.
- E. Certificates Showing Coverage.** All certificates of insurance shall be filed with the RTSD, and may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show the RTSD as additional insured, including by specific endorsement where necessary, as indicated in the following requirements. Such certificate shall specifically state that the related insurance policies are to be endorsed to require the insurer to provide the RTSD thirty days, notice of cancellation, non-renewal or any material reduction in the stated amounts or limits of insurance coverage.
- F. Terminology.** The terms “insurance,” “insurance policy,” or “coverage” as used in this article are used interchangeably and shall have the same meaning as “insurance” unless the context clearly requires otherwise. References to “ISO®” forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the RTSD may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

2. INSURANCE REQUIREMENTS

- A. Scope of Required Coverage.** The Contractor shall take out and maintain during the life of Contract such insurance in the forms and minimum amounts as specified in this Article and as will protect Contractor and RTSD from the following claims arising out of or resulting from or in connection with the Contractor’s operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(1) Claims under workers’ compensation, disability benefit, or other employee benefit acts;

- (2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;
- (3) Claims customarily covered under personal injury liability coverage;
- (4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;
- (5) Claims arising out of ownership, maintenance or use of any motor vehicle;
- (6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

B. Worker's Compensation Insurance and Employer's Liability Insurance. The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees.

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	Listing	Min Amt	Notes
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	\$500,000	each accident
	Bodily Injury by disease	\$500,000	each employee
	Bodily Injury	\$500,000	policy limit

C. Commercial General Liability Insurance.

- (1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below. Any other exclusions that operate to contradict or materially alter the standard exclusions shall be specifically listed on the certificate of insurance and shall be subject to the prior written approval of the RTSD.

Coverage	Min Amt	Notes
General	\$2,000,000	Aggregate
Products and Completed Operations	\$2,000,000	Aggregate
Personal and Advertising Injury	\$1,000,000	
Each Occurrence	\$1,000,000	
Fire Damage Limit	\$100,000	any one fire
Medical Damage Limit	\$10,000	anyone person

(2) The required Commercial General Liability Insurance shall also include the following:

- Coverage for all premises and operations
- Endorsement to provide the general aggregate per project endorsement
- Personal and advertising injury included
- Operations by independent contractors included
- Contractual liability coverage included
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Contractual Liability coverage shall include contractually assumed defense costs in addition to any policy limits.

(3) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer).

(4) RTSD may at its sole option, and in lieu of being additional insured on the Contractor's policy, by written requirement in the Special Provisions or by written change order, require Contractor to provide a separate Owner's Protective liability policy. The premium cost to obtain such insurance shall be as paid as provided in the Special Provision or change order, with any related cost savings as reasonably determined by the RTSD being reimbursed or paid to the RTSD.

D. Vehicle liability insurance coverage.

- The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles with specific endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

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

F. Umbrella or Excess Insurance. The Contractor shall provide Umbrella or Excess insurance coverage with minimum coverage limits of \$3,000,000 each occurrence and aggregate.

G. RTSD included as Insured on Contractor's Policy – Endorsements required.

The Contractor shall provide adequate written documentation, including applicable ACORD certificates, declarations pages or other acceptable policy information demonstrating that the RTSD is included as an additional insured along with the Contractor with respect to all of the coverages required in this "Appendix "C" Insurance Requirements for All RTSD Contracts" except for applicable Worker's Compensation coverage, to include all work performed for the RTSD and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. Except as otherwise specifically allowed in Section 2(C)(4) above, the documentation or endorsement shall specifically include the RTSD as an additional insured for purposes of Products and Completed Operations. The inclusion of the RTSD as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for the RTSD, whether on an excess, contributory or other basis regardless of any other insurance coverage available to the RTSD.

3. CONTRACTOR'S INDEMNITY – CONTRACTUAL LIABILITY INSURANCE

A. To the same extent as specified for minimum coverage requirements in Section 2 above, the required insurance shall include contractual liability coverage to include indemnification and hold harmless agreements and provisions in the related Contract Documents, specifically including the provision set forth in Section 1(A) above.

B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against the RTSD, its officers, agents, employees, volunteers or consultants, the indemnification provided by Contractor shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

C. In the event of any litigation of any such claims shall be commenced against the RTSD, Contractor shall defend the same at Contractor's sole expense upon notice thereof from the RTSD. Contractor shall notify the insuring company that the RTSD reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of the RTSD without the express written consent of the RTSD.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

- A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.
- B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against the RTSD.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

- A. The Contractor shall promptly notify the RTSD in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier(s) upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to the RTSD shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.
- B. In the event the RTSD receives a claim or otherwise has actual knowledge of any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, the RTSD shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; provided, however the RTSD shall have no duty to inspect the project to obtain such knowledge, and provided further that the RTSD's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

- A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until the RTSD completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of the RTSD, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be \$5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.
- B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for RTSD's related costs and expenses (as owner) including labor required as a result of such loss.
- C. All related Property Insurance shall include coverage for false work, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.
- D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by the RTSD.